

DRAFT



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

| | | | |
|------------------|----------------------|----------------|--|
| Date Introduced: | 02/22/02 | Bill No: | AB 2636 |
| Tax: | Sales and Use | Author: | Leonard |
| Board Position: | | Related Bills: | AB 1077, AB 1246, SB 546, SB 1064 |

BILL SUMMARY

This bill would provide a 5 percent state sales and use tax exemption for the purchase of any items by any “qualifying school entity,” as defined.

ANALYSIS

Current Law

The existing Sales and Use Tax Law imposes a tax on the sale of, or the storage, use, or other consumption in this state of, tangible personal property, unless that property is specifically exempted or excluded by statute.

Generally, public and private schools and school districts are required to pay sales or use tax on their purchases of tangible personal property to the same extent as any other person in this state. In fact, all units of local government as well as the State of California are generally required to pay sales or use tax on their purchases of tangible personal property. Sales to and purchases by the federal government, however, are exempt from sales and use tax.

Proposed Law

This bill would add Section 6361.4 to the Sales and Use Tax Law to provide a five percent state sales and use tax exemption for any items purchased by a “qualifying school entity.”

The bill would define “qualifying school entity” to mean any public school, public school district, or county office of education, including any charter school, serving kindergarten and grades 1 to 12 inclusive, or any part thereof.

The bill would become effective immediately, but would become operative on the first day of the calendar quarter commencing more than 90 days after the date the bill is enacted.

Background

Historically, sales to the state and local governments have been subject to the sales and use tax. Other bills proposing to provide a general exemption for sales to, or purchases by, the state, school districts, governmental contractors, or other public entities have failed passage in the past, for example:

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 Board's formal position.

AB 4275 (Wyman) of the 1985-1986 Legislative Session would have exempted all purchases or leases of tangible personal property by any subdivision of the state and each governmental unit in the state.

AB 42 (Katz), as amended July 16, 1987, would have exempted all purchases or leases of tangible personal property by the state, the University of California, or any city, county, special district, or school district.

SB 204 (Kopp, et al.) of the 1987-1988 Session would have exempted all purchases and leases of tangible personal property by any city and county in this state.

SB 416 (Kopp) of the 1987-1988 session, SB 140 (Kopp, et al.) of the 1989-1990 session, and SB 1424 (Kopp) of the 1993-1994 session would have exempted all purchases or leases of tangible personal property by the state, any city and county, special district, or school district if the purchase or lease exceeded \$1,000 and was made with a purchase order.

AB 3176 (Bradley) of the 1987-1988 session would have exempted all purchases or leases of tangible personal property by any school district.

AB 2345 (Ducheny) of the 1999-00 session would have provided a 5% sales and use tax exemption for sales of books to public schools, public school students under the direction of the teacher, or to the public school teacher for professional development.

AB 2348 (Ducheny) of the 1999-00 session would have provided a sales and use tax exemption for sales of college textbooks to students.

SB 1701 (Johnson) of the 1999-00 session would have provided a 5% sales and use tax exemption for purchases of textbooks by a public school.

AB 1077 (Mountjoy) of the 2001 session would have provided a 5% state sales and use tax exemption for the purchase of any tangible personal property by a K-12 public school or school district for use by that school or district. The Board supported this measure.

AB 1246 (Leonard) of the 2001 session would have exempted from sales and use tax any textbook that is purchased by a student at an institution of higher education or from an entity whose primary purpose is to provide textbooks to students attending institutions of higher education, for use as a learning resource in any course of study at that institution. The Board supported this measure.

SB 546 (McClintock) of the 2001 session would have exempted from sales and use tax the sale and purchase of any textbook, as defined, purchased by a K-12 public school or school district, or an accredited private school, or sold to a student of an accredited private school or institution of higher education. The Board supported this measure.

SB 1064 (Polanco) of the 2001 session would have exempted from sales and use tax any tangible personal property that is purchased by a school for educational purposes. The Board supported this measure.

COMMENTS

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 Board's formal position.

1. **Sponsor and Purpose.** This bill is sponsored by the author and is intended to reduce financial burdens on public schools.
2. **Partial exemptions complicate administration of the tax.** The creation of a partial exemption under existing law for a somewhat broad exemption such as that proposed in this bill would complicate reporting requirements of a large number of retailers. This bill would partially exempt all school purchases, which would include books, desks, fixtures, light bulbs, athletic equipment, art supplies, etc. This would require retailers of these items who sell to schools to first determine whether the school is public (versus private) and whether it is a K-12 school (as opposed to a pre-school). Then, the retailer would be required to compute and collect the applicable local and district taxes on the sale, and then segregate these partially exempt sales from other sales in order to properly complete their sales and use tax returns. This would place an added record-keeping burden on retailers. In addition, the Board's experience with its administration of other partial exemptions indicates that errors on returns increase, which has a corresponding increase in the Board's workload.

COST ESTIMATE

Some costs would be incurred in programming, notifying affected retailers, answering inquiries, writing appropriate regulations, revising and processing of returns. An estimate of these costs is pending.

REVENUE ESTIMATE

Background, Methodology, and Assumptions

Under current law, schools pay sales and use tax on purchases of books, supplies, office equipment, etc. This bill would provide for a tax exemption from state sales and use tax for any of those items purchased by a public school, school district, county office of education, including any charter school, serving kindergarten and grades 1-12.

According to the California Department of Education, total expenditures per student that would qualify under this proposal are estimated to be \$616. The total number of students in K-12 public schools is 6,050,895. Therefore, the total expenditures that would qualify under this proposal are estimated to be \$3.7 billion ($\$616 \times 6,050,895$).

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 Board's formal position.

Revenue Summary

The annual revenue loss to the state from exempting \$3.7 billion from the state sales and use tax (5%) is estimated to be \$185 million.

| | | | |
|-----------------------|-------------------|----------|----------|
| Analysis prepared by: | Sheila T. Sarem | 445-6579 | 03/14/02 |
| Revenue estimate by: | David E. Hayes | 445-0840 | |
| Contact: | Margaret S. Shedd | 322-2376 | |

2636-1ss.doc

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 Board's formal position.