



**CITY OF LOS ALTOS
CITY COUNCIL MEETING
May 12, 2015**

DISCUSSION ITEM

Agenda Item # 17

SUBJECT: Consider a position on SB 661 (Hill) Property taxation: state assessment: commercial air carrier personal property and direct staff accordingly

BACKGROUND

Santa Clara County Assessor Lawrence Stone reached out to the City Council with a desire to present to the Council regarding SB 661 (Hill) Property taxation: state assessment: commercial air carrier personal property. Mr. Stone's correspondence is attached.

EXISTING POLICY

None

PREVIOUS COUNCIL CONSIDERATION

None

DISCUSSION

According to Mr. Stone, SB 661 (Attachment 2) would provide tax breaks for commercial airlines. He has requested that the City oppose SB 661 and has provided a draft Resolution in opposition (Attachment 3).

The League of California Cities has not taken a position on SB 661. A hearing on SB 661 has been scheduled for May 4, 2015.

PUBLIC CONTACT

Posting of the meeting agenda serves as notice to the general public.

FISCAL/RESOURCE IMPACT

None

ENVIRONMENTAL REVIEW

Not applicable

RECOMMENDATION

Consider a position on SB 661 (Hill) Property taxation: state assessment: commercial air carrier personal property and direct staff accordingly

ALTERNATIVES

1. Adopt the draft Resolution in opposition to SB 661
2. Direct the Mayor to send a letter in support of SB 661
3. Take no action regarding SB 661

Prepared by: Jon Maginot, City Clerk/Assistant to the City Manager

ATTACHMENTS:

1. Letter from Lawrence Stone dated April 10, 2015
2. Full text of SB 661: Property taxation: state assessment: commercial air carrier personal property
3. Draft Resolution opposing SB 661

May 12, 2015

Consider a position on SB 661 (Hill) Property taxation: state assessment:
commercial air carrier personal property and direct staff accordingly

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Office of the Assessor

County of Santa Clara

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Assessor@asr.sccgov.org



Lawrence E. Stone, Assessor

April 10, 2015

City of Los Altos
Mayor, City Council and City Manager
1 N San Antonio Road
Los Altos, CA 94022

Via jmaginot@losaltosca.gov

RE: SB 661, Request opportunity to address the Council

Dear Mayor Pepper, Honorable City Councilmembers, and Ms. Somers:

I write to request a meeting or a few minutes to address your Council to urge your city to join me and the Santa Clara County Board of Supervisors in opposing Senator Jerry Hill's legislation, SB 661. This bill would likely lead to a special multibillion-dollar tax break, exclusively for the commercial airline industry, far lower than the market value applied to the assessment and taxation of all machinery and equipment in California. The legislation carves out special rules that would dramatically reduce—if not eliminate—critical oversight and verification of the assessment of commercial aircraft.

In California there are approximately 1.2 million businesses in which their machinery and equipment are assessed at \$250 billion annually. SB 661 would provide a special tax break just for the airlines. In Santa Clara County the assessment of commercial aircraft that utilize San Jose Mineta International Airport generates approximately \$3.3 million in tax revenue, of which your city receives .38 percent in accordance with the AB 8 apportionment factor. Statewide, property tax revenue generated from assessment of the airlines was \$80 million last year, with slightly more than half inured to public schools.

In my capacity as the County Assessor, I typically do not advocate for or against legislation that reduces or increases property taxes. However, I'm also a resident and former Sunnyvale City Councilmember and Mayor and, like you, I am concerned for our schools, roads and our public safety network provided by public agencies that depend on property tax revenue. SB 661 would adversely affect the ability of California assessors to perform their constitutional responsibilities, and result in substantial reductions in the assessed value—as much as 57 percent—for

commercial aircraft. Consequently, I feel obligated to call this legislation to your attention, and request a meeting to discuss my concerns. Since your city comprises an important part of Senator Hill's district, you are in a unique position to influence the outcome of this legislation.

I've enclosed additional information from my office, the California Assessors' Association, and from the State Board of Equalization. Senator Hill has introduced this legislation, which is sponsored by the airline industry, to address the expiration of the current law that directs assessors regarding the assessment of commercial aircraft. In 2005, the airline industry and assessors agreed to a settlement agreement ratified by the state legislature to compensate the airlines for the significant economic loss they experienced as a result of the 9/11 terrorist attacks.

That settlement agreement expires in December. In addition to mandating the assessment methodology, the settlement agreement streamlined the administration of commercial airline assessments, creating a centralized process by which each of the eleven counties with a major commercial airport assumed responsibility for assessing and auditing an airline company.

In 2014, Assessors researched market values of aircraft and determined that reductions made to compensate airlines for the significant losses experienced following 9-11 should be rescinded to reflect the current values of commercial aircraft. Today, the airline industry is experiencing record profits. The International Air Transport Association (IATA) indicated the airline industry earned profits of approximately \$6.1 billion in 2012 and \$12.9 billion in 2013, and \$19.8 billion in 2014—all driven by incredible passenger demand and lower fuel costs. The fact that the assessed value of commercial aircraft has remained virtually unchanged for ten years defies common sense. Currently, the value of a larger, more fuel-efficient and modern fleet of commercial aircraft is assessed at 20% below 2005 levels, and 10% below the values contained in the Airline Price Guide, the official "blue book" for commercial aircraft.

It should be noted that the airlines recently appealed their assessed values to the Los Angeles County Assessment Appeals Board and after the hearing their request for a reduction was denied. In those appeals, American Airlines requested an additional 33-percent reduction in its assessment, and United Airlines a 57-percent reduction. The following are excerpts from the Assessment Appeals Board (AAB) findings in the American assessment appeal:

"Applicant's position is a distortion of the appraisal process." "The applicant's arguments in support of its application are not consistent, reliable or credible." "It should be noted that the applicant's second argument advances an absurd conclusion."

In the United appeal, the AAB concluded:

"The magnitude of the deduction now proposed by the Applicant for the 2009 year is fundamentally inconsistent with the manner in which the statute was contemporaneously interpreted by California assessors and the airline industry caucus in the years following its passage. The magnitude of the proposed reduction judged relative to the relief

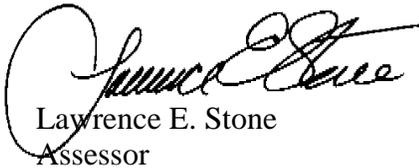
City of Los Altos re SB 661 Assessment of Commercial Airlines
April 10, 2015
Page three

provided to the industry following 9/11, suggests that the Applicant's statutory interpretation results in an absurd consequence, and that ultimately its presentation to the Board is 'results oriented.' Applicant's arguments and data offered in support of its application are not reliable, or credible."

The American and United assessment appeals were handled precisely consistent with California law.

In April or early May, SB 661 will be heard by its first committee, the Senate Government and Finance Committee. Another Silicon Valley Senator, Jim Beall, is an influential member of this committee. Therefore, your consideration of my request is time sensitive, and I look forward to hearing from you soon. To contact my office please call my secretary, Debra Lee, at 408-299-5588 (debra.lee@asr.sccgov.org). If you have questions about the legislation please contact David Ginsborg at 408-299-5572 (david.ginsborg@asr.sccgov.org).

Sincerely,



Lawrence E. Stone
Assessor

Cc: Marc Tonnesen, President, California Assessors' Association (CAA), Solano County Assessor
Tom Bordonaro, Chair, CAA Legislative Committee, San Luis Obispo County Assessor
Mark Church, San Mateo County Assessor
Rob Grossglauer, Government Affairs Consulting

Enclosures: Lawrence Stone Position Paper – Assessment of Commercial Aircraft
CAA Position Paper - Assessment of Commercial Aircraft
BOE Legislative Analysis SB 661

LES:dhl

Response to Airline Industry's Legislative Proposal to Cut Its Property Tax Bill
Lawrence Stone, Santa Clara County Assessor
February 25, 2015

The airline industry is once again proposing legislation to transfer the assessment of commercial aircraft from local county assessors to the State Board of Equalization. The industry's purpose is to reduce their property taxes. The proposal was previously introduced by Senator Ackerman in 2003, and was recommended by Governor Schwarzenegger's 2004 tax reform commission. In both instances it was rejected by the state legislature.

The current methodology for assessing commercial aircraft reflects a settlement agreement between assessors and the airline industry that was codified into law primarily to provide property tax relief in the wake of the September 11, 2001 terror attacks. I join the California Assessors' Association in strong opposition this proposal. The sunset for this settlement agreement has already been extended once beyond what was warranted in light of the strong economic recovery we are experiencing. The law streamlined the administration of commercial airline assessments, creating a centralized process in which each of the eleven counties with a major commercial airport assumed responsibility for assessing and auditing an airline company. The results were accepted by all other counties. Annually, one of the eleven major counties determines the fleet values for a designated airline company, and all other counties accept and apply those values. When an airline files an assessment appeal, the lead county for that appellant defends the appeal and all other counties, in practice, accept the results.

IF IT AIN'T BROKE, DON'T FIX IT

In 2015, the agreement mandating the existing methodology and process is set to expire, triggering the legislative proposal sponsored by the airlines. According to the author, the airlines are seeking dramatic changes to improve uniformity and compliance. However, up until the introduction of this proposal, the airline industry had not expressed any concerns to the Board of Equalization or assessors concerning the administration of commercial aircraft assessments. The current process for assessing domestic commercial aircraft in California has worked well for a decade. In 2010, both United and American airlines supported AB 384 (Ma) extending the sunset date. It was subsequently chaptered into law. At that time no concerns were raised by either airline regarding uniformity or compliance. The suggestion that there is a lack of uniformity or inconsistent application is simply false; there is no evidence to support that claim.

RESTORING ASSESSED VALUES TO REFLECT REBOUNING MARKET VALUES

Currently there is a wide gap between the assessed value of commercial aircraft and the market value, as determined by the Airline Price Guide. The airline industry is experiencing record profits. The International Air Transport Association (IATA) indicated the airline industry earned profits of approximately \$6.1 billion in 2012 and \$12.9 billion in 2013, and they anticipate the airline industry will earn \$19.8 billion in 2014—all driven by incredible passenger demand and lower fuel costs.

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In the last five years, the market value of commercial aircraft has increased dramatically. Reductions made to compensate airlines for the significant losses experienced following 9-11 should be rescinded to reflect the current values of commercial aircraft. Transferring the assessment of airlines to the Board of Equalization would compromise the accurate valuation of commercial aircraft and politicize the assessments.

REDUCED ACCURACY, INCREASED COST TO ADMINISTER

The California Assessors' Association has determined that transferring the assessment responsibility to the Board of Equalization would be less efficient for the airlines and reduce the overall accuracy and quality of the valuation process.

- It would require the creation of an entirely new set of processes and procedures to ensure that the proper value and revenue was allocated to each county. The administrative burden on the Board of Equalization and the individual counties would actually increase, not decrease, since non-aircraft property owned by the airlines would be assessed locally, while the aircraft portion would be assessed by the Board of Equalization.
- The total cost to assess and tax airlines would increase. As noted in the analysis of AB 384: "The assessment of certificated aircraft is a difficult and complex task." It is not as simple as applying a formula. Assessing aircraft is time-consuming and can be particularly challenging. Assessors must track the type of aircraft, the frequency of use, and time on the tarmac at public airports. Assessors in counties with commercial airports are more experienced and equipped to make accurate assessments than the Board of Equalization, which lacks the manpower and expertise to appropriately evaluate such property. The Board of Equalization would need to hire and train an entirely new unit even though they already face serious challenges retaining and filling existing positions in the property tax division. Moreover, it does not significantly reduce the workload of local assessors who would still be required to assess the remaining personal property at airports owned by the major airlines.

NO INDEPENDENT AUDIT

The State will lose the benefit of an independent audit of Board of Equalization assessments. Unlike county assessors, who are subject to a comprehensive audit by the State, and subject to a significant loss of revenue if they fail to meet a specific compliance ratio, the assessed values of state-assessed property are not subject to external audit. Every five years, the Board of Equalization conducts a comprehensive audit and sample survey of the local assessment roll in every major county. The audit validates the accuracy of assessed values and reviews assessment practices to ensure each assessor is following provisions of the Revenue and Taxation code. If an assessor fails to meet the specified standard (95%), severe financial consequences result. There is no similar comprehensive, independent oversight or audit of the Board of Equalization's assessment practices, values or compliance.

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BAD PRECEDENT

This proposal will serve as an invitation to other industries to apply for similar special treatment. Businesses with multiple locations, such as service stations, car rental outlets, retailers such as McDonalds, Wal-Mart and Home Depot, currently file more business property statements locally than all airlines combined. I am confident that if the proposed legislation passes, such companies will apply for similar treatment because they know they will receive a more favorable assessment from the five-member Board of Equalization than they will from county assessors who are assessment professionals and refuse to allow politics to influence their professional valuation decisions. Just last year, the California Assessors' Association successfully opposed a similar proposal to have the Board of Equalization assess heavy equipment. This proposal will move California away from the local assessment of property, an essential component for maintaining public confidence in our property tax system.

POLITICIZATION OF ASSESSED VALUES

Finally, this proposal will lead to far greater politicization of assessed values for aircraft. The Board of Equalization is one of the few taxing agencies in which the members also serve as the assessment appeals board, receive political contributions and meet privately with appellants. Experience demonstrates that far too much politics finds its way into state-assessed property values and assessment appeals. The historical evidence is compelling. Between 1998 and 2002, the State Board of Equalization reduced the assessed values on state-assessed properties by an astounding 6%, reflecting a \$4 billion reduction. During the same period, local assessed values increased by 36%. This is the same period during which the California economy experienced the largest sustained economic "boom" in history. Yet, the Board of Equalization reduced assessed values of property owned by some of the state's largest corporations. Others have come to the same conclusion. On September 13, 2000, the San Francisco Chronicle published a lengthy story detailing this incongruity. The story stated in the lead paragraph that the Board of Equalization is "granting utilities and large businesses millions of dollars in tax breaks as part of a policy shift."

In 2003 the Chief Committee Consultant for the Senate Revenue and Taxation Committee made the following statement in his analysis of a similar proposal: "The Board of Equalization in recent years has shown itself to be remarkably friendly to business taxpayers. Time after time, business tax appeals, unitary property assessments and regulatory projects have been decided by the Board in favor of business taxpayers, despite contrary advice from legal and administrative staff. Indeed, taxpayers can preempt an unfavorable Board vote by forcing selected Board members to recuse themselves from a decision by making strategic contributions to those members. There is good reason to believe that if the responsibility for assessing aircraft is assigned to the Board of Equalization, aircraft will be assessed and taxed significantly less than currently."

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In 2010, the Bureau of National Affairs (BNA), a Bloomberg publication, published a detailed, thirty-four page investigative report detailing a nexus between campaign contributions and the Board of Equalization. In that report they state, “A correlation appears to exist between contribution levels and success before the board in the cases BNA studied. In the cases with \$250 [in contributions] or less tied to them, the taxpayers won 30 percent of the time. In cases between \$250 and \$16,000, the winning percentage rose to 53 percent. At the level of \$16,000 to \$50,000, the success rate was 75 percent. For cases where contributions were between \$50,000 and \$137,000—the top level—the success rate was 88 percent.”

