California State
Board *of* Equalization

Legislative Bill Analysis

Legislative, Research & Statistics Division

Assembly Bill 608 (Petrie-Norris)
Date: April 1, 2019 (Amended)
Program: Property Taxes
Sponsor: California Assessors' Association
Revenue and Taxation Code Section 155.20
Effective: Upon chaptering

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Summary: This bill provides that, for a five-year period beginning January 1, 2020, the $50,000 limit that a county board of supervisors may exempt from property tax under a "low value" ordinance[1] applies to any possessory interest. In addition, once a low value ordinance is enacted, this bill allows the assessor a choice on how to administer the low value exemption, without specific authorization from the county board of supervisors.

Summary of Amendments: Since our last analysis, this bill has been amended to provide that the $50,000 limit for any possessory interest is for a five-year period.

Fiscal Impact Summary: The revenue impact of AB 608 is indeterminable at this time.

Existing Law: Section 1(a) of article XIII of the California Constitution provides that all property is taxable unless otherwise provided by the Constitution or the laws of the United States. Section 7 of article XIII provides that the Legislature may authorize a county board of supervisors to exempt real property having a full value so low that, if not exempt, the total taxes and applicable subventions on the property would amount to less than the cost of assessing and collecting them.

Revenue and Taxation Code[2] section 155.20 authorizes a county board of supervisors to exempt from property tax real property with a factored base year value and personal property with a full value so low that, if not exempt, "the total taxes, special assessments, and applicable subventions on the property would amount to less than the cost of assessing and collecting them." The exemption permitted under this section of law is commonly referred to as the "low value" exemption.

The amount of the low value exemption may not exceed $10,000 except that the limit is increased to $50,000 in the case of a possessory interest, for a temporary and transitory use, in a publicly owned fairground, fairground facility, convention facility, or cultural facility.

In administering the low value exemption, an assessor enrolls and then exempts property subject to the low value ordinance. If the assessor has been specifically authorized by the county board of supervisors, the assessor can administer the low value exemption by not enrolling property subject to the exemption.[3]

Proposed Law:

Possessory Interests. This bill provides that, for a five-year period that begins on January 1, 2020 and ends on December 31, 2024, the $50,000 maximum value of property that a county board of supervisors

[1] The term "ordinance" is used in this analysis for simplicity to refer to any action by a county board of supervisors that is effective to implement the low value exemption pursuant to Revenue and Taxation Code section 155.20.
[2] All statutory references are to the Revenue and Taxation Code, unless otherwise provided.
[3] Section 155.20(e)(2).

may exempt applies to all possessory interests. Beginning January 1, 2025, the $50,000 limit for possessory interests will be limited to a temporary and transitory use in a publicly owned fairground, fairground facility, convention facility, or cultural facility.

Administration. Once a low value ordinance is enacted, this bill gives the assessor the choice on how to administer the exemption by either option:

- Enroll the property and apply the low value exemption, or
- Not enroll property that qualifies for the low value exemption

Under this bill the assessor would not need specific authority from the county board of supervisors to not enroll property that qualifies for the low value exemption.

In General:

Possessory Interests. In certain instances a property tax assessment may be enrolled when a person or entity has exclusive use of publicly owned real property that, with respect to its public owner, is either immune or exempt from property taxation. These uses are commonly referred to as "taxable possessory interests" and are typically found where an individual or entity leases, rents, or uses federal, state, or local government facilities and/or land.

Section 107 establishes parameters within which assessors and judicial authorities are to determine the existence of taxable possessory interests. Generally, those determinations are made according to the facts and circumstances in each individual case.

Low Value Exemption. Section 7 of article XIII provides that the Legislature, two-thirds of the membership of each house concurring, may authorize a county board of supervisors to exempt real property having a full value so low that, if not exempt, the total taxes and applicable subventions on the property would amount to less than the cost of assessing and collecting them.

The Legislature enacted section 155.20 to provide the necessary statutory implementation. Section 155.20 authorizes a county board of supervisors to exempt from property tax real property with a factored base year value and personal property with a full value so low that, if not exempt, "the total taxes, special assessments, and applicable subventions on the property would amount to less than the cost of assessing and collecting them." Currently, the amount of the low value exemption may not exceed $10,000 except that the limit is increased to $50,000 in the case of a possessory interest, for a temporary and transitory use, in a publicly owned fairground, fairground facility, convention facility, or cultural facility.

In determining the level of the exemption, a county board of supervisors is required to:

> … determine at what level of exemption the costs of assessing the property and collecting taxes, assessments, and subventions on the property exceeds the proceeds to be collected. The board of supervisors shall establish the exemption level uniformly for different classes of property. In making this determination, the board of supervisors may consider the total taxes, special assessments, and applicable subventions for the year of assessment only or for the year of assessment and succeeding years where cumulative revenues will not exceed the cost of assessments and collections.[4]

[4] Section 155.20(b)(2).

