STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	**2/08/01**	Bill No:	**SB 198**
Tax:	**Property**	Author:	**Chesbro**
Board Position:	**Support**	Related Bills:	**SB 1878 (2000)**

BILL SUMMARY

This bill would extend from January 1, 2002 to January 1, 2012 the property tax welfare exemption for property in their natural states.

ANALYSIS

Current Law

The welfare exemption has been extended to properties in their "natural states." These are properties that are used exclusively for the preservation of native plants or animals, biotic communities, geological or geographical formations of scientific or educational interest, or open-space lands used solely for recreation and for the enjoyment of scenic beauty, provided that properties are open to the general public, subject only to reasonable restrictions.

To qualify, the property must be owned and operated by a scientific or charitable organization with a primary interest of preserving those natural areas and meeting all the requirements of Section 214. This exemption is scheduled to sunset on January 1, 2002.

Proposed Law

This bill would amend Section 214.02 to extend, until January 1, 2012, the current exemption provided to properties in their natural states and similar properties, thereby preventing an otherwise scheduled repeal of the property tax exemption.

In General

Welfare Exemption. Under Section 4(b) of Article XIII of the California Constitution, the Legislature has the authority to exempt property (1) used exclusively for religious, hospital, or charitable purposes, and (2) owned or held in trust by nonprofit organizations operating for those purposes. This exemption from property taxation, popularly known as the *welfare exemptio*n, was first adopted by voters as a constitutional amendment on November 7, 1944. With this amendment, California became the last of 48 states in the country to provide such an exemption from property taxes. The ballot language in favor of the amendment stated:

> These nonprofit organizations assist the people by providing important health, citizenship and welfare services. They are financed in whole or in part by your contributions either directly or through a Community Chest. It is good public

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policy to encourage such private agencies by exemption rather than to continue to penalize and discourage them by heavy taxation.

When the Legislature enacted Section 214 of the Revenue and Taxation Code 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 by exempting property used exclusively for the stated purposes (religious, hospital, scientific, or charitable), owned by qualifying nonprofit organizations 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. A qualifying organization's property may be exempted fully or partially from property taxes, depending on how much of the property is used for qualifying purposes and activities. Section 214 is the primary welfare exemption statute in a statutory scheme that consists of more than 20 additional provisions. Over the years, the scope of the welfare exemption has been expanded by both legislation and numerous judicial decisions.

The Constitution and statutes impose a number of requirements that must be met before property is eligible for exemption. In general:

- The property must be irrevocably dedicated to religious, hospital, scientific, or charitable purposes.
- The owner must not be organized or operated for profit and must be qualified as an exempt organization, under a specific federal or state statute, by the Internal Revenue Service or the Franchise Tax Board.
- No part of the net earnings of the owner may inure to the benefit of any private shareholder or individual.
- The property must be used for the actual operation of the exempt activity.

Background

Properties in their Natural States. Section 214.02 was added during the 1971 special session of the Legislature. This provision had been included in bills heard during the 1971 regular session (AB 1264, Biddle and AB 185, Bagley), and was the product of a 1970 Assembly Revenue and Taxation Committee interim hearing on the subject of natural lands preservation. In 1970, the Committee held hearings and conducted studies to investigate alternative tax policies that would have a positive environmental influence on the future of the state. The staff report to the committee concluded that, due to an over reliance on property tax revenues, local governments were reluctant to preserve open space areas, recreational areas, and ecologically valuable areas. Hence, land was becoming a vanishing resource subject to irreparable damage. (Source: The Fiscal Implications of Environmental Control; an Appendix to Final Report of the Assembly Committee on Revenue and Taxation, Interim Activities (1970) pp. 90-92.)