CONCLUSION

This legislation is more about the airline industry’s effort to reduce its property taxes than it is about sound assessment practices, accurate values and efficient government. It is unfair to cities, schools, community colleges, counties and special districts that depend on property tax revenue to be unfairly impacted by the airline industry attempting to avoid paying its fair share of property taxes.

Assessors have repeatedly offered to work with the airline industry to discuss any concerns including how assessors can improve uniformity in resolving the assessment appeals of commercial aircraft. To date, no airline has accepted our invitations.

White Paper R&T Code Section 401.17



Version 2.0
Updated February 20, 2015

Submitted To:
California Assessors' Association
Standards Committee

Submitted By:
Aircraft Advisory Subcommittee

11/19/2014

Summary Overview

Assembly Bill 964 was enacted in 2005 and will sunset on December 31, 2015. The bill created Revenue and Taxation Code Section 401.17 prescribing the methodology for valuation of certificated aircraft and Revenue and Taxation Code Section 1153.5 creating a standardized audit process for Certificated Aircraft. These code sections have been essential to maintaining a homogeneous valuation and audit process for Certificated Aircraft throughout the state of California. The purpose of this document is to present the recommendations of the California Assessor's Association Aircraft Advisory Subcommittee for extending the code sections and modifying the current language to arrive at a fair and equitable value for Certificated Aircraft assessments within the state of California.

The California Assessors' Association (CAA) and representatives of the airline industry agree that the valuation of Certificated Aircraft (aircraft operated by commercial air carriers) remains one of the more difficult and contentious areas of assessment for property tax purposes. The complicated valuation process combined with the unfortunate and catastrophic event of September 11, 2001 (9/11) were the driving force for the CAA and the airline industry to seek a legislative remedy.

In 2005, California counties and the airline industry supported the adoption of Assembly Bill 964 which codified in R & T Code Section 401.17 a valuation methodology based in part on addressing the temporary valuation impact of 9/11. The Bill included an extraordinary economic obsolescence formula, a "lead county" concept, and a centralized audit process.

Revenue and Taxation Code Section 401.17 covered the years of 2005 to 2010 which included a statewide supplemental Master Settlement Agreement that granted major valuation concessions to the airline industry. This resulted in tax credits for the 2002-03, 2003-04, and 2004-05 tax years. These concessions were subsequently extended with minor changes in 2010 by AB 384, and these remain in place today even though the industry has fully recovered from the effects of 9/11.

After a decade of stability, Southwest Airlines, United Airlines, and American Airlines recently challenged the valuation and obsolescence calculations agreed upon in 2005. They have filed numerous assessment appeals and lawsuits statewide seeking a 70% reduction in their assessed value for the year 2009.

The airline industry has evolved significantly since 9/11. The capacity discipline exhibited by air carriers and their focus on additional revenue streams has bolstered the industry to profitability since 2010. Today, most air carriers have either restructured their business models through company financial reorganizations, or have found profitability through new ancillary revenue streams, such as baggage fees, in-flight entertainment fees, and preferred seating fees. Most carriers have also acquired more fuel efficient aircraft saving millions of dollars on their fuel expenses. An industry research firm Idea Works Company researched the financial filings of 59 airlines worldwide which disclosed ancillary revenue activity. The research revealed that airlines now average \$16 per passenger today on added services. The table below illustrates an estimated 1,200% growth in ancillary revenue growth from 2007 through 2013.

Annual Financial Disclosures of Ancillary Revenue <i>(Results are associated with a fiscal period that ended in the year indicated)</i>							
Fiscal Year	2007	2008	2009	2010	2011	2012	2013
No. of Airlines Reporting	23	35	47	47	50	53	59
Revenue in Billions	\$2.45	\$10.25	\$13.47	\$21.46	\$22.6	\$27.1	\$31.5

The centralized audit process enacted as a provision of R&T Code Section 1153.5 continues to be a preferred method for the CAA and the Airline Industry. However, the recovery of the airline industry has prompted the CAA to seek a legislative change to the current language in the valuation methodology. The proposed changes will eliminate the language that provided for a temporary valuation methodology as a result of the impact of 9/11, and define a method for a fair market and equitable valuation for Certificated Aircraft. As a result of the upcoming sunset of R&T 401.17, the Aircraft Advisory Subcommittee is recommending the following four items be enacted in the legislative processes:

- I. Addition of a representative period which would consist of the actual flight activity conducted throughout the prior calendar year.
- II. The Elimination of the economic obsolescence language in R&T Code Section 401.17.
- III. The reset of the valuation methodology to reflect a fair market value pursuant to Revenue and Taxation Code Section 110. The current methodology (wholesale value less 10% discount) was put in place to reflect the special circumstances that befell this property following the September 11, 2001 incident.
- IV. The elimination of the language added in Assembly Bill 384 (2010-11 session), which provided relief for assessments on aircraft when their fair market value exceeded the original cost new directly from the manufacturer.

Subcommittee Recommendations

This section discusses the four recommendations of the CAA Aircraft Advisory Subcommittee for the extension and modification of the language in R& T Code Section 401.17.

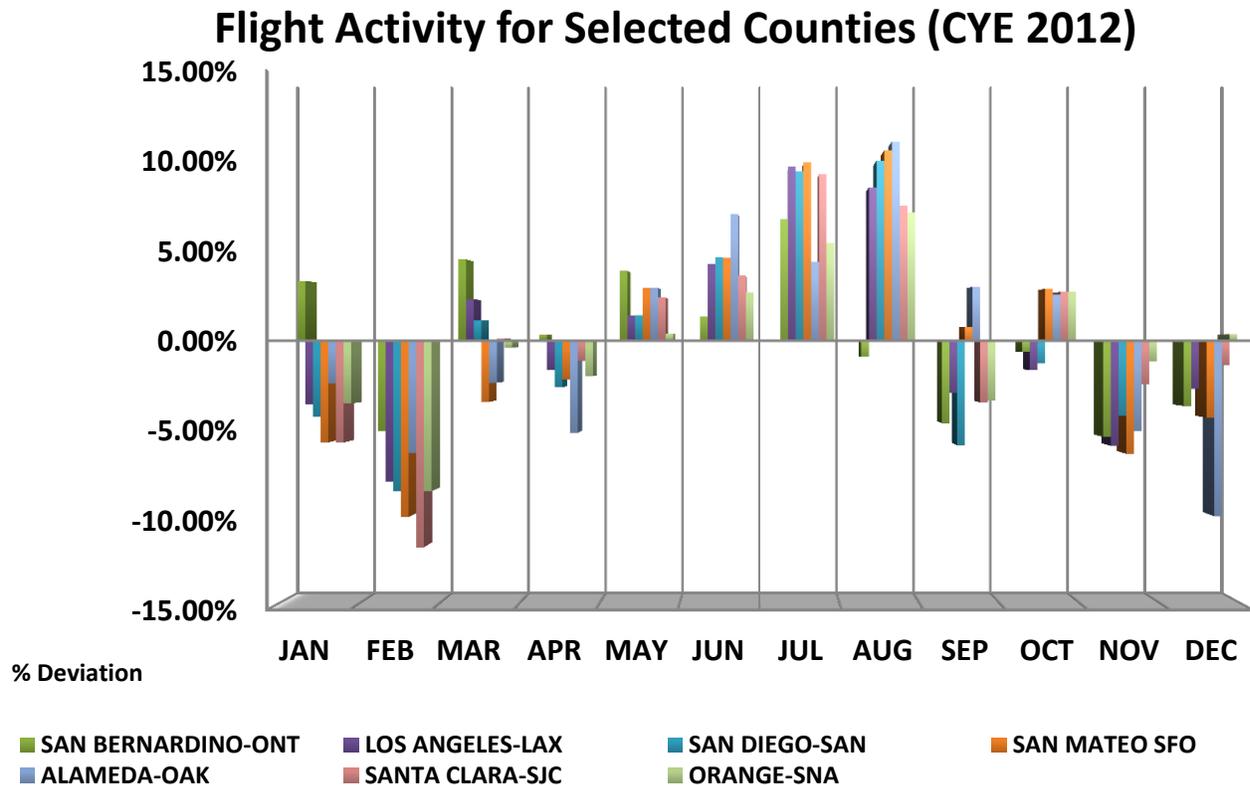
- I. Addition of a representative period which would consist of the actual flight activity conducted throughout the prior calendar year.

The purpose of a representative period is to obtain a measurement of an airline's flight data that can reasonably be expected to reflect the average activity of that carrier for the ensuing tax year.

Previous methods of capturing flight activity information (e.g. airline timetables or published schedules) may have been limited, however, through the use of current technology an entire calendar year of flight activity can readily be derived and reported by the air carriers through

the use of electronic media. This reporting method would result in a fair and accurate allocation for all California counties with commercial airports.

As illustrated in the Flight Activity Analysis chart below, it is impossible to designate a month, let alone a particular week, that uniformly reflects annual flight activity by air carriers operating within the State. The zero baseline on the chart represents the average flight activity and the bars indicate each county's deviation from the average on a monthly basis.



The CAA Aircraft Advisory Subcommittee recommends the representative period for certificated aircraft to consist of the actual flight activity conducted throughout the prior calendar year.

II. The Elimination of the economic obsolescence language in R&T Code Section 401.17.

The industry has recently used language in R&T Code Section 401.17 (1) (C) and (D) to leverage assessment appeals and lawsuits statewide for commercial aircraft valuation in the 2009 assessment year. There have been assessment appeals in Los Angeles County, and lawsuits filed by major airlines in various counties statewide, opposing the calculation method used to derive an available economic obsolescence.

R&T Code Section 401.17 (1) (C) and (D) addressed extraordinary economic obsolescence to accommodate the industry demand to codify an immediate tax relief in case of an event

similar to 9/11. This section was added by Assembly Bill 964 enacted in 2005 and the last lien date where obsolescence was available based on the prescribed language was in 2004.

R&T Code Section 401.17 (1) (C) compares industry data on net revenue per available seat mile, net load factor, and yield factor, and compares that with a 10 year benchmark to arrive at an economic obsolescence percentage. The same economic obsolescence percentage applies to all fleets, old or brand new, wide body or narrow body. This practice is not used by industry appraisers.

The Aircraft Advisory Subcommittee recommends eliminating R&T Code Section 401.17 (1) (C) and (D). Determining the basis for extraordinary obsolescence will be done by using the commercial aircraft price guides. Any dramatic decline in aircraft values or economic obsolescence will be reflected by using the Airliner Price Guide values in the fleet calculations. In addition, the Avitas and Avmark commercial aircraft price guides can also be used as reference when verifying a need for extraordinary obsolescence.

III. The reset of the valuation methodology to reflect a fair market value pursuant to Revenue and Taxation Code Section 110. The current methodology (wholesale value less 10% discount) was put in place to reflect the special circumstances that befell this property following the September 11, 2001 incident.

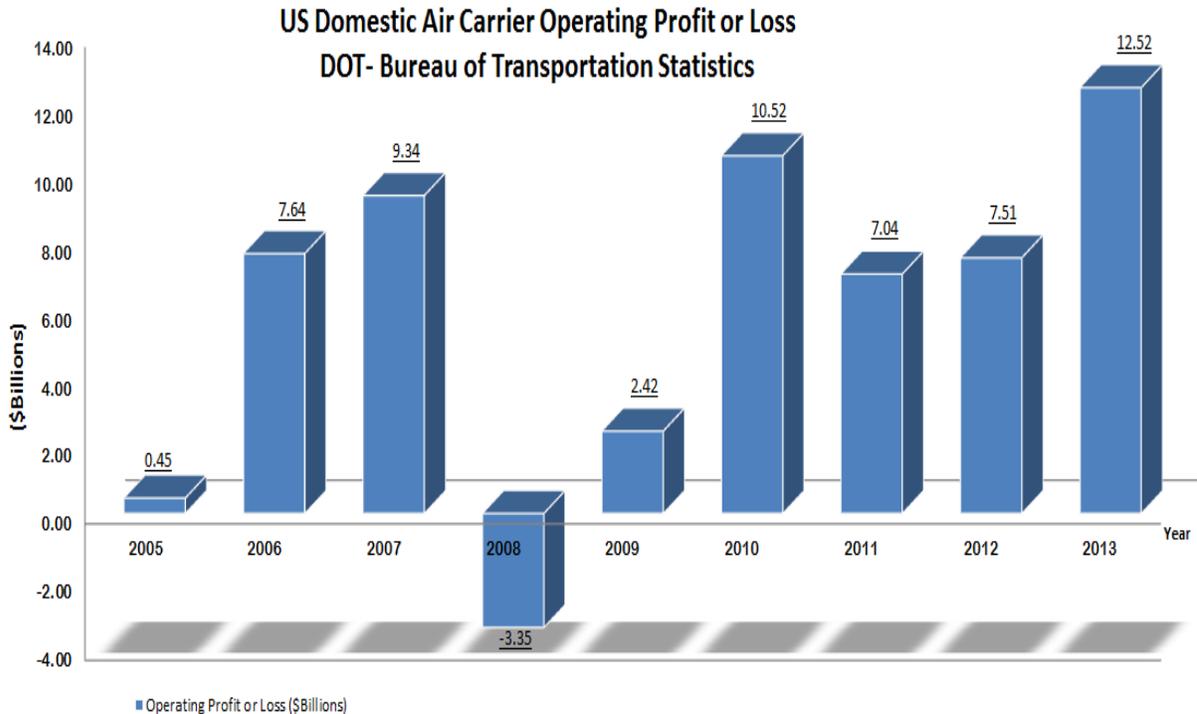
The State Legislature provided major tax relief in recognition of the 9/11 event by enacting R&T Code Section 401.17 which prescribes a valuation methodology for Certificated Aircraft at a valuation level of market wholesale of an aircraft fleet with an additional 10% fleet discount. The intent was to quantify the temporary inutility experienced by certificated aircraft property because of the 9/11 tragedy. Currently, the methodology provides an inequitable advantage over all other taxable properties in California, both personal and real. All tangible, taxable properties in California are assessed, pursuant to R&T Code Section 110, as arm's-length transactions.

R&T Code Section 110 "full cash value" (a) Except as is otherwise provided in Section 110.1, "full cash value" or "fair market value" means the amount of cash or its equivalent that property would bring if exposed for sale in the open market ...purposes."

R&T Code Section 110 mandates Assessors to value all tangible, taxable properties at fair market value, regardless, of their classification as business, commercial, industrial, or residential properties. Currently the only property that receives preferential treatment is the aircraft of the commercial airline industry. It is the opinion of the CAA Aircraft Advisory Subcommittee that the unique and favorable valuation granted by R&T Code Section 401.17 is no longer applicable. The airline industry has made an economic recovery and the post 9/11 conditions no longer exist, and the valuation of commercial aircraft should be reset to maintain compliance with R&T Code Section 110.

The International Air Transport Association (IATA) indicated the airline industry earned profits of \$6.1 billion in 2012, \$12.9 billion in 2013, and they anticipate the airline industry will earn \$18 billion in 2014. Additionally, the Federal Aviation Administration (FAA) is forecasting

commercial airline travel will continue growing at a rate of 2.8% per annum for the next 20 years. The graph below illustrates the growth in industry's operating profit.