Low Value Ordinances - Possessory Interests. A board of supervisors can enact an ordinance to exempt property with a total base year value or full value of less than $50,000 in the case of a possessory interest, for a temporary and transitory use, in a publicly owned fairground, fairground facility, convention facility, or cultural facility.

For purposes of the low value exemption, a *publicly owned convention or cultural facility* is defined[5] as a publicly owned convention center, civic auditorium, theater, assembly hall, museum, or other civic building that is used primarily for staging any of the following:

- Conventions, trade and consumer shows, or civic and community events
- Live theater, dance, or musical productions
- Artistic, historic, technological, or educational exhibits

Background: The $50,000 low value ordinance for possessory interests was added to section 155.20 in 1996 by Senate Bill 1737 (Stats. 1996, ch. 570). The City of San Jose sponsored the measure over a concern that the taxation of San Jose Convention Center users would place their convention center at a competitive disadvantage with other event venues. As enacted, the $50,000 exemption for possessory interests was limited to uses of publicly owned convention or cultural facilities. The following year, Senate Bill 33 (Stats. 1997, ch. 106) added possessory interests in fairgrounds to the type of possessory interests that could be exempt under the $50,000 low value ordinance.

Assembly Bill 1971 of the 1998 legislative session (as introduced) would have amended section 155.20 to increase from $50,000 to $100,000 the value of possessory interests in fairgrounds and convention or cultural centers that may be exempted under a low value ordinance adopted by a county board of supervisors. AB 1971 was sponsored by the City of Anaheim to avoid property tax assessments on its upcoming conventions. These provisions were amended out.

Assembly Bill 357 of the 2003 legislative session (as introduced) would have amended section 155.20 to allow a board of supervisors in a county with a declining population to increase the value of possessory interests in a fairground, convention, or cultural facility that may be exempt from property tax under a "low value ordinance," from $50,000 to $100,000. These provisions were amended out.

Commentary:

1. **Author's Statement.** AB 608 will rationalize existing law governing low value ordinance exemptions, eliminate wasteful and inefficient administrative costs, and save money for both government and small business owners. Though a minor change, this is a win-win for both government and small businesses.

2. **Sponsor.** This bill is sponsored by the California Assessors' Association.

3. **Summary of Amendments:** The **April 1, 2019** amendments provide that the $50,000 limit for all possessory interests is for a five-year period. The **March 11, 2019** amendments provide that the $50,000 limit applies to any possessory interest, rather than all real or personal property, and adds the authority for the assessor to choose how to administer the low value exemption.

4. **Possessory Interests Low Value Exemption.** Under current law, the amount of the low value exemption is increased to $50,000 in the case of a possessory interest, for a temporary and

[5] Section 155.20(b)(1).

transitory use, in a publicly owned fairground, fairground facility, convention facility, or cultural facility. This bill provides that the $50,000 limit applies to all possessory interests for a five-year period that begins on January 1, 2020 and ends on December 31, 2024. Thereafter, the $50,000 limit reverts back to applying only to a possessory interest, for a temporary and transitory use, in a publicly owned fairground, fairground facility, convention facility, or cultural facility.

5. **Counties with Possessory Interests Low Value Ordinances.** According to data provided to the BOE, 23 counties have adopted a low value ordinance for possessory interests, with 14 counties at the maximum $50,000 level.

6. **County Participation Optional.** This change would take effect only if a county board of supervisors subsequently amends its ordinance to apply to all possessory interests.

7. **Counties Determine their Maximum Exemption Amount.** Counties set the appropriate level of the exemption. The manner of preparing the cost-benefit analysis in each county may vary. Where the analysis is identical, the actual break-even point will still likely vary because of the uniqueness of costs in each particular county.

8. **Administration of Exemption.** This bill allows a county assessor the option to either (1) enroll and then exempt the taxable possessory interest, or (2) not enroll the taxable possessory interest subject to the exemption. If the assessor opts to not enroll the exempted taxable possessory interest, the assessor is still responsible for tracking those possessory interests to make sure they continue to meet the $50,000 threshold for exemption.

Costs: The BOE would incur absorbable costs in informing and advising county assessors, the public, and staff of the change in law.

Revenue Impact: It is difficult to determine the revenue impact of AB 608. We do not know how many counties will pass an ordinance allowing for the exemption of taxable possessory interests. We do not know if assessors will continue to follow the same practices and procedures for assessing all taxable possessory interests. As such, the revenue impact of AB 608 is indeterminable at this time.