
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

SB 1456 (Stern) - Property taxation: welfare exemption: low-income housing

Version: March 31, 2022

Urgency: No

Hearing Date: May 2, 2022

Policy Vote: GOV. & F. 5 - 0

Mandate: Yes

Consultant: Robert Ingenito

Bill Summary: SB 1456 would eliminate the current statewide exemption cap on the value of property applicable to non-publicly financed affordable housing.

Fiscal Impact:

- The Board of Equalization (BOE) indicates that it would incur minor and absorbable administrative costs to update claim forms, Property Tax Rule 140, and its Assessors' Handbook.
- BOE indicates that, based on county assessor data, one organizations could be over the \$20 million current-law cap; BOE is currently clarifying that the data reported to it is accurate. Generally, the bill would lead to a revenue loss over time, as (1) assessed values of organizations' current holdings exceed \$20 million over time (resulting from the annual inflation factor of up to 2 percent), and (2) to the extent organizations acquire or construct additional property that would be exceed to the \$20 million cap. Lower local property tax revenues lead to increased General Fund Proposition 98 spending by up to roughly 50 percent (the exact amount depends on the specific amount of the annual Proposition 98 guarantee, which in turns depends upon a variety of economic, demographic and budgetary factors).
- Under the California Constitution, this bill's imposing of new duties on local county officials related to the real property tax assessment process could be subject to reimbursement by the State. The magnitude of these potential costs is unknown.

Background: All property in California is taxable unless explicitly exempted. Specifically, the Legislature may exempt property owned by nonprofit entities organized and operated for charitable purposes, such as universities, hospitals, and libraries (known as the "welfare exemption"). The welfare exemption currently results in roughly \$3 billion in annual foregone local property tax revenues.

The welfare exemption includes property used exclusively for rental housing, if (1) specified financing mechanisms finance the housing, (2) the property is restricted for low-income housing, and rents do not exceed specified levels, and (3) the property owner certifies that funds that would have been used to pay property taxes are used to maintain the affordability of the units or reduce rents.

In 1999, the Legislature set a cap equivalent to \$2 million in assessed value on statewide holdings for certain low-income rental housing owned and operated by eligible

nonprofit organizations. It did so as part of a series of reforms that responded to an investigation that showed tax-exempt property owners were not providing basic maintenance for their housing projects. Thus, the cap was instituted to address the exemption's misuse as it applied to low-income housing.

As assessed valuation in the State generally rose in the ensuing years, (1) some non-profits were required to pay taxes on property amounts that exceeded the cap, and (2) other groups were discouraged from constructing or acquiring rental housing, especially those regions of the state with higher property values. Other reforms adopted as part of the package, such as making the exemption contingent upon deed restrictions binding rents, and limiting the exemption solely to non-profit organizations owning the units, appear to have succeeded. Consequently, the cap could hinder nonprofit organizations that own, or want to purchase, affordable housing in their communities, and can be especially burdensome for organizations operating statewide. Additionally, no other organizations claiming the welfare exemption (such as hospitals, churches, and universities) are subject to a similar cap. In response, the Legislature enacted SB 996 (Hill, 2016), which among other things raised the cap from \$2 million to \$10 million. In 2018, the Legislature increased the cap once more, to \$20 million in value (Hill, SB 1115).

Bill Summary: This bill would delete the welfare exemption from property tax's current \$20 million cap on valuation for non-publicly financed housing owned and operated by a non-profit organization. The change would be effective for lien dates on or after January 1, 2023.

Staff Comments: BOE indicates that, for 2016-17, 23 nonprofit organizations (owning a total of 55 low-income rental housing properties across ten counties) received exemptions on property that counted towards the \$10 million exemption cap in place at the time. Three organizations, located in Los Angeles, Marin, and Monterey Counties, exceeded the cap and were partially taxable. In 2017-18, according to information submitted to BOE, 23 nonprofit organizations (owning rental housing properties across eight counties) owned low-income rental housing properties, and none exceeded the \$10 million cap that was still in place. For 2020-21, 19 counties submitted information to the BOE. This information indicates that 14 nonprofit organizations received exemptions on property that counted towards the \$20 million exemption cap. These 14 organizations own low-income rental housing properties of various types in eight counties. In one county, it appears that one entity may have exceeded the cap; however, it is still being confirmed as to whether the information was reported to BOE correctly.

The revenue loss resulting from the bill would emerge and grow (1) if organizations acquire more property subject to the \$20 million cap, or (2) if assessed values over time exceed \$20 million due to the application of the annual inflation factor (up to 2 percent). As an example, assuming the full two percent inflation factor, property assessed at \$20 million would grow to \$30 million in about 23 years. The resulting loss in property tax revenue relative to current law would be about \$100,000, half of which could result in increased Proposition 98 General Fund spending.