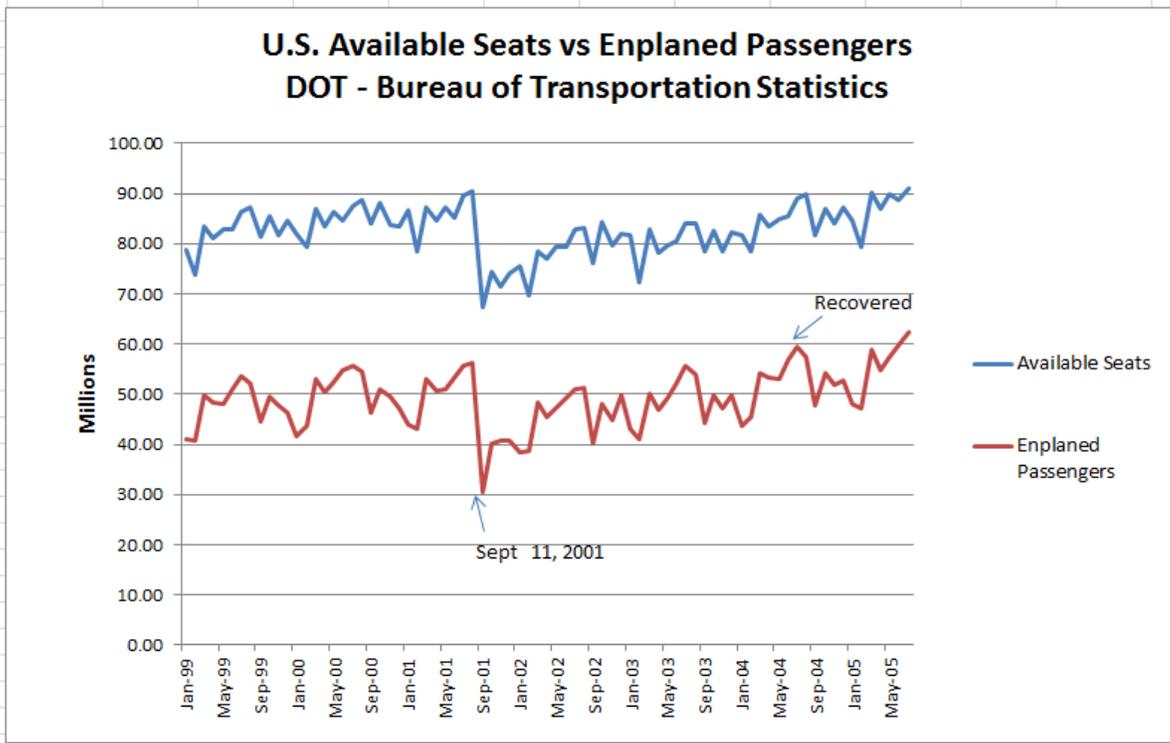


There are a variety of other factors or drivers responsible for the airline industry's return to profitability. These consist of passenger demands and seat availability, load factors, and technological advances.

a. Passenger Demands/Seat Availability

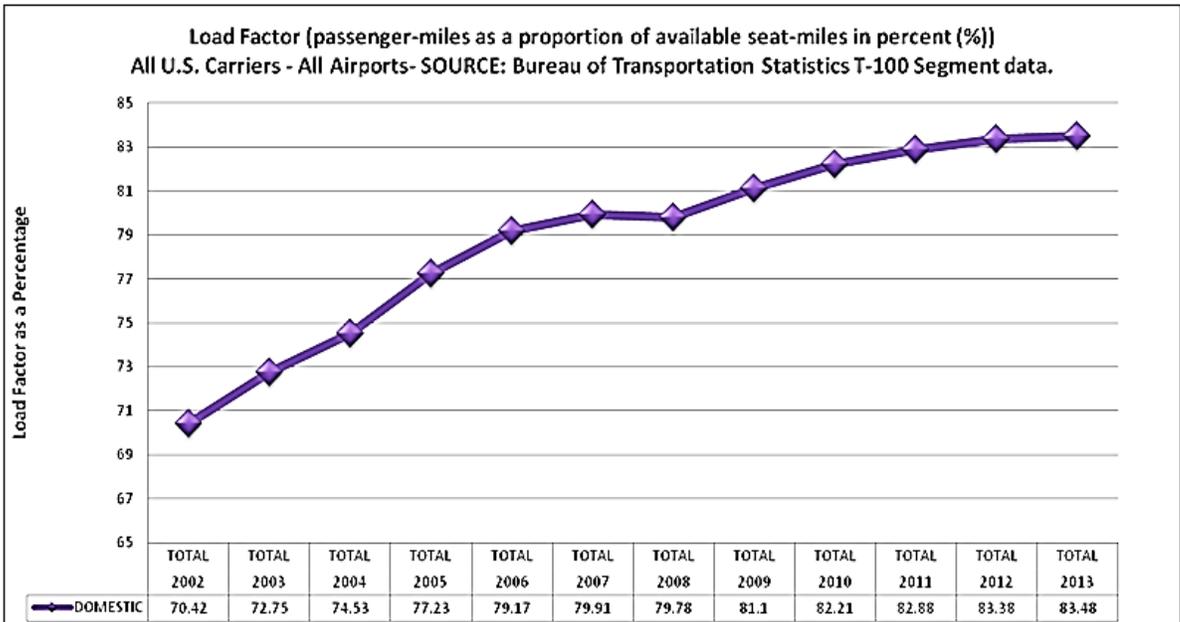
According to the Bureau of Transportation Statistics (BTS), the airline industry surpassed pre 9/11 number of passengers during the summer of 2004, even though the available seats were 98.3% when compared to August 2001. This trend continued into 2005.

The airline industry increased available seat capacity to 91.1 million during the summer of 2005, which exceeded the post 9/11 capacity of 67.5 million. This was an increase of 35% in anticipated passenger travel and also exceeded the seat capacity of 90.6 million during August 2001 (BTS). The graph below depicts the increase in passenger demands and seat availability.



b. Load Factors

Load factor is the measurement of how many seats are occupied. During 2001, the load factor was an average of 69%. This factor increased to 82% for 2011 and 83.1% for calendar year 2013, and the FAA is predicting the factor will continue to rise through 2034. Airline mergers and the elimination and consolidation of flight routes have been a



contributing factor, while the airline industry continues to add additional seating and to pack these seats. The graph below depicts the growth in the industry's load factor.

c. Technological Advances

The airline industry also began modernizing their fleets by replacing inefficient aircraft and modifying existing aircraft with enhancements that improve fuel efficiency. This modernization reduces the effective age of the fleets, while correcting or eliminating any functional obsolescence that would be associated with the aircraft. The primary enhancement done to an aircraft is the addition of Winglets. Winglets are additions to a fixed-wing aircraft's wing that reduce drag and increase fuel efficiency. Other improvements include replacing steel equipment with lighter carbon fiber equipment.

The CAA Aircraft Subcommittee recommends complying with the R&T Code Section 110, and using the winter edition of the Airliner Price Guide (APG) to value the fleets of the airline industry. Currently, the Assessors' staff uses the average retail values from other market derived value guides to assess general aircraft and watercraft.

The Subcommittee also recommends using the Current Market Value (CMV) from the APG as the basis for the assessment, if the aircraft is identifiable in the guide by year of manufacture, type, configuration, and serial number. As with most appraisals, appraiser will want to utilize any methods available to capture all aircraft component values. Any costs not captured in the APG, would need to be trended and added to the CMV to arrive at the final value.

IV. The elimination of the language added in Assembly Bill 384 (2010-11 session) which provided relief for assessments on aircraft when their fair market value exceeded the original cost new directly from the manufacturer.

The amendments Southwest Airlines successfully added in AB 384, created unfair treatment to other competitors by applying valuation levels not equalized. Today, some of Southwest Airlines fleet of Boeing 737-800 series aircraft is valued based on the discounts they received from Boeing, while other air carriers with the same aircraft model are not discounted to value levels as Southwest's and their valuation is based on the wholesale market value less 10% fleet discount prescribed in R&T Code Section 401.17. The statute, prior to this addition, provided an equalization for all Certificated Air Carriers that serve this diverse state. Southwest Airlines, in a letter dated April 13, 2009, to then California State Assembly Member Fiona Ma, stated that:

“any methodology should provide for a fair, uniform and balanced application, which is competitively neutral.”

It is the opinion of this subcommittee that AB384 did the opposite. It provided a lower valuation for air carriers obtaining pricing discounts from aircraft manufactures like Boeing, and created assessment discounts exclusive to Southwest Airlines.

The Subcommittee recommends that the revisions made to R&T Code Section 401.17 as a result of AB 384 (2010-11 legislative session) be excluded from future legislative changes.

Conclusion

In 2005, the California Counties provided the airline industry with adjustments for the years of 2002-2004 of over \$2.5 billion in assessed value to resolve outstanding litigation after the events of 9/11. Those adjustments were codified in 2005, and the industry continues to receive these tax adjustments even though the airline industry has evolved significantly since 2005. Their focus on additional revenue streams bolstered the industry to profitability in 2010 and 5 consecutive years of profitability since that time.

The economic recovery experienced by the airline industry during the past several years is forecasted to continue over the next two decades. The recovery is aided by their restructured business model through the profitability of ancillary revenue streams, increases in their passenger demands, seat availability, load factors, and technological advances. The reset of the valuation methodology is necessary to arrive at fair market value and eliminate the inequitable advantage the airline industry has over all other taxable properties in California.

Therefore the CAA Aircraft Advisory Subcommittee recommends the extension and modification of Revenue and Taxation Code Section 401.17 as described below.

- Addition of a representative period which would consist of the actual flight activity conducted throughout the prior calendar year.
- The Elimination of the economic obsolescence language in R&T Code Section 401.17.
- The reset of the valuation methodology to reflect a fair market value pursuant to Revenue and Taxation Code Section 110. The current methodology (wholesale value less 10% discount) was put in place to reflect the special circumstances that befell this property following the September 11, 2001 incident.
- The elimination of the language added in Assembly Bill 384 (2010-11 session) which provided relief for assessments on aircraft when their fair market value exceeded the original cost new directly from the manufacturer.

[Senate Bill 661](#) (Hill)

Date: 02/27/15

Program: Property Tax

Sponsor: Author

Revenue and Taxation Code Sections 100.51, 721.51, 755, 756, 828.1, 1152, 1153, and 1155

Effective: January 1, 2016

Michele Pielsticker (Chief) 916.322.2376

Rose Marie Kinnee (Analyst) 916.445.6777

Summary: Transfers assessment responsibility for commercial air carrier¹-owned personal property from local county assessors to the State Board of Equalization (BOE). It also specifies that aircraft presence in California will be measured in the second full week of January.

Purpose: To increase administrative efficiencies by allowing commercial air carriers to transact with one taxing agency for aircraft and other personal property assessments.

Fiscal Impact Summary: Unknown.

Existing Law:

Assessment Jurisdiction. Local county assessors assess commercial air carrier-owned² real and personal property. Air carrier-owned real property includes: (1) real property directly owned, (2) taxable possessory interests in publicly-owned airports³ and (3) real property fixtures (personal property affixed in such a way that it becomes a part of the real property). Air carrier-owned personal property includes certificated aircraft⁴ and all other business personal property.

The Constitution⁵ requires the BOE to assess certain types of property⁶ and property owned or used by certain types of companies.⁷ It also specifies that the Legislature may authorize BOE-assessment of property owned or used by other public utilities. The law directs the BOE to annually value and assess all the taxable property within the state that is to be BOE-assessed pursuant to the Constitution and any legislative authorization thereunder.⁸

Lead County System: One Return/One Audit.⁹ The law allows commercial air carriers operating in multiple California airports to file a single consolidated property statement (tax return) with a designated “lead” county. The tax return details necessary information about the air carrier’s property holdings (both certificated aircraft and other business personal property and fixtures)¹⁰ that are subject to property tax in California. The lead county calculates the total unallocated fleet value of the air carrier’s certificated aircraft for each make, model, and series, as described below,¹¹ and transmits the

¹ Commercial air carriers include both passenger airlines and freight delivery services.

² As well as air-carrier claimed, possessed, used, controlled, or managed personal property.

³ Commercial air carriers typically have a general taxable possessory interest in the publicly-owned airports where they operate and in site-specific facilities at airports. The site-specific facilities include terminal, cargo, hangar, storage and maintenance facilities, automobile parking lots, and other air carrier-leased buildings and land.

⁴ Certificated aircraft includes certificated aircraft per Revenue and Taxation Code (RTC) [Section 1150](#) and air taxis operated in scheduled air taxi operations per RTC [Section 1154](#).

⁵ California Constitution, Article XIII, [Section 19](#).

⁶ Property includes pipelines, flumes, canals, ditches and aqueducts lying within two or more counties.

⁷ Property owned or used by regulated railways, telegraph, or telephone companies, car companies operating on the railways in this state, and companies transmitting or selling gas or electricity.

⁸ RTC [Section 721](#).

⁹ RTC [Section 441\(m\)](#).

¹⁰ Business personal property subject to property tax includes unlicensed surface vehicles, ground and cargo handling equipment, ramp equipment, passenger service equipment, maintenance and engineering equipment, communications and meteorological equipment, spare parts, rotables, computers, furniture, fuel and other supplies. Additionally, business personal property includes the property at off-airport locations such as distribution centers and package-carrier drop-off boxes.

¹¹ RTC [Section 401.17](#).

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calculated fleet value to the other counties. To assess the aircraft, each county determines its allocated portion of the calculated fleet value based on the flight data for its particular county. The lead county also transmits return information related to non-aircraft personal property and fixtures to other relevant counties where the air carrier operates. The law requires an audit team directed by the lead county to audit the air carriers. These laws sunset on December 31, 2015, after which air carriers must file returns with each individual county, and each county must audit any air carrier that qualifies for a mandatory audit in that county.

Aircraft Valuation Methodology.¹² The law specifies an aircraft valuation methodology for county assessors to use in local assessment that expires this year; next year, the law will be silent on assessment methodology for certificated aircraft.¹³

Value Allocation.¹⁴ The law provides an allocation formula to determine the frequency and amount of time an air carrier's certificated aircraft makes contact in California and has situs within any county so that each county's assessment is apportioned to reflect its actual presence.

Revenue Allocation. The property tax revenue allocation laws for state-assessed property differ from those for locally-assessed property. Generally, locally-assessed property tax revenues are situs-based. Thus, revenues accrue only to those taxing jurisdictions in the tax rate area where the property is located. In contrast, the general procedure for allocating revenues from state-assessed property is to share any "incremental growth" in property tax revenues occurring after 1987 with nearly all governmental agencies (i.e., "county-wide") in the county according to a statutory formula.

Representative Period.¹⁵ The law requires the BOE to designate the period to measure aircraft presence in California for each assessment year after consulting with the assessors regarding where the aircraft land. Since 1997, the BOE-designated period has been the second full week of January.

Proposed Law:

Assessment Jurisdiction.¹⁶ This bill requires the BOE to assess a commercial air carrier's personal property beginning with the January 1, 2016 lien date. This includes both certificated aircraft and all other personal property holdings.