Sunset Date History. The intent of the original legislation enacting Section 214.01 was to assist nonprofit organizations that purchased open-space and similar lands, held the lands temporarily, and then sold or donated the lands to public agencies for permanent

use as park facilities. A sunset date was included in the original legislation as a result of a Senate Revenue and Taxation Committee hearing, to ensure that the charitable organizations sold or donated the lands rather than hold them indefinitely. Since that time, it appears that many charitable organizations may be the permanent owners of lands due, in part, to the limited ability of public agencies to acquire additional parklands. The sunset date has been continuously extended as noted in the following table.

Bill	Author	Years Extended	Sunset Year
AB 971 (Ch. 67, Stats. 1982)	Bergeson	1	1982
AB 2308 (Ch. 1485, Stats. 1982)	Bates	5	1987
AB 2890 (Ch. 1457, Stats. 1986)	Hannigan	5	1992
AB 2442 (Ch. 786, Stats. 1992)	Baker	10	2002

The constitutionality of Section 214.02 was questioned and upheld in *Santa Catalina Island Conservancy* v. *County of Los Angeles* 126 Cal.App.3d 221(1981) on the basis that preservation of natural environments and open space recreational opportunities for the benefit of the general public is a "charitable" purpose.

COMMENTS:

1. **Sponsor and Purpose.** This bill is sponsored by the author to ensure the exemption currently provided to open-space and similar lands owned by nonprofit organizations is maintained.
2. **Without this bill this property will be subject to property tax in 2002.** This exemption has been continuously available since 1972. Periodically extending the sunset date gives the Legislature an opportunity to review the merits of this exemption.
3. **What property is currently exempt under this section?** Examples of property exempted pursuant to this section include property holdings by the Nature Conservancy, Santa Catalina Island Conservancy, Big Sur Land Trust, Napa County Land Trust, Land Trust of Santa Cruz County, Point Reyes Bird Observatory, California Trout Foundation, Monterey Bay Aquarium Foundation, Marine World Foundation, Yosemite Foundation, Sacramento Garden & Arts Center, John Muir Institute, Elkhorn Slough Foundation, The Trust for Public Land, Palo Verdes Peninsula Land Conservancy, Peninsula Open Space, Del Monte Forest Foundation, Greenspace: The Cambria Land Trust, Cambria Land Conservancy, Save the Redwoods League, Rowdy Creek Fish Hatchery, San Diego Audubon, Living Desert Reserve, East Bay Zoological Foundation, Chula Vista Bayfront Conservancy Trust, Defenders of Wildlife, Sierra Club Foundation, Soquel Pioneer and Historical Association, Mountains Restoration Trust, Suisun Marsh Natural History Association, Environmental Trust, Inc., Fallbrook Land Conservancy, Marin Conservation League.

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4. **Related Legislation.** This bill is similar to last year's SB 1878 (Johnston) which would have extended the exemption to the year 2011. Those provisions were amended into the bill near the end of the 2000 legislative session (August 28). SB 1878 contained many other provisions related to various land conservation and land use programs but failed in the Assembly.

COST ESTIMATE

The Board would incur some minor absorbable costs in informing and advising county assessors, the public, and staff of the change in law.

REVENUE ESTIMATE

Background, Methodology, and Assumptions

Currently this exemption is scheduled to sunset after the lien date for 2002. This bill would amend Section 214.02 to extend the current exemption provided to property in its "natural state" and similar properties until the lien date for 2012.

Statewide there are 328 claims for properties in 42 counties for property in their "natural states" that would continue to receive the welfare exemption under this proposal. Staff estimates the current exempt value of these properties at $500 million.

Revenue Summary

The estimated annual revenue impact at the basic one percent property tax rate from extending the sunset date for another ten years is $500 million x 1 percent, or $5 million. It is likely that this loss will grow slightly over time due to the Proposition 13 inflation factor. However, this loss would also be affected by transfers to public agencies and any additional properties that qualify for this exemption in the future. The total revenue impact over the ten-year extension period is estimated to be $5 million x 10, or $50 million.

Analysis prepared by:	Rose Marie Kinnee	445-6777	3/15/01
Revenue estimate by:	Aileen Takaha Lee	445-0840	
Contact:	Margaret S. Shedd	322-2376	

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