

AMENDED IN SENATE SEPTEMBER 4, 2003

AMENDED IN SENATE JULY 21, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 382

Introduced by Assembly Member Correa
(Principal coauthor: Senator Ducheny)

February 14, 2003

An act to add Division 13.7 (commencing with Section 21196) to the Public Resources Code, and to amend Section 17133 of the Revenue and Taxation Code, ~~relating to taxation, to take effect immediately, tax levy.~~ relating to tribal bonds.

LEGISLATIVE COUNSEL'S DIGEST

AB 382, as amended, Correa. ~~Taxation: tax-exempt bonds: Indian tribal government~~ Tribal bonds: environmental impacts.

The Personal Income Tax Law and the Corporation Tax Law impose a tax on individual and corporate taxpayers, respectively, measured by the amount of the taxpayer's taxable income for the taxable year, but exclude certain items of income from the computation of tax. Those laws, in conformity with the federal income tax laws, exempt from tax interest on bonds issued by this state or a local government in this state.

This bill would, *in conformity with federal income tax laws*, additionally exempt from taxation interest on bonds issued by a federally recognized Indian tribal government located in this state, *but only if the tribal government adopts an environmental ordinance, as provided.*

~~This bill would take effect immediately as a tax levy.~~

Existing law requires the preparation of environmental impact reports with respect to projects that may have a significant effect on the environment.

This bill would allow a tribe to adopt an environmental ordinance providing for the preparation, circulation, and consideration by the tribe of environmental impact reports concerning potential off-reservation environmental impacts of any and all projects, as defined, funded with tax exempt municipal bond financing, as defined, and impose various duties on a tribe in connection therewith.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 17133 of the Revenue and Taxation~~
2 ~~Code~~

3 SECTION 1. Division 13.7 (commencing with Section 21196)
4 is added to the Public Resources Code, to read:

5
6 DIVISION 13.7. OFF-RESERVATION ENVIRONMENTAL
7 IMPACTS
8

9 21196. A tribe may adopt an environmental ordinance
10 providing for the preparation, circulation, and consideration by
11 the tribe of environmental impact reports concerning potential
12 off-reservation environmental impacts of any project, as defined by
13 Section 21197, to be commenced. The ordinance may include any
14 ordinance adopted prior to the effective date of the act adding this
15 section. In fashioning the environmental protection ordinance, the
16 tribe shall make a good faith effort to incorporate the policies and
17 purposes of the National Environmental Policy Act consistent with
18 the tribe's governmental interests.

19 21197. (a) Pursuant to the environmental ordinance, the
20 tribe shall do all of the following prior to commencement of a
21 project:

- 22 (1) Publish notice and inform the public of the planned project;
- 23 and consult with the county in which the project is located,
- 24 developing site or project-specific terms and conditions, and shall
- 25 negotiate in good faith a written agreement with both the county



1 *in which the project is located, or any city limits of which the*
2 *project is located, that addresses the mitigation of significant*
3 *environmental, economic, and social effects directly caused by the*
4 *project, or stemming from a tribal project financed with tax exempt*
5 *municipal financing, including, but not limited to, the following*
6 *areas: sufficiency, sustainability, and quality of groundwater*
7 *supplies; air quality; solid waste management; hazardous waste*
8 *management; fire and protective services; public health and*
9 *safety; impacts during and of construction; increased traffic;*
10 *noise; economic and social impacts; protection of cultural,*
11 *historical, and biological resources. The tribe shall transmit a*
12 *copy of these written agreements to the Director of the office of the*
13 *American Indian Coordinator or other state entity as may be*
14 *designated by the Governor, prior to the commencement of the*
15 *project.*

16 (2) *Take appropriate actions to determine whether the project*
17 *will have any significant adverse impacts on the off-reservation*
18 *environment.*

19 (3) *For the purpose of receiving and responding to comments,*
20 *submit all environmental impact reports concerning the proposed*
21 *project to the State Clearinghouse in the Office of Planning and*
22 *Research and the board of supervisors in the county in which the*
23 *project is located, for distribution to the public.*

24 (4) *Consult with the board of supervisors of the county or*
25 *counties within which the tribe's project is located, or is to be*
26 *located, and, if the project is within a city, with the city council, and*
27 *if requested by the board or council, as the case may be, meet with*
28 *them to discuss mitigation of significant adverse off-reservation*
29 *environmental impacts directly caused by the tribal project.*

30 (5) *Meet with and provide an opportunity for comment by those*
31 *members of the public residing off-reservation within the vicinity*
32 *of the project such as might be adversely affected.*

33 (b) *During the planning of a project, the tribe shall do both of*
34 *the following:*

35 (1) *Keep the board or council, as the case may be, and*
36 *potentially affected members of the public apprised of the projects*
37 *progress.*

38 (2) *Make good faith efforts to mitigate any and all such*
39 *significant adverse off-reservation environmental impacts.*



1 (c) The term “project” means an expansion or any significant
 2 renovation or modification of an existing tribal facility, or any
 3 significant excavation, construction, or development associated
 4 with a tribal project or proposed project, and the term
 5 “environmental impact reports” means any environmental
 6 assessment, environmental impact report, or environmental
 7 impact statement, as the case may be.

8 (d) The tribe and the state shall, from time to time, meet to
 9 review the adequacy of this division, the tribe’s ordinance adopted
 10 pursuant thereto, and the tribe’s compliance with its obligations
 11 under this division, to ensure that significant adverse impacts to
 12 the off-reservation environment resulting from projects undertaken
 13 by the tribe may be avoided or mitigated.

14 SEC. 2. Section 17133 of the Revenue and Taxation Code is
 15 amended to read:

16 17133. (a) Income which this state is prohibited from taxing
 17 includes interest on bonds issued by this state or a local
 18 government in this state, ~~and the~~. In addition, interest on bonds
 19 issued by a federally recognized Indian tribal government located
 20 in this state shall be exempt from personal income taxes to the
 21 extent that the interest, at the time the bonds are issued, is excluded
 22 from federal gross income under Section 103 of the Internal
 23 Revenue Code, but only if the tribal government adopts, before the
 24 date of issuance, an environmental ordinance pursuant to Division
 25 13.7 (commencing with Section 21196) of the Public Resources
 26 Code, and follows the procedures of that ordinance with respect to
 27 any project to be financed with the bond proceeds.

28 (b) The determination of whether a bond is issued by this state
 29 ~~or~~, a local government in this state, or a federally recognized
 30 Indian tribal government in this state shall be made without regard
 31 to (a) the source of payment of that bond or the security for that
 32 bond, public or private, and (b) whether or not public
 33 improvements are financed. ~~If~~

34 (c) If there is at any time following the original issuance of ~~such~~
 35 ~~a~~ that bond a separation in ownership between the bond and any
 36 right to receive interest on the bond (whether or not evidenced by
 37 a coupon), payments or accruals on that stripped bond and stripped
 38 coupon shall be treated in a manner consistent with Section
 39 1286(d) of the Internal Revenue Code.

40 ~~is amended to read:~~



1 ~~17133. (a) Income which this state is prohibited from taxing~~
2 ~~includes interest on bonds issued by this state, a local government~~
3 ~~in this state, or a federally recognized Indian tribal government~~
4 ~~located in this state.~~

5 ~~(b) The determination of whether a bond is issued by this state,~~
6 ~~a local government in this state, or a federally recognized Indian~~
7 ~~tribal government located in this state shall be made without regard~~
8 ~~to (1) the source of payment of that bond or the security for that~~
9 ~~bond, public or private, and (2) whether or not public~~
10 ~~improvements are financed.~~

11 ~~(c) If there is at any time following the original issuance of that~~
12 ~~bond a separation in ownership between the bond and any right to~~
13 ~~receive interest on the bond (whether or not evidenced by a~~
14 ~~coupon), payments or accruals on that stripped bond and stripped~~
15 ~~coupon shall be treated in a manner consistent with Section~~
16 ~~1286(d) of the Internal Revenue Code.~~

17 ~~SEC. 2. This act provides for a tax levy within the meaning of~~
18 ~~Article IV of the Constitution and shall go into immediate effect.~~

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