State-Assessed System. This bill requires commercial air carriers to file their annual personal property statements (tax return) with the BOE. In addition, air carriers must report their non-aircraft personal property by tax rate area so that revenue proceeds from the property can be allocated accordingly.¹⁷ This bill allows the BOE to audit¹⁸ air carriers as otherwise provided by law.¹⁹

Valuation Methodology. This bill does not specify a valuation methodology for certificated aircraft. Thus, BOE would assess aircraft based on the general definition of "fair market value" under the Property Tax Law, which allows any valid approach to value.²⁰

Value Apportionment.²¹ This bill repeals the allocation formula applicable to county assessments and revises and recasts those provisions to apply to state assessments.

¹² [RTC Section 401.17.](#)

¹³ [AB 1157 \(Nazarian\)](#) proposes to extend these laws for five years.

¹⁴ [RTC Sections 1150 - 1156.](#)

¹⁵ [RTC Section 1153.](#)

¹⁶ Proposed RTC Section 721.51.

¹⁷ Proposed RTC Section 828.1.

¹⁸ Proposed RTC Section 721.51(c).

¹⁹ No law expressly requires or prohibits the BOE to audit its state assessees.

²⁰ [RTC Section 110](#) defines "'fair market value' as the amount of cash...that property would bring if exposed for sale in the open market under conditions in which neither buyer nor seller could take advantage of the exigencies of the other...."

²¹ [RTC Section 1152.](#)

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Representative Period.²² The representative period for measuring an aircraft's California presence would be the second full week of January.

Revenue Allocation.²³ Property tax revenue from air-carrier personal property would be allocated based on tax rate area situs rather than the county-wide system of revenue allocation used for most other state-assessed property.

In General: Assessment Jurisdiction. Under existing law and regulations, some property is assessed by the BOE (i.e., "state-assessed") and some property is assessed by local county assessors (i.e., "locally-assessed"). Certain elements of taxation differ depending upon whether property is state- or locally-assessed. (See table in Commentary section.)

[Section 19](#) of Article XIII of the California Constitution specifies that the BOE is to assess certain types of property and property owned or used by certain types of companies. Any property subject to property tax that is outside the BOE's jurisdiction, including those instances where the BOE declines to assert jurisdiction, is subject to property tax assessment by the local county assessor. Section 19 also provides that:

The Legislature may authorize Board assessment of property owned or used by *other public utilities*.

[Section 3](#) of Article XII (Public Utilities) of the California Constitution provides that:

Private corporations and persons that own, operate, control, or manage a line, plant, or system for the transportation of people or property, the transmission of telephone and telegraph messages, or the production, generation, transmission, or furnishing of heat, light, water, power, storage, or wharfage directly or indirectly to or for the public, and common carriers, are public utilities subject to control by the Legislature. The Legislature may prescribe that additional classes of private corporations or other persons are public utilities.

Thus, commercial air carriers likely could be considered "public utilities" under this definition. Further, even though commercial air carriers were not specified as public utilities under the Constitution, the Legislature could "prescribe that additional classes of private corporations or other persons are public utilities."

Business Personal Property. All property, real and personal, is subject to property tax, unless a specific constitutional or statutory exemption applies. Generally, taxability is determined on the lien date, January 1, of each year. The Constitution allows the Legislature to exempt or provide for differential taxation of any personal property with a 2/3 vote.²⁴

Personal property used in a trade or business is taxable. Proposition 13's valuation limitations do not apply to business personal property. Consequently, the law requires the assessor to determine its current fair market value every year as of January 1. Mass appraisal techniques generally are necessary given the enormity of this task. To aid in the task, the law requires property owners to annually report their personal property holdings having an aggregate acquisition cost of \$100,000 or more on a business property statement.²⁵

The assessor determines the fair market value of most business personal property using the property's acquisition cost. The assessor multiplies acquisition cost by a price index (an inflation trending factor based on acquisition year) to estimate reproduction cost new. Next, the assessor multiplies reproduction cost new by a percent good factor (from BOE-issued percent good tables) to estimate depreciated reproduction cost (reproduction cost new less depreciation). The assessor uses the

²² RTC [Section 1153](#).

²³ Proposed RTC 100.51 and RTC [Sections 755](#) and [756](#).

²⁴ California Constitution, Article XIII, [Section 2](#).

²⁵ RTC [Section 441](#).

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reproduction cost less depreciation value as the property's taxable value for the fiscal year. The personal property tax rate is the same as the real property tax rate, which is 1% plus voter approved indebtedness in the locality. The BOE's [Assessors' Handbook Section 504](#) *Assessment of Personal Property* provides more detailed guidance.

Certificated Aircraft. Certificated aircraft used by air carriers is subject to taxation when in revenue service in California. Generally, certificated aircraft are commercial aircraft operated by air carriers for passenger or freight service. California law²⁶ defines "certificated aircraft" as

[A]ircraft operated by an air carrier or foreign air carrier engaged in air transportation, as defined in Section 40102(a)(2), (5), (6), and (21) of Title 49 of the United States Code, while there is in force a certificate or permit issued by the Federal Aviation Administration, or its successor, authorizing such air carrier to engage in such transportation.

Certificated aircraft are valued under a "fleet" concept. This means that the assessed value basis is not the value of any single aircraft owned by an air carrier, but rather the value of *all* aircraft of each type that is flown into the state. Aircraft regularly fly in and out of California and the various California counties with major airports; typically no single or particular aircraft remains located in the state on a permanent basis. Under the "fleet" concept, aircraft types that have gained situs in California by their entry into revenue service in this state are valued as a fleet, while only an allocated portion of the entire fleet's value is ultimately taxed to reflect actual presence in California's counties.²⁷ Under the federal Due Process and Commerce Clauses, personal property taxes on these aircraft must be fairly apportioned.

The Fleet Concept - Example. An individual air carrier, Blue Sky Airlines, operates the following aircraft types in its overall fleet: Boeing 737-300s and 737-500s; Boeing 747-400s; and Boeing 767-200s and 767-300s. Each of these aircraft types (Boeing 737, 747, 767) is considered to be a fleet type. Thus, Blue Sky Airlines may have a fleet of 100 Boeing 737-500s, but only 30 of those aircraft make any contact in Sacramento County during the year. For purposes of property taxation in Sacramento County, the full cash value of all 100 of Blue Sky Airline's Boeing 737-500 aircraft is determined and then the computed allocation ratio is applied to that value.

Valuation and Allocation. For fiscal years 2005-06 to 2015-16,²⁸ the law details the assessor's assessment methodology for determining the market value of commercial air carrier-owned certificated aircraft.²⁹ The law provides an allocation formula to determine the frequency and the amount of time that an air carrier's aircraft makes contact and maintains situs within a county.³⁰ A BOE regulation provides further explanation of the allocation procedure.³¹ The allocation ratio is made up of two components: a ground and flight time factor, which accounts for 75% of the ratio, and an arrivals-and-departures factor, which accounts for 25% of the ratio. The sum of these two factors yields the allocation ratio, which is applied to the full cash value of a fleet of a particular aircraft type operated by an air carrier and, thus, the assessed value calculation for that aircraft type. The sum of the assessed allocated values for each make and model used by an air carrier results in the total assessed value of the aircraft for that air carrier for a particular county.

²⁶ RTC [Section 1150](#)

²⁷ Article 6 (RTC Sections [1150 to 1156](#)) enacted in 1968 after the BOE requested the Legislature determine an apportionment method that would be uniform. Assembly Revenue and Taxation Committee, Volume 4, Number 22, *A Study of Aircraft Assessment in California* (January, 1968).

²⁸ For fiscal years 1997-98 to 2003-04, assessors used another detailed methodology outlined in RTC [Section 401.15](#).

²⁹ RTC [Section 401.17](#).

³⁰ RTC [Section 1152](#).

³¹ Property Tax [Rule 202](#), subdivision (c).

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Representative Period. The law requires that the BOE annually designate the representative period to be used by all assessors in assessing the aircraft of each carrier for the forthcoming tax year.³² The purpose of a representative period is to obtain air carrier operational data, in a brief time span, that can reasonably be expected to reflect the carrier's average activity for the ensuing tax year. Although possible, using a full prior year's activity could prove too burdensome for air carriers with a high volume of air traffic. Additionally, using a full prior year may be undesirable if the air carrier's activity has undergone major change. For these reasons, the desirable representative period should be one that is short enough to mitigate the carriers' burden, yet long enough and current enough to reasonably represent the following year.

In 1997, the assessment lien date for locally-assessed property changed from March 1 to January 1. Since that time, the BOE has designated the second full week of January as the representative period for certificated air carriers and scheduled air taxi operators. From 1993-1996, the representative period was the last week of February.

Background: Settlement Agreement. Prior to January 1, 1999, California law did not specify an assessment methodology for valuing certificated aircraft, or for valuing the carrier's taxable possessory interest in the publicly owned airport in which the aircraft operated. In 1997-98, a group of counties and air carrier industry representatives met to resolve property tax issues on air carrier-owned and -used property. The end result was a written settlement agreement to dispose of outstanding litigation and appeals over the valuation of airport possessory interest assessments and certificated aircraft. The Legislature codified the settlement agreement in a three-piece package:

Aircraft Valuation Methodology and Monetary Settlement. [AB 1807](#) (Stats. 1998, Ch. 86; Takasugi) outlined the valuation procedures³³ for certificated aircraft during a six-year period, and provided \$50 million in tax credits against future tax liabilities,³⁴ as well as extensive uncodified legislative findings and declarations.

Airport Possessory Interests. [AB 2318](#) (Stats. 1998, Ch. 85; Knox) specified the assessment methodology for valuing the air carrier's taxable possessory interest in publicly-owned airports.³⁵

Tax Credits. [SB 30](#) (Stats. 1998, Ch. 87; Kopp) added general purpose provisions to allow counties and taxpayers to enter into written settlement agreements granting taxpayers tax credits.³⁶

Centralized System and Valuation Refinements. Beginning in 2006, [AB 964](#) (Stats. 2005, Ch. 699; J. Horton) established the centralized administrative procedure for air carriers and counties using the lead county system. AB 964 also added a new valuation methodology and specified that the lead county would calculate total unallocated fleet value. The new methodology refined and built upon the first valuation methodology as follows:

- **Aircraft Types.** It distinguished between passenger aircraft (main-line jets or regional jets) and freighter aircraft (production or converted).
- **Variable Components.** It added detail for the variable components. To calculate a reproduction cost new less depreciation value indicator (i.e., the historical cost basis) each variable component was addressed; specifically: (1) acquisition cost, (2) price index, (3) percent good factor, and (4) economic obsolescence.
- **Airliner Price Guide.** It changed the prices used in the [Airliner Price Guide](#), (APG) a "blue book" value guide for aircraft from the average of retail and wholesale prices to the wholesale price

³² RTC [Section 1153](#) and Property Tax [Rule 202](#).

³³ RTC [Section 401.15](#).

³⁴ RTC [Section 5096.3](#). The settlement agreement also contained the tax credit provisions.

³⁵ RTC [Section 107.9](#).

³⁶ RTC [Section 5103](#).

and additionally provided a 10% discount from the wholesale price to recognize that air carriers generally receive a fleet discount not reflected in the guide's listed wholesale prices.

- **Economic Obsolescence Adjustment.** It added detailed procedures to make economic obsolescence adjustments to capture significant market value changes (such as occurred after 9/11) due to severe airline industry economic condition changes.

Another written settlement agreement between counties and airlines accompanied AB 964. The agreement provided airlines with tax credits worth \$25 million. Additionally, the parties agreed not to pursue embedded software issues³⁷ until after the 2010-11 fiscal year. The agreement extended the valuation methodology for use in the 2004-05 fiscal year, a period not otherwise covered in statute due to the sunset.

In 2009, [AB 311](#) (Ma), as introduced, would have made the valuation methodology and centralized provisions permanent and, as amended, would have extended the effective date. However, Governor Schwarzenegger [vetoed](#) AB 311 because one airline disagreed with extending the valuation methodology as is, and the timing of the sunset allowed another year before the provisions sunset for all the parties to reach consensus.

In 2010, [AB 384](#) (Stats. 2010, Ch. 228; Ma) extended these provisions to the 2015-16 fiscal year and extended the repeal date provisions to December 31, 2015. In addition, AB 384 changed the valuation provisions as follows:

- **Rebuttable Presumption of Correctness.** Expressly provided that the fair market value of certificated aircraft determined using the specified assessment methodology only enjoys a *rebuttable* presumption of correctness. Previously, the methodology-produced value was deemed to be the aircraft's fair market value.
- **Evidence for Rebutting Presumption.** Specified that the preallocated aircraft fair market value produced using the delineated methodology may be rebutted by evidence including, but not limited to, appraisals, invoices, and expert testimony.
- **Original Cost - Maximum Value for Original Owner.** Provided that the value of an individual aircraft assessed to the original owner of that aircraft is not to exceed its original cost from the manufacturer.

The maximum value cap provision was added to appease the airline that opposed AB 311 in the prior year. In calculating total fleet values, this provision requires the county to substitute the original price paid when it is lower than wholesale price less 10% for any individual aircraft in the fleet. This reduces the total fleet value for any airline able to purchase new planes at deeper discounts.

In 2005, [AB 964](#) (J. Horton) initially proposed transferring assessment responsibility for commercial air carriers from the local county assessor to the BOE. Those provisions were amended out of the bill on May 26, 2005. In 2003, [SB 593](#) (Ackerman) also proposed transferring these assessments to the BOE. The Senate Appropriations Committee held the bill in committee. In 2004, the [California Performance Review Report](#)³⁸ recommended to Governor Schwarzenegger that the BOE assess commercial airline-owned aircraft to address certain inefficiencies, which were subsequently mitigated in 2005 by AB 964's new centralized lead county system.

Representative Period. In 2013, the California Assessors' Association requested that the BOE consider changing the representative period for certificated air carriers and scheduled air taxi operators. At that time, two periods were suggested, the second or third week of December or the second week of March. Air carriers were opposed to any change. BOE staff commenced the [interested parties process](#) and ultimately concluded that the representative period should not change from the second full week in

³⁷ A computer program that is not a basic operational program under RTC [Section 995](#) and [995.2](#).

³⁸ [GG19](#) – Centralize for Efficiency the Assessment of Commercial Aircraft and [CAA response](#).

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January. More recently the CAA analyzed actual flight activity for selected counties for 2012 and concluded that it was impossible to designate a month or a week that uniformly reflected actual flight activity within the state.

Related Legislation. This year, [AB 1157](#) (Nazarian) proposes to extend the local centralized system and aircraft valuation procedures for five years.

Commentary:

1. **What are the differences between State and Local Assessment?** The following table notes the fundamental differences between state and local assessment.

	State Assessment	Local Assessment
Value Standard	<p><u>Personal Property</u> Current Fair Market Value</p> <p><u>Real Property (Including Fixtures)</u> Current Fair Market Value</p>	<p><u>Personal Property</u> Current Fair Market Value</p> <p><u>Real Property (Including fixtures)</u> Acquisition Value Factored by no more than 2% per year or Current Fair Market Value, whichever is lower.</p>
Value Setting	BOE Members	County Assessor
Appeals	BOE Members	Assessment Appeals Board
Appeal Filing Deadline	July 20 (Unitary Property) ³⁹	September 15 or November 30 ⁴⁰
Court Actions	Trial <i>de novo</i> ⁴¹	Legal Issue – Trial <i>de novo</i> Factual Issue ⁴² – Court Reviews Administrative Record
Assessment Roll	Real and Personal Property: Secured Roll ⁴³	Personal Property: Unsecured Roll
Payment Delinquent	1 st Installment: December 10 ⁴⁴ 2 nd Installment: April 10 ⁴⁵	August 31 ⁴⁶
Mandatory Audits	No	Yes ⁴⁷
Return Due	March 1 ⁴⁸	May 7 ⁴⁹

³⁹ RTC [Section 731](#).

⁴⁰ RTC [Section 1603](#).

⁴¹ RTC [Section 5170](#). With trial *de novo*, a court can receive and hear new evidence and is not restricted to a review of the administrative record.

⁴² Questions of law versus fact: In a refund action for locally-assessed property taxes, where the issue is a question of law, the taxpayer has a right to a trial *de novo*, with the court being able to receive and consider new evidence. When the issue is a question of fact, the court is restricted to a review of the county assessment appeal board's findings and decisions (i.e., the administrative record).

⁴³ RTC [Section 109](#).

⁴⁴ RTC [Section 2617](#). (RTC [Section 2605](#) requires the first property tax installment payment for secured roll assessments to include all of the personal property taxes, but most county boards of supervisors have adopted resolutions under [Section 2700 et seq.](#) to instead allow payment in two equal installments. Los Angeles County has not enacted this resolution.

⁴⁵ RTC [Section 2618](#).

⁴⁶ RTC [Section 2922](#).

⁴⁷ RTC [Section 469](#).

⁴⁸ RTC [Section 830](#).

⁴⁹ RTC [Section 441](#).

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	State Assessment	Local Assessment
Revenue Allocation	Unitary Base + "County Wide" Incremental Growth* Unless Special Provisions are enacted.	Situs-Based (local tax rate area)
Disaster Relief - Post Lien Date	No	Yes

2. **Can jurisdiction change?** It appears that the Constitution authorizes the Legislature to require BOE assessment on the basis of air carriers being a "public utility." Section 19 of Article XIII allows BOE assessment of property owned or used by "other public utilities." Section 3 of Article XII provides that private corporations and persons that own, operate, control, or manage "a system for the transportation of people or property" and "common carriers" are public utilities. Section 3 also allows the Legislature to prescribe additional classes of corporations or persons as public utilities.
3. **Must all property assessment jurisdiction transfer to BOE?** No, the Constitution provides that the Legislature may authorize BOE assessment of property owned or used by other public utilities not specifically enumerated therein.⁵⁰ And, there is no requirement that the Legislature require all the property owned or used by those public utilities to be state assessed. Thus, the Legislature could transfer only personal property, or a subset thereof, for state assessment.⁵¹ Furthermore, with respect to personal property, the Constitution allows the Legislature to exempt or provide for its differential taxation with a 2/3 vote.⁵²
4. **Will this be valued like most other state-assessed public utilities?** No, for most public utility property, the company is valued as a whole. The assessed value the BOE determines captures the value of all of the company's property working as a system of interrelated assets, rather than the value of individual components of land, buildings, and personal property. In contrast, in this instance, the BOE would determine an air carrier's assessed value based on the value of two components individually: (1) the aircraft fleet and (2) all other personal property.
5. **What is the effect of limiting the jurisdictional transfer of assessment responsibilities to personal property?** Maintaining local assessment of real property allows Proposition 13's valuation limitations to continue to apply. The limitations establish a base year value, and a 2% limit on annual increases thereafter, and do not apply to (1) state-assessed property (real and personal) or (2) locally-assessed personal property. State-assessed property is valued annually at fair market value.⁵³ If assessment of real property were transferred to the BOE, that property would be assessed at current fair market value.
6. **Are the BOE and local county assessors subject to the same laws to determine fair market value?** Yes, the BOE must apply the same fair market value definition as the county assessors. However, the inherent nature of property appraisal may lead to differing opinions of value, such that, the BOE-determined values could be the same, higher, or lower than assessor-determined values.

⁵⁰ California Constitution, Article XIII, [Section 19](#).

⁵¹ BOE can designate certain property for local assessment. Section 19 of Article XIII allows the BOE to delegate to county assessors the duty to assess property used but not owned by a state assessee on which the taxes are to be paid by the local assessee; however, it does not appear that any real property directly owned by a state assessee could be delegated to assessors.

⁵² California Constitution, Article XIII, [Section 2](#).

⁵³ *ITT World Communications, Inc. v. San Francisco* (1985) 37 Cal.3d. 859.

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7. **Why is the jurisdiction change being proposed?** The existing lead county system is expiring. The centralized administrative system at the local level has been in place for 10 years. Airline carriers state that this system remains extraordinarily and unnecessarily burdensome. First, the carriers state that California's county assessment of air carrier property is unlike numerous other states that have a state assessment system for air carriers.⁵⁴ Secondly, carriers state that when they dispute their annual assessment or an audit result, they must file an appeal in every county to preserve their rights to judicial review, even if a correction to the lead county's unallocated certificated aircraft fleet value is the only dispute. Carriers state that this is time consuming, inefficient, and costly. Carriers note that they have 45 pending lawsuits in California related to a single issue.
8. **What is the issue in air carrier appeals and lawsuits?** Beginning in August 2013, some airlines filed appeals, lawsuits, and claims for refund related to economic obsolescence calculations under RTC [Section 401.17\(a\)\(1\)\(C\)](#) and (D), which will expire after this year. These air carriers state that assessors are intentionally misapplying the aircraft valuation methodology by failing to give the airline a required deduction for "economic obsolescence" of the airline's fleet. For example, for the 2009 assessment year, some airlines filed appeals requesting a 70% aircraft value reduction for economic obsolescence. For 2010 and 2011, 44% and 30% value reductions were requested, respectively. Counties state the air carriers' interpretation of the economic obsolescence statute results in absurd, unintended consequences. Counties further note that such a literal meaning would provide a greater aircraft value adjustment for economic obsolescence than provided after 9/11. After 9/11, for 2002 and 2003, aircraft values were reduced by 20% and 17%, respectively. Counties state that since the statute was first enacted in 2006, they have consistently calculated the obsolescence provisions to determine if reductions are needed. Counties report that for cases heard by the local assessment appeals board, the counties have prevailed and their assessments have been upheld.
9. **Didn't the Legislature already streamline the process?** Yes, in part and for a limited time period that will soon end. The lead county system improved the efficiency of assessments and audits and eliminated duplicative tax return filing and processing for both air carriers and counties. But, as noted above, it did not streamline the appeal and litigation process. Thus, the current system offers airlines a centralized system with one return and one audit, but requires multiple appeals and multiple court actions, while a state system offers airlines the benefit of one return, one possible audit, one appeal, and one court action.
10. **What are the arguments against the jurisdictional change?** Counties note that this bill sets a precedent for transferring to the state personal property assessment jurisdiction that other statewide operators might seek. They contend the counties are better situated to assess personal property such as commercial air carriers since the counties have an existing appraisal staff that possesses the aircraft valuation expertise that the BOE currently lacks. Counties have expressed concern that BOE-determined values might be lower than county assessed values, and note that the BOE would both set the value and serve as its own appeals board if this bill were enacted. Last, since mandatory state audits are not required, and county audits have resulted in \$800 million in escape assessments due to underreporting and misreporting, they are concerned that the escapes may not be discovered under state assessment.
11. **This bill lacks an aircraft valuation methodology.** The statute that codifies aircraft valuation methodology is expiring, and this bill does not provide a methodology for state assessment. After the statute expires, for the first time in 16 years, no statutory methodology will be available for guidance. Certificated aircraft valuation is complex and contentious. A codified valuation methodology helps reduce conflict. While prior statutory methodologies have not

⁵⁴ Texas, Indiana, Rhode Island, and Virginia impose the tax at the local level.

eliminated conflict, it has narrowed its scope.⁵⁵ As noted in the legislative findings and declarations of both AB 1807 and AB 964, the assessment of certificated aircraft is a difficult and contentious property tax assessment issue that has given rise to litigation and appeals challenging assessments. The findings note the need for the Legislature to address the uncertainty created by litigation and appeals because it disrupts both airline industry tax planning and local government and school finance.

12. **A codified valuation methodology addresses appraisal process variables.** Codifying a valuation methodology reduces conflict by specifying which of the many variables to use in the valuation process, such as:

- Cost basis (i.e., trended cost, reproduction/replacement cost new less depreciation, historical cost less depreciation)
- Trending. (The inflation rate benchmark selected to trend historical cost to current cost or eliminating any trending factor.)
- Depreciation schedule (i.e., life term selected and method selected such as straight-line depreciation, declining-balance method, or booked depreciation)
- Minimum value (i.e., floor percentage or remove any floor)
- Functional and economic obsolescence adjustments
- Embedded software adjustments
- Nontaxable intangible adjustments
- Maintenance costs, capitalized addition costs.
- Market basis
 - Commercial blue book selected ([Airliner Price Guide](#), [Avitas](#), or [Avmarkinc](#))
 - Edition Selected (Winter or Spring)
- Blue book application
 - Retail or wholesale price, average, weighted average
 - Fleet discount (amount, if any, applied)

13. **How have aircraft been valued historically?**

- **Trended Cost.** Before 1998, assessors based aircraft values on trended costs pursuant to RTC 110 fair market value standard and [Assessors' Handbook Section 504](#) guidelines on personal property assessments.
- **Blue Book – Average Wholesale and Retail Prices.** Between 1998 and 2005, assessors based aircraft values on the average wholesale and retail APG value pursuant to RTC Section 401.15
- **Blue Book – Wholesale Prices Less 10%.** Between 2005 and present, assessors based aircraft values at the lower of (1) trended cost or (2) wholesale APG value less 10% pursuant to RTC Section 401.17. Most air carriers currently have an assessment based on the wholesale price less 10%, as that method produces the lowest value.

14. **Should BOE-assessment be limited to aircraft?** If personal property assessment jurisdiction changes, it may be preferable to limit BOE's assessment to certificated aircraft. Other airline carrier personal property could be centrally reported to BOE, and the BOE could forward the information to the relevant county for assessment, similar to the existing county-streamlined process. The reasons to limit BOE-assessment to aircraft include:

⁵⁵ Beginning in August 2013, some airlines filed numerous appeals, lawsuits and claims for refund related to economic obsolescence calculations under RTC Section 401.17(a)(1)(C) and (D). Counties report that they have prevailed and their assessments have been upheld in cases before the local assessment appeals boards. Airlines report that 45 lawsuits are pending.

- **Aircraft Values Capture 90%-95% of a Carrier's Personal Property Value.** The assessed value of aircraft comprises 90% - 95% of the total personal property assessment. Aircraft values are most often the subject of appeals and/or litigation. Therefore, airlines benefit from "one appeal" for aircraft and, potentially, one party with whom to litigate the disputed issues. Further, the goal of uniform assessed values for the aircraft of any one particular company in each county is still achieved.
 - **Bright Line Test.** In the state-county bifurcation of assessment responsibility, aircraft is a clear, bright line. A bright line eliminates issues, uncertainties, and disputes between assessors and air carriers and between the BOE and assessors in classifying specific items of property as personal property or as a real property fixture. Limiting BOE assessment to aircraft eliminates these gray areas. Joint assessment responsibility of aircraft and other personal property increases the risk of double taxation and escape assessments.
 - **No fixed location.** An aircraft has no permanent location and requires fleet-valuation methods. For the most part, other personal property has a fixed situs and remains in each county.
 - **Duplicative Reporting and Situs-Reporting Required.** Only the air carrier's aircraft fleet information is duplicative (i.e., details about each plane in the fleet, its cost etc. and improvements). Other personal property must still be reported by tax rate area to properly allocate revenue. Because this bill would require that property tax revenue be allocated by situs, airlines would still be required to report all non-aircraft personal property holdings separately for each location. Therefore, state assessment of other types of personal property could not achieve the same cost savings as state assessment of aircraft.
 - **Physical Inspections.** Aircraft assessment does not require onsite inspections at each airport or other location (such as the distribution facilities for package and freight carriers). Under the fleet method, no one aircraft is valued. In contrast, assessing all personal property requires occasional airport inspections as well as inspections of all other locations where personal property is located. The state would incur site inspection costs in order to conduct a complete audit. Since counties already inspect these properties to assess the real property and the taxable possessory interest, visits by both the BOE and the assessor would be duplicative.
 - **Situs Value Allocation.** If assessment is not limited to aircraft, the BOE's value allocation process will be more administratively complex. Value would have to be allocated among hundreds of specific tax rate areas where personal property is located (for example, package and freight carriers operate at many non-airport sites) instead of limiting allocation to just those tax rate areas where airports are located.
15. **California Performance Review.** The 2004 [Performance Review](#) also recommended that BOE-assessment be limited to aircraft.
16. **The operative date should be delayed to January 1, 2017.** If enacted, assessment responsibilities would transfer to BOE effective January 1, 2016. Since the governor could act on this bill as late as October 11, 2015, the BOE and counties would have less than three months to complete the transition in preparation for the January 1, 2016 lien date.
17. **Charter and Nonscheduled Air Carrier Discovery.** It is often difficult for counties to discover charter and nonscheduled air carriers, since these flights are not publicly posted. State assessment compounds discovery difficulties, since BOE would not have the same level of airport presence as the local county assessor staff.
18. **Switching to state assessment changes the timing of property tax payments.** Generally, air carrier personal property assessments are placed on the unsecured roll. The property tax on-

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 BOE's formal position.

time payment deadline for the unsecured roll is August 31, with all taxes due in a single payment. In contrast, state-assessed property assessments are placed on the secured roll, with property taxes generally payable in two equal installments with final on-time payment deadlines of December 10 and April 10.

19. **Could appeals be centralized at the local level?** Yes, the Constitution⁵⁶ allows the Legislature to enact provisions that allow two or more county boards of supervisors to jointly create one or more assessment appeals boards that will serve as the county board of equalization for each of the participating counties.
20. **Codifies representative period in place since 1998.** The second week of January has been the representative period since the lien date change from March 1 to January 1. Some counties have expressed interest in changing the representative period or switching to actual flight activity in the prior year. The CAA Aircraft Advisory Subcommittee analyzed data and found that no one-week period represented average presence for all counties.
21. **Future changes to the representative period will require legislative action.** Currently, the BOE can set the representative period, but this authority will be transferred to the Legislature under this bill.
22. **The assessment by a single taxing agency would reduce overall administrative costs.** Administrative costs will shift from the various counties to the state. But, centralizing the assessment and appeal process should result in total lower costs for all levels of government.

Administrative Costs: The BOE would incur substantial costs to assess commercial air carrier personal property, hear appeals, and defend itself in litigation related to air carrier assessments, if any. A detailed cost estimate is pending.

Revenue Impact: Assessment Jurisdiction. Certificated aircraft assessed values allocated to California each year total approximately \$7.9 billion. At the one percent basic tax rate, this equates to \$79 million in property tax revenue. The revenue consequences of an assessment jurisdiction change are unknown. In theory, the fair market value of personal property assessed by the BOE would be the same as that determined by the local county assessor, since both agencies are subject to the same laws, and have no codified methodology after this year. However, property appraisal is subjective and opinions of value differ. There is no guarantee that BOE-values would be the same, higher, or lower than local county assessor values.

Revenue Allocation: Changes in property tax revenue allocation procedures for local jurisdictions is a zero-sum game with winners and losers. This bill would ensure that the status quo is maintained. Therefore, local agencies currently receiving property tax revenue from assessment of commercial air carrier property would continue to receive the same percentage of revenue that is ultimately derived from the property.

Qualifying Remarks: This revenue estimate doesn't account for any changes in economic activity that may or may not result from the enactment of the proposed law.

⁵⁶ Article XIII, [Section 16](#). For example for certain mining properties [Article 1.9](#) (Commencing with RTC [Section 1642](#) was enacted "Hearings before assessment hearing officers for unitary property located in more than one county."

AMENDED IN SENATE APRIL 13, 2015

SENATE BILL

No. 661

Introduced by Senator Hill

February 27, 2015

An act to amend Sections 755 and 756 of, to amend, repeal, and add Sections 401.17, 1152, 1153, and 1155 of, ~~and~~ to add Sections 100.51, 721.51, ~~and 828.1~~ 828.1, and 1157 to, and to amend and repeal Section 1153.5 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 661, as amended, Hill. Property taxation: state assessment: commercial air carrier personal property.

Existing property tax law requires the personal property of an air carrier to be taxed at its fair market value, and the California Constitution requires property subject to ad valorem property taxation to be assessed in the county in which it is situated. Existing law, through the 2015–16 fiscal year, specifies a formula to determine the fair market value of certificated aircraft of a commercial air carrier, and rebuttably presumes that the amount determined pursuant to this formula is the fair market value of the certificated aircraft.

The California Constitution requires the State Board of Equalization to assess specified properties owned by specified entities. Existing property tax law provides for the valuation of properties of a state assessee that owns property in more than one county. Existing law also provides, pursuant to specified formulas, for the application in each county of specified tax rates to the allocated assessed value of a state assessee's property, and for the allocation among jurisdictions in that county of the resulting revenues.

This bill would, from the lien date for the ~~2016–17~~ 2017–18 fiscal year and each fiscal year thereafter, require the board to assess personal property that is owned by a commercial air carrier, as defined, in a manner consistent with currently specified procedures that determine the extent that the certificated aircraft is physically present in each county within the state. *The bill would require the board to determine the fair market value of certificated aircraft according to the formula described above.* This bill would require the board to notify county assessors, as specified, if a commercial air carrier’s taxable personal property includes fixtures that are to be locally assessed as real property. This bill would require that the revenues derived from the assessment of this property be allocated in the same percentage shares as revenues derived from locally assessed property among the jurisdictions in which the property is located. This bill would also make conforming changes to related provisions. *The bill would also require the board to conduct an audit of a commercial air carrier every four years, as specified.*

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 100.51 is added to the Revenue and
2 Taxation Code, to read:
3 100.51. Notwithstanding any other law, for the ~~2016–17~~
4 2017–18 fiscal year and each fiscal year thereafter, all of the
5 following apply:
6 (a) The property tax assessed value of taxable personal property
7 that is owned by a commercial air carrier, as defined in Section
8 721.51, and that is assessed by the board, shall be allocated entirely
9 to that tax rate area in the county in which the property is located.
10 (b) The tax rate applied to the assessed value allocated pursuant
11 to subdivision (a) shall be the rate calculated pursuant to Section
12 93.
13 (c) The revenues derived from the application of the tax rate to
14 the assessed value allocated to a tax rate area pursuant to
15 subdivision (a) shall be allocated among the jurisdictions in that
16 tax rate area, in those same percentage shares that property tax
17 revenues derived from locally assessed property are allocated to
18 those jurisdictions in that tax rate area, subject to any allocation
19 and payment of funds as provided in subdivision (b) of Section

1 33670 of the Health and Safety Code, and subject to any
2 modifications or adjustments made pursuant to Sections 99 and
3 99.2.

4 *SEC. 2. Section 401.17 of the Revenue and Taxation Code is*
5 *amended to read:*

6 401.17. (a) For the 2005–06 fiscal year to the ~~2015–16~~
7 ~~2016–17~~ fiscal year, inclusive, it shall be rebuttably presumed that
8 the preallocated fair market value of each make, model, and series
9 of mainline jets, production freighters, and regional aircraft that
10 has attained situs within this state is the lesser of the sum total of
11 the amounts determined under paragraph (1) or the sum total of
12 the amounts determined under paragraph (2). The value of an
13 individual aircraft assessed to the original owner of that aircraft
14 shall not exceed its original cost from the manufacturer. The
15 preallocated fair market value of an aircraft may be rebutted by
16 evidence including, but not limited to, appraisals, invoices, and
17 expert testimony.

18 (1) (A) The original cost for the aircraft, which shall be
19 determined as follows and adjusted, as applicable, under
20 subparagraphs (B), (C), and (D):

21 (i) For owned and leased aircraft, the taxpayer’s or lessor’s
22 acquisition cost for that individual aircraft reported in accordance
23 with generally accepted accounting principles, and to the extent
24 not included in the acquisition cost, transportation costs and
25 capitalized interest and the cost of improvements made before a
26 transaction described in clause (ii). If the original cost for leased
27 aircraft cannot be determined from information reasonably
28 available to the taxpayer, original cost may be determined by
29 reference to the “average new prices” column of the Airliner Price
30 Guide for that model, series, and year of manufacture of aircraft.
31 If information is not available in the “average new prices” column
32 for that model, series, and year, the original cost may be determined
33 using the best indicator of original cost plus all conversion costs
34 and improvement costs incurred for that aircraft.

35 (ii) For sale/leaseback or assignment of purchase rights
36 transaction aircraft, the average of the taxpayer’s cost established
37 pursuant to clause (i) and the cost established in a sale/leaseback
38 or assignment of purchase rights transaction for individual aircraft
39 that transfers the benefits and burdens of ownership to the lessor
40 for United States federal income tax purposes. In no event shall

1 the original cost for sale/leaseback aircraft be less than the
2 taxpayer's acquisition cost.

3 (iii) In the event of a merger, bankruptcy, or change in
4 accounting methods by the reporting airline, there shall be a
5 rebuttable presumption that the cost of the individual aircraft and
6 the acquisition date reported by the acquired company, if available,
7 or the cost reported prior to the change in accounting method, are
8 the original cost and the applicable acquisition date.

9 (B) (i) For mainline jets and production freighters, the original
10 cost described in subparagraph (A), plus the cost of any
11 improvements not otherwise included in the original cost, shall be
12 adjusted from the date of the acquisition of the aircraft to the lien
13 date using the monthly United States Department of Labor
14 Producer Price Index for aircraft and a 20-year straight-line
15 percent-good table starting from the delivery date of the aircraft
16 to the current owner or, in the case of a sale/leaseback or
17 assignment of purchase rights transaction, as described in this
18 section, the current operator with a minimum combined factor of
19 25 percent.

20 (ii) For regional aircraft, the original cost described in
21 subparagraph (A), plus the cost of any improvements not otherwise
22 included in the original cost, shall be adjusted from the date of the
23 acquisition of the aircraft to the lien date using the monthly United
24 States Department of Labor Producer Price Index for aircraft and
25 a 16-year straight-line percent-good table starting from the delivery
26 date of the aircraft to the current owner or, in the case of a
27 sale/leaseback or assignment of purchase rights transaction, as
28 described in this section, the current operator with a minimum
29 combined factor of 25 percent.

30 (iii) If original cost is determined by reference to the Airliner
31 Price Guide "average new prices" column, the adjustments required
32 by this paragraph shall be made by setting the acquisition date of
33 the aircraft to be the date of the aircraft's manufacture.

34 (C) (i) For mainline jets and regional aircraft, the assessor shall
35 analyze the adjusted original cost derived pursuant to subparagraph
36 (B), for application of an economic obsolescence allowance which
37 shall be determined as follows:

38 (I) For the applicable year, the assessor shall calculate the
39 average annual net revenue per available seat mile, the net load
40 factor, and the yield utilizing the Airline Quarterly Financial

1 Review published by the United States Department of
2 Transportation, and referring to the section descriptive of the
3 passenger airline industry, entitled “System Operations, System
4 Pax. Majors” for the calendar year ending December 31
5 immediately preceding the applicable assessment date.

6 (II) For a 10-year benchmark, the assessor shall calculate as of
7 December 31 for each of the 10 calendar years preceding the
8 applicable year, the average annual net revenue per available seat
9 mile, the net load factor, and the yield utilizing the Airline
10 Quarterly Financial Review published by the United States
11 Department of Transportation, and referring to the section
12 descriptive of the passenger airline industry, entitled “System
13 Operations, System Pax. Majors” for the calendar year ending
14 December 31 immediately preceding the applicable assessment
15 date.

16 (ii) (I) The assessor shall compare each factor calculated under
17 subclause (I) of clause (i) with the corresponding factor calculated
18 under subclause (II) of clause (i) to derive the percentage that each
19 of the factors calculated under subclause (I) of clause (i) deviated
20 from the 10-year benchmark calculated under subclause (II) of
21 clause (i). The assessor shall then calculate a weighted average of
22 the indicated percentage adjustments, weighted as follows:

23 (aa) Net revenue per available seat mile shall be weighted 35
24 percent.

25 (ab) Net load factor shall be weighted 35 percent.

26 (ac) Yield shall be weighted 30 percent.

27 (II) The assessor shall reduce the adjusted original costs derived
28 under subparagraph (B) by the percentage adjustment calculated
29 in subclause (I), but only if the final economic obsolescence
30 determined under that subclause exceeds 10 percent, otherwise no
31 economic obsolescence allowance shall be provided.

32 (D) (i) For production freighters, the assessor shall analyze the
33 adjusted original cost derived under subparagraph (B), for
34 application of an economic obsolescence allowance, as follows:

35 (I) For the applicable year, the assessor shall calculate the
36 industry average of net revenue per available ton mile and the ton
37 load factor based upon the Airline Quarterly Financial Review
38 published by the United States Department of Transportation, and
39 referring to the section descriptive of the cargo airline industry,
40 entitled “System Operations, System Cargo Majors” for the

1 calendar year ending December 31 preceding the relevant
2 assessment date.

3 (II) For a 10-year benchmark, the assessor shall calculate as of
4 December 31 for each of the 10 calendar years preceding the
5 applicable year, the net revenue per available ton mile and the ton
6 load factor utilizing the Airline Quarterly Financial Review
7 published by the United States Department of Transportation and
8 referring to the section descriptive of the cargo airline industry,
9 entitled “System Operations, System Cargo Majors” as of
10 December 31 for each of the 10 calendar years preceding the
11 calendar year utilized for the subject year, for the calendar year
12 ending December 31 immediately preceding the applicable
13 assessment date.

14 (ii) (I) The assessor shall compare each factor calculated under
15 subclause (I) of clause (i) with the corresponding factor calculated
16 under subclause (II) of clause (i) to derive the percentage that each
17 of the factors calculated under subclause (I) of clause (i) deviated
18 from the 10-year benchmark calculated under subclause (II) of
19 clause (i). The assessor shall then calculate a weighted average of
20 the indicated percentage adjustments so that the net revenue per
21 available ton mile is weighted 50 percent and the ton load factor
22 is weighted 50 percent.

23 (II) The assessor shall reduce the adjusted original costs derived
24 under subparagraph (B) by the percentage adjustment calculated
25 in subclause (I), but only if the final economic obsolescence
26 determined under that subclause exceeds 10 percent, otherwise no
27 economic obsolescence allowance shall be provided.

28 (2) (A) Except as otherwise provided in subparagraph (B), for
29 each individual mainline jet, production freighter, or regional
30 aircraft, the assessor shall identify the value referenced in the “Used
31 Price of Avg. Acft. Wholesale” column of the Winter edition of
32 the Airliner Price Guide by make, model, series, and year of
33 manufacture, and deduct 10 percent from that value for a fleet
34 discount.

35 (B) For each individual mainline jet, production freighter, or
36 regional aircraft that is less than two years old and for which the
37 Airliner Price Guide does not list used wholesale values, the
38 original cost determined under paragraph (1) of subparagraph (A)
39 shall be decreased by the lesser of 5 percent or one-half of the
40 percentage decrease between original cost and 90 percent of the

1 value listed in the “Used Price of Avg. Acft. Wholesale” column
2 of the Winter edition of the Airliner Price Guide for a two-year-old
3 aircraft of that same make, model, and series.

4 (b) For the 2005–06 fiscal year to the ~~2015–16~~ 2016–17 fiscal
5 year, inclusive, it shall be rebuttably presumed that the preallocated
6 fair market value for each make, model, and series of converted
7 freighters that has attained situs within this state is the amount that
8 is determined as follows:

9 (1) (A) The assessor shall begin his or her appraisal of a
10 converted freighter as of the relevant lien date by identifying the
11 aircraft’s original cost as a passenger aircraft prior to conversion.
12 The aircraft’s original cost as a converted freighter shall be the
13 lesser of:

14 (i) Its trended original cost as a passenger aircraft prior to
15 conversion, less a downward adjustment of 10 percent to reflect
16 tear-outs.

17 (ii) Its value described in the Winter edition of the Airliner Price
18 Guide in the “Used Price of Avg. Acft. Wholesale” column in
19 passenger configuration, less a downward adjustment of 10 percent
20 to reflect tear-outs.

21 (B) The amount determined under subparagraph (A) shall be
22 adjusted according to the following:

23 (i) If, on the relevant lien date, the frame of the aircraft is 15
24 years old or more, 50 percent of the cost to convert the aircraft to
25 a freighter shall be added to the value determined under
26 subparagraph (A).

27 (ii) If, on the relevant lien date, the frame of the aircraft is less
28 than 15 years old, 75 percent of the cost to convert the aircraft to
29 a freighter shall be added to the value determined under
30 subparagraph (A).

31 (iii) In addition, all other improvements, including capitalized
32 interest, to the aircraft that are not otherwise included in the
33 aircraft’s original and conversion costs shall be added at full value.

34 (2) The amount determined under paragraph (1) shall be adjusted
35 from the date of the conversion of the aircraft to the lien date using
36 the monthly United States Department of Labor Producer Price
37 Index for aircraft and a 16-year straight-line percent-good table,
38 however, the percent-good applied to the aircraft shall in no event
39 be less than 15 percent.

1 (3) If the Airliner Price Guide “Used Price of Avg. Acft.
2 Wholesale” is utilized under paragraph (1), only the improvements
3 and adjusted conversion costs pertaining to the converted freighter
4 shall be adjusted from the date of the conversion of the aircraft to
5 the relevant lien date using the monthly United States Department
6 of Labor Producer Price Index for aircraft and a 16-year
7 straight-line percent-good table. In no event, however, shall the
8 percent-good applied to the improvements and adjusted conversion
9 costs be less than 15 percent.

10 (4) (A) Except as otherwise provided in subparagraph (B), the
11 assessor shall reduce the adjusted original cost, plus improvements,
12 and adjusted conversion costs, derived under paragraphs (1) to (3),
13 inclusive, by the obsolescence percentage adjustment calculated
14 for production freighters under subparagraph (D) of paragraph (1)
15 of subdivision (a).

16 (B) If the Airliner Price Guide “Used Price of Avg. Acft.
17 Wholesale” is utilized under paragraph (1), only the improvements
18 and adjusted conversion costs pertaining to the converted freighter
19 shall be reduced by the obsolescence percentage adjustment
20 described in subparagraph (A).

21 (c) For purposes of this section, if the Airliner Price Guide
22 ceases to be published or the format significantly changes, a guide
23 or adjustment agreed to by commercial air carriers and the counties
24 in which certificated aircraft have situs shall be substituted. If these
25 parties do not agree on a guide or adjustment, the State Board of
26 Equalization shall determine the guide or adjustment.

27 (d) The taxpayer shall, to the extent that information is
28 reasonably available to the taxpayer, furnish the county assessor
29 with an annual property statement that includes the aircraft original
30 costs as defined in subparagraph (A) of paragraph (1) of
31 subdivision (a). If an air carrier that has this information reasonably
32 available to it fails to report original cost and improvements, as
33 required by Sections 441 and 442, an assessor may in that case
34 make an appropriate assessment pursuant to Section 501.

35 (e) For purposes of this section, all of the following apply:

36 (1) “Converted freighter” means a certificated aircraft, as defined
37 in Section 1150, that, following its original manufacture, was used
38 for passenger transportation, but was later converted to be used
39 primarily for cargo transportation purposes.

1 (2) “Mainline jet” means a certificated aircraft, as defined in
2 Section 1150, that is either of the following:

3 (A) Manufactured by Boeing, Airbus, or McDonnell Douglas.

4 (B) Capable of being configured with approximately 100 seats
5 or more.

6 (3) “Production Freighter” means a certificated aircraft, as
7 defined in Section 1150, that immediately following its
8 manufacture is deployed primarily for cargo transportation
9 purposes.

10 (4) “Regional aircraft” means a certificated aircraft, as defined
11 in Section 1150, that is either of the following:

12 (A) Manufactured by ATR (Avions De Transport Regional),
13 Beech, British Aerospace Jetstream, Canadair Regional Jet, Cessna,
14 DeHaviland, Embraer, Fairchild, or Saab.

15 (B) Generally configured with fewer than 100 seats.

16 (5) “Improvements” means the cost of any modifications or
17 capital additions that materially add to the value of or substantially
18 prolong the useful life of the aircraft, or make it adaptable to a
19 different use. “Improvements” include modification costs incurred
20 during a heavy maintenance visit to the extent that they materially
21 add to the value of or substantially prolong the useful life of the
22 aircraft. “Improvements” do not include repair and maintenance
23 costs incurred for the purpose of keeping the aircraft in an
24 ordinarily efficient operating condition.

25 (6) “Net revenue per available seat mile” means operating
26 revenue per available seat mile less cost per available seat mile as
27 determined by the United States Department of Transportation.

28 (7) “Net load factor” means actual passenger load factor less
29 break-even passenger load factor, as determined by the United
30 States Department of Transportation.

31 (8) “Net revenue per available ton mile” means operating
32 revenue per ton mile less cost per available ton mile as determined
33 by the United States Department of Transportation.

34 (9) “Yield” means average revenue per revenue passenger mile
35 as determined by the United States Department of Transportation.

36 (10) “Ton Load Factor” means that percentage of effective use
37 of cargo capacity as determined by the United States Department
38 of Transportation.

1 (f) The amendments made by the act adding this subdivision
2 shall apply with respect to lien dates occurring on and after January
3 1, 2011.

4 (g) *This section shall remain in effect only until July 1, 2017,*
5 *and as of that date is repealed.*

6 SEC. 3. *Section 401.17 is added to the Revenue and Taxation*
7 *Code, to read:*

8 401.17. (a) *For the 2017–18 fiscal year and each fiscal year*
9 *thereafter, it shall be rebuttably presumed that the preallocated*
10 *fair market value of each make, model, and series of mainline jets,*
11 *production freighters, and regional aircraft that has attained situs*
12 *within this state is the lesser of the sum total of the amounts*
13 *determined under paragraph (1) or the sum total of the amounts*
14 *determined under paragraph (2). The value of an individual*
15 *aircraft assessed to the original owner of that aircraft shall not*
16 *exceed its original cost from the manufacturer. The preallocated*
17 *fair market value of an aircraft may be rebutted by evidence*
18 *including, but not limited to, appraisals, invoices, and expert*
19 *testimony.*

20 (1) (A) *The original cost for the aircraft, which shall be*
21 *determined as follows and adjusted, as applicable, under*
22 *subparagraphs (B), (C), and (D):*

23 (i) *For owned and leased aircraft, the taxpayer’s or lessor’s*
24 *acquisition cost for that individual aircraft reported in accordance*
25 *with generally accepted accounting principles, and to the extent*
26 *not included in the acquisition cost, transportation costs and*
27 *capitalized interest and the cost of improvements made before a*
28 *transaction described in clause (ii). If the original cost for leased*
29 *aircraft cannot be determined from information reasonably*
30 *available to the taxpayer, original cost may be determined by*
31 *reference to the “average new prices” column of the Airliner Price*
32 *Guide for that model, series, and year of manufacture of aircraft.*
33 *If information is not available in the “average new prices” column*
34 *for that model, series, and year, the original cost may be*
35 *determined using the best indicator of original cost plus all*
36 *conversion costs and improvement costs incurred for that aircraft.*

37 (ii) *For sale/leaseback or assignment of purchase rights*
38 *transaction aircraft, the average of the taxpayer’s cost established*
39 *pursuant to clause (i) and the cost established in a sale/leaseback*
40 *or assignment of purchase rights transaction for individual aircraft*

1 *that transfers the benefits and burdens of ownership to the lessor*
2 *for United States federal income tax purposes. In no event shall*
3 *the original cost for sale/leaseback aircraft be less than the*
4 *taxpayer's acquisition cost.*

5 *(iii) In the event of a merger, bankruptcy, or change in*
6 *accounting methods by the reporting airline, there shall be a*
7 *rebuttable presumption that the cost of the individual aircraft and*
8 *the acquisition date reported by the acquired company, if available,*
9 *or the cost reported prior to the change in accounting method, are*
10 *the original cost and the applicable acquisition date.*

11 *(B) (i) For mainline jets and production freighters, the original*
12 *cost described in subparagraph (A), plus the cost of any*
13 *improvements not otherwise included in the original cost, shall be*
14 *adjusted from the date of the acquisition of the aircraft to the lien*
15 *date using the monthly United States Department of Labor*
16 *Producer Price Index for aircraft and a 20-year straight-line*
17 *percent-good table starting from the delivery date of the aircraft*
18 *to the current owner or, in the case of a sale/leaseback or*
19 *assignment of purchase rights transaction, as described in this*
20 *section, the current operator with a minimum combined factor of*
21 *25 percent.*

22 *(ii) For regional aircraft, the original cost described in*
23 *subparagraph (A), plus the cost of any improvements not otherwise*
24 *included in the original cost, shall be adjusted from the date of*
25 *the acquisition of the aircraft to the lien date using the monthly*
26 *United States Department of Labor Producer Price Index for*
27 *aircraft and a 16-year straight-line percent-good table starting*
28 *from the delivery date of the aircraft to the current owner or, in*
29 *the case of a sale/leaseback or assignment of purchase rights*
30 *transaction, as described in this section, the current operator with*
31 *a minimum combined factor of 25 percent.*

32 *(iii) If original cost is determined by reference to the Airliner*
33 *Price Guide "average new prices" column, the adjustments*
34 *required by this paragraph shall be made by setting the acquisition*
35 *date of the aircraft to be the date of the aircraft's manufacture.*

36 *(C) (i) For mainline jets and regional aircraft, the board shall*
37 *analyze the adjusted original cost derived pursuant to*
38 *subparagraph (B), for application of an economic obsolescence*
39 *allowance which shall be determined as follows:*

1 (I) For the applicable year, the board shall calculate the average
2 annual net revenue per available seat mile, the net load factor,
3 and the yield utilizing the Airline Quarterly Financial Review
4 published by the United States Department of Transportation, and
5 referring to the section descriptive of the passenger airline
6 industry, entitled “System Operations, System Pax. Majors” for
7 the calendar year ending December 31 immediately preceding the
8 applicable assessment date.

9 (II) For a 10-year benchmark, the board shall calculate as of
10 December 31 for each of the 10 calendar years preceding the
11 applicable year, the average annual net revenue per available seat
12 mile, the net load factor, and the yield utilizing the Airline
13 Quarterly Financial Review published by the United States
14 Department of Transportation, and referring to the section
15 descriptive of the passenger airline industry, entitled “System
16 Operations, System Pax. Majors” for the calendar year ending
17 December 31 immediately preceding the applicable assessment
18 date.

19 (ii) (I) The board shall compare each factor calculated under
20 subclause (I) of clause (i) with the corresponding factor calculated
21 under subclause (II) of clause (i) to derive the percentage that
22 each of the factors calculated under subclause (I) of clause (i)
23 deviated from the 10-year benchmark calculated under subclause
24 (II) of clause (i). The board shall then calculate a weighted average
25 of the indicated percentage adjustments, weighted as follows:

26 (ia) Net revenue per available seat mile shall be weighted 35
27 percent.

28 (ib) Net load factor shall be weighted 35 percent.

29 (ic) Yield shall be weighted 30 percent.

30 (II) The board shall reduce the adjusted original costs derived
31 under subparagraph (B) by the percentage adjustment calculated
32 in subclause (I), but only if the final economic obsolescence
33 determined under that subclause exceeds 10 percent, otherwise
34 no economic obsolescence allowance shall be provided.

35 (D) (i) For production freighters, the board shall analyze the
36 adjusted original cost derived under subparagraph (B), for
37 application of an economic obsolescence allowance, as follows:

38 (I) For the applicable year, the board shall calculate the
39 industry average of net revenue per available ton mile and the ton
40 load factor based upon the Airline Quarterly Financial Review

1 *published by the United States Department of Transportation, and*
2 *referring to the section descriptive of the cargo airline industry,*
3 *entitled “System Operations, System Cargo Majors” for the*
4 *calendar year ending December 31 preceding the relevant*
5 *assessment date.*

6 *(II) For a 10-year benchmark, the board shall calculate as of*
7 *December 31 for each of the 10 calendar years preceding the*
8 *applicable year, the net revenue per available ton mile and the*
9 *ton load factor utilizing the Airline Quarterly Financial Review*
10 *published by the United States Department of Transportation and*
11 *referring to the section descriptive of the cargo airline industry,*
12 *entitled “System Operations, System Cargo Majors” as of*
13 *December 31 for each of the 10 calendar years preceding the*
14 *calendar year utilized for the subject year, for the calendar year*
15 *ending December 31 immediately preceding the applicable*
16 *assessment date.*

17 *(ii) (I) The board shall compare each factor calculated under*
18 *subclause (I) of clause (i) with the corresponding factor calculated*
19 *under subclause (II) of clause (i) to derive the percentage that*
20 *each of the factors calculated under subclause (I) of clause (i)*
21 *deviated from the 10-year benchmark calculated under subclause*
22 *(II) of clause (i). The board shall then calculate a weighted average*
23 *of the indicated percentage adjustments so that the net revenue*
24 *per available ton mile is weighted 50 percent and the ton load*
25 *factor is weighted 50 percent.*

26 *(II) The board shall reduce the adjusted original costs derived*
27 *under subparagraph (B) by the percentage adjustment calculated*
28 *in subclause (I), but only if the final economic obsolescence*
29 *determined under that subclause exceeds 10 percent, otherwise*
30 *no economic obsolescence allowance shall be provided.*

31 *(2) (A) Except as otherwise provided in subparagraph (B), for*
32 *each individual mainline jet, production freighter, or regional*
33 *aircraft, the board shall identify the value referenced in the “Used*
34 *Price of Avg. Acft. Wholesale” column of the Winter edition of the*
35 *Airliner Price Guide by make, model, series, and year of*
36 *manufacture, and deduct 10 percent from that value for a fleet*
37 *discount.*

38 *(B) For each individual mainline jet, production freighter, or*
39 *regional aircraft that is less than two years old and for which the*
40 *Airliner Price Guide does not list used wholesale values, the*

1 original cost determined under paragraph (1) of subparagraph
2 (A) shall be decreased by the lesser of 5 percent or one-half of the
3 percentage decrease between original cost and 90 percent of the
4 value listed in the “Used Price of Avg. Acft. Wholesale” column
5 of the Winter edition of the Airliner Price Guide for a two-year-old
6 aircraft of that same make, model, and series.

7 (b) For the 2017–18 fiscal year and each fiscal year thereafter
8 it shall be rebuttably presumed that the preallocated fair market
9 value for each make, model, and series of converted freighters that
10 has attained situs within this state is the amount that is determined
11 as follows:

12 (1) (A) The board shall begin its appraisal of a converted
13 freighter as of the relevant lien date by identifying the aircraft’s
14 original cost as a passenger aircraft prior to conversion. The
15 aircraft’s original cost as a converted freighter shall be the lesser
16 of:

17 (i) Its trended original cost as a passenger aircraft prior to
18 conversion, less a downward adjustment of 10 percent to reflect
19 tear-outs.

20 (ii) Its value described in the Winter edition of the Airliner Price
21 Guide in the “Used Price of Avg. Acft. Wholesale” column in
22 passenger configuration, less a downward adjustment of 10 percent
23 to reflect tear-outs.

24 (B) The amount determined under subparagraph (A) shall be
25 adjusted according to the following:

26 (i) If, on the relevant lien date, the frame of the aircraft is 15
27 years old or more, 50 percent of the cost to convert the aircraft to
28 a freighter shall be added to the value determined under
29 subparagraph (A).

30 (ii) If, on the relevant lien date, the frame of the aircraft is less
31 than 15 years old, 75 percent of the cost to convert the aircraft to
32 a freighter shall be added to the value determined under
33 subparagraph (A).

34 (iii) In addition, all other improvements, including capitalized
35 interest, to the aircraft that are not otherwise included in the
36 aircraft’s original and conversion costs shall be added at full
37 value.

38 (2) The amount determined under paragraph (1) shall be
39 adjusted from the date of the conversion of the aircraft to the lien
40 date using the monthly United States Department of Labor

1 *Producer Price Index for aircraft and a 16-year straight-line*
2 *percent-good table, however, the percent-good applied to the*
3 *aircraft shall in no event be less than 15 percent.*

4 (3) *If the Airliner Price Guide “Used Price of Avg. Acft.*
5 *Wholesale” is utilized under paragraph (1), only the improvements*
6 *and adjusted conversion costs pertaining to the converted freighter*
7 *shall be adjusted from the date of the conversion of the aircraft to*
8 *the relevant lien date using the monthly United States Department*
9 *of Labor Producer Price Index for aircraft and a 16-year*
10 *straight-line percent-good table. In no event, however, shall the*
11 *percent-good applied to the improvements and adjusted conversion*
12 *costs be less than 15 percent.*

13 (4) (A) *Except as otherwise provided in subparagraph (B), the*
14 *board shall reduce the adjusted original cost, plus improvements,*
15 *and adjusted conversion costs, derived under paragraphs (1) to*
16 *(3), inclusive, by the obsolescence percentage adjustment*
17 *calculated for production freighters under subparagraph (D) of*
18 *paragraph (1) of subdivision (a).*

19 (B) *If the Airliner Price Guide “Used Price of Avg. Acft.*
20 *Wholesale” is utilized under paragraph (1), only the improvements*
21 *and adjusted conversion costs pertaining to the converted freighter*
22 *shall be reduced by the obsolescence percentage adjustment*
23 *described in subparagraph (A).*

24 (c) *For purposes of this section, if the Airliner Price Guide*
25 *ceases to be published or the format significantly changes, a guide*
26 *or adjustment agreed to by commercial air carriers and the*
27 *counties in which certificated aircraft have situs shall be*
28 *substituted. If these parties do not agree on a guide or adjustment,*
29 *the State Board of Equalization shall determine the guide or*
30 *adjustment.*

31 (d) *The taxpayer shall, to the extent that information is*
32 *reasonably available to the taxpayer, furnish the board with an*
33 *annual property statement that includes the aircraft original costs*
34 *as defined in subparagraph (A) of paragraph (1) of subdivision*
35 *(a). If an air carrier that has this information reasonably available*
36 *to it fails to report original cost and improvements, as required*
37 *by Sections 441 and 442, the board may in that case make an*
38 *appropriate assessment pursuant to Section 501.*

39 (e) *For purposes of this section, all of the following apply:*

- 1 (1) “Converted freighter” means a certificated aircraft, as
2 defined in Section 1150, that, following its original manufacture,
3 was used for passenger transportation, but was later converted to
4 be used primarily for cargo transportation purposes.
- 5 (2) “Mainline jet” means a certificated aircraft, as defined in
6 Section 1150, that is either of the following:
- 7 (A) Manufactured by Boeing, Airbus, or McDonnell Douglas.
8 (B) Capable of being configured with approximately 100 seats
9 or more.
- 10 (3) “Production Freighter” means a certificated aircraft, as
11 defined in Section 1150, that immediately following its manufacture
12 is deployed primarily for cargo transportation purposes.
- 13 (4) “Regional aircraft” means a certificated aircraft, as defined
14 in Section 1150, that is either of the following:
- 15 (A) Manufactured by ATR (Avions De Transport Regional),
16 Beech, British Aerospace Jetstream, Canadair Regional Jet,
17 Cessna, DeHaviland, Embraer, Fairchild, or Saab.
18 (B) Generally configured with fewer than 100 seats.
- 19 (5) “Improvements” means the cost of any modifications or
20 capital additions that materially add to the value of or substantially
21 prolong the useful life of the aircraft, or make it adaptable to a
22 different use. “Improvements” include modification costs incurred
23 during a heavy maintenance visit to the extent that they materially
24 add to the value of or substantially prolong the useful life of the
25 aircraft. “Improvements” do not include repair and maintenance
26 costs incurred for the purpose of keeping the aircraft in an
27 ordinarily efficient operating condition.
- 28 (6) “Net revenue per available seat mile” means operating
29 revenue per available seat mile less cost per available seat mile
30 as determined by the United States Department of Transportation.
- 31 (7) “Net load factor” means actual passenger load factor less
32 break-even passenger load factor, as determined by the United
33 States Department of Transportation.
- 34 (8) “Net revenue per available ton mile” means operating
35 revenue per ton mile less cost per available ton mile as determined
36 by the United States Department of Transportation.
- 37 (9) “Yield” means average revenue per revenue passenger mile
38 as determined by the United States Department of Transportation.

1 (10) “Ton Load Factor” means that percentage of effective use
2 of cargo capacity as determined by the United States Department
3 of Transportation.

4 (f) This section shall become operative on July 1, 2017.

5 ~~SEC. 2.~~

6 SEC. 4. Section 721.51 is added to the Revenue and Taxation
7 Code, to read:

8 721.51. (a) Notwithstanding any other law, commencing with
9 the lien date for the ~~2016-17~~ 2017-18 fiscal year and for each
10 fiscal year thereafter, the board shall annually assess all personal
11 property that is owned, claimed, possessed, used, controlled, or
12 managed by a commercial air carrier as defined in subdivision (b).

13 (b) (1) For purposes of this section, “commercial air carrier”
14 means an air carrier or foreign air carrier engaged in air
15 transportation as defined in Section 1150.

16 (2) Certificated aircraft owned or used by a commercial air
17 carrier shall be assessed in a manner consistent with the procedures
18 set forth in Article 6 (commencing with Section 1150) of Chapter
19 5 that determines the extent that the certificated aircraft is
20 physically present in each county within this state.

21 (c) The board may audit a commercial air carrier as otherwise
22 provided by law.

23 ~~SEC. 3.~~

24 SEC. 5. Section 755 of the Revenue and Taxation Code is
25 amended to read:

26 755. (a) On or before July 15, the board shall transmit to each
27 county auditor an estimate of the total unitary value and operating
28 nonunitary value of state-assessed property in the county and of
29 nonunitary state-assessed property in each revenue district in the
30 county. An estimate need not be made for a revenue district that
31 did not levy a tax or assessment during the preceding year unless
32 the board receives on or before January 1 preceding the fiscal year
33 for which the levy is to be made a notice in writing of the proposed
34 levy. The estimate shall be regarded as establishing the total
35 assessed value of state-assessed property in the county and each
36 revenue district in the county for the purpose of determining tax
37 rates, subject only to those changes as may be transmitted on or
38 prior to July 31. All information furnished pursuant to this section
39 is at all times during office hours open to inspection by any
40 interested person or entity.

1 (b) Notwithstanding subdivision (a), in making the estimate
2 referred to in subdivision (a), the value of property described in
3 paragraph (1) of subdivision (a) of Section 100.1 and the
4 nonunitary value of the property of regulated railway companies,
5 property subject to subdivisions (i), (j), (k), and (l) of Section 100,
6 property subject to Section 100.9, and property subject to Section
7 100.51 shall be allocated by revenue district.

8 (c) The amendments made to this section by the act that added
9 this subdivision apply for the 2007–08 fiscal year and for each
10 fiscal year thereafter.

11 ~~SEC. 4.~~

12 *SEC. 6.* Section 756 of the Revenue and Taxation Code is
13 amended to read:

14 756. (a) On or before July 31, the board shall transmit to each
15 county auditor a roll showing the unitary and operating nonunitary
16 assessments made by the board in the county and the nonoperating
17 nonunitary assessments made by the board in each city and revenue
18 district in the county; provided, however, that the roll need not
19 show the assessments made by the board in a revenue district which
20 did not levy a tax or assessment during the preceding year. The
21 roll is at all times, during office hours, open to the inspection of
22 any person representing any taxing agency or revenue district, or
23 any district described in Section 2131. If the roll does not show
24 the assessments in a revenue district as herein provided and a notice
25 of a proposed levy is furnished to the board in writing, on or before
26 January 1 preceding the fiscal year for which the levy is to be
27 made, the board shall furnish an estimate of the total assessed value
28 of nonoperating nonunitary state-assessed property in the district
29 and shall transmit thereafter to the county auditor a statement of
30 roll change showing the nonoperating nonunitary assessments
31 made by the board in the district.

32 (b) Notwithstanding subdivision (a), in making the roll referred
33 to in subdivision (a), the value of property described in paragraph
34 (1) of subdivision (a) of Section 100.11 and the nonunitary value
35 of the property of regulated railway companies, property subject
36 to subdivisions (i), (j), (k), and (l) of Section 100, property subject
37 to Section 100.9, and property subject to Section 100.51 shall be
38 enrolled by revenue district.

1 (c) The amendments made to this section by the act that added
2 this subdivision apply for the 2007–08 fiscal year and for each
3 fiscal year thereafter.

4 ~~SEC. 5.~~

5 *SEC. 7.* Section 828.1 is added to the Revenue and Taxation
6 Code, to read:

7 828.1. (a) All of the following apply to a property statement
8 submitted by a commercial air carrier:

9 (1) Personal property located in this state, other than certificated
10 aircraft, shall be reported by reference to the tax rate area in order
11 to allocate assessed value by tax rate area as required by Section
12 100.51.

13 (2) Information related to certificated aircraft that normally
14 make physical contact in counties shall be reported in the form
15 prescribed by the board.

16 (b) If a commercial air carrier’s property statement includes
17 fixtures that are to be locally assessed as fixtures, the board shall
18 provide information regarding the fixtures to the county assessor
19 for the county in which the fixtures are located.

20 ~~SEC. 6.~~

21 *SEC. 8.* Section 1152 of the Revenue and Taxation Code is
22 amended to read:

23 1152. The allocation formula to be used by each assessor is as
24 follows:

25 (a) The time in state factor is the proportionate amount of time,
26 both in the air and on the ground, that certificated aircraft have
27 spent within the state during a representative period as compared
28 to the total time in the representative period. For purposes of this
29 subdivision, all time, both in the air and on the ground, that
30 certificated aircraft have spent within the state prior to the aircraft’s
31 first entry into the revenue service of the air carrier in control of
32 the aircraft on the current lien date shall be excluded from the time
33 in state factor. This factor shall be multiplied by 75 percent.

34 (b) The arrivals and departures factor is the proportionate
35 number of arrivals in and departures from airports within the state
36 of certificated aircraft during a representative period as compared
37 to the total number of arrivals in and departures from airports
38 during the representative period. This factor shall be multiplied
39 by 25 percent.

1 (c) For the 1983–84 fiscal year and fiscal years thereafter, in
2 computing the time-in-state factor, on each occasion during the
3 representative period that a certificated aircraft has spent 720 or
4 more consecutive hours on the ground, all ground time in excess
5 of 168 hours shall be excluded from the time in state attributable
6 to that aircraft.

7 (d) The time-in-state factor shall be added to the arrivals and
8 departures factor.

9 (e) The figure produced by application of subdivision (d) equals
10 the allocation to be applied to full cash value to determine the
11 value to which the assessment ratio shall be applied.

12 (f) This section shall remain in effect only until ~~January 1, 2016,~~
13 *July 1, 2017*, and as of that date is repealed.

14 ~~SEC. 7:~~

15 *SEC. 9.* Section 1152 is added to the Revenue and Taxation
16 Code, to read:

17 1152. The allocation formula to be used by the board is as
18 follows:

19 (a) The time in state factor is the proportionate amount of time,
20 both in the air and on the ground, that certificated aircraft have
21 spent within the state during a representative period as compared
22 to the total time in the representative period. For purposes of this
23 subdivision, all time, both in the air and on the ground, that
24 certificated aircraft have spent within the state prior to the aircraft's
25 first entry into the revenue service of the air carrier in control of
26 the aircraft on the current lien date shall be excluded from the time
27 in state factor. This factor shall be multiplied by 75 percent.

28 (b) The arrivals and departures factor is the proportionate
29 number of arrivals in and departures from airports within the state
30 of certificated aircraft during a representative period as compared
31 to the total number of arrivals in and departures from airports
32 during the representative period. This factor shall be multiplied
33 by 25 percent.

34 (c) For the ~~2016–17~~ *2017–18* fiscal year and each fiscal year
35 thereafter, in computing the time-in-state factor, on each occasion
36 during the representative period that a certificated aircraft has spent
37 720 or more consecutive hours on the ground, all ground time in
38 excess of 168 hours shall be excluded from the time in state
39 attributable to that aircraft.

1 (d) The time-in-state factor shall be added to the arrivals and
2 departures factor.

3 (e) The figure produced by application of subdivision (d) equals
4 the allocation to be applied to full cash value to determine the
5 value to which the assessment ratio shall be applied.

6 (f) This section shall become operative on ~~January 1, 2016.~~ July
7 1, 2017.

8 ~~SEC. 8.~~

9 *SEC. 10.* Section 1153 of the Revenue and Taxation Code is
10 amended to read:

11 1153. (a) After consulting with the assessors of the counties
12 in which aircraft of an air carrier normally make physical contact,
13 the board shall designate for each assessment year the
14 representative period to be used by the assessors in assessing the
15 aircraft of the carrier.

16 (b) This section shall remain in effect only until ~~January 1, 2016,~~
17 *July 1, 2017*, and as of that date is repealed.

18 ~~SEC. 9.~~

19 *SEC. 11.* Section 1153 is added to the Revenue and Taxation
20 Code, to read:

21 1153. (a) Notwithstanding any other law, for the ~~2016-17~~
22 *2017-18* fiscal year and for each fiscal year thereafter, the
23 representative period to be used by the board in assessing the
24 certificated aircraft of a commercial air carrier shall be the second
25 full week of January annually.

26 (b) This section shall become operative on ~~January 1, 2016.~~
27 *July 1, 2017.*

28 *SEC. 12.* *Section 1153.5 of the Revenue and Taxation Code is*
29 *amended to read:*

30 1153.5. (a) The Aircraft Advisory Subcommittee of the
31 California Assessors' Association shall, after soliciting input from
32 commercial air carriers operating in the state, do both of the
33 following:

34 (1) On or before March 1, 2006, and on or before each March
35 1 thereafter, designate a lead county assessor's office for each
36 commercial air carrier operating certificated aircraft in this state
37 in that assessment year.

38 (2) Every third year thereafter, redesignate a lead county
39 assessor's office for each of these air carriers, unless an air carrier

1 and its existing lead county assessor's office concur to waive this
2 redesignation.

3 (b) The lead county assessor's office described in subdivision
4 (a) shall do all of the following:

5 (1) Calculate, pursuant to Section 401.17, an unallocated value
6 of the certificated aircraft of each commercial air carrier to which
7 he or she is designated.

8 (2) Electronically transmit to the assessor of each county in
9 which the property described in paragraph (1) has situs for the
10 assessment year the values determined by the lead county
11 assessor's office under paragraph (1).

12 (3) Receive the property statement, as described in subdivision
13 (l) of Section 441, of each commercial air carrier to which he or
14 she is designated.

15 (4) Lead the audit team described in subdivision (d) when that
16 team is conducting an audit of a commercial air carrier to which
17 he or she is designated.

18 (5) Notify, in writing, each commercial air carrier for which he
19 or she has been designated of this designation on or before the first
20 March 15 that follows that designation.

21 (c) (1) Notwithstanding subdivision (b), the county assessor of
22 each county in which the personal property of a commercial air
23 carrier has situs for an assessment year is solely responsible for
24 assessing that property, applying the allocation formula set forth
25 in Section 1152, and enrolling the value of the property in that
26 county, but, in determining the unallocated fleet value for each
27 make, model, and series of certificated aircraft of a commercial
28 air carrier, the assessor may consult with the lead county assessor's
29 office designated for that commercial air carrier.

30 (2) The lead county assessor's office is subject to Section 322
31 of Title 18 of the California Code of Regulations and Sections
32 408, 451, and 1606 to the same extent as the assessor described in
33 paragraph (1).

34 (d) Notwithstanding Section 469, an audit of a commercial air
35 carrier shall be conducted once every four years on a centralized
36 basis by an audit team of auditor-appraisers from at least one, but
37 not more than three, counties, as determined by the Aircraft
38 Advisory Subcommittee of the California Assessors' Association.
39 An audit, so conducted, shall encompass all of the California
40 Personal Property and fixtures of the air carrier and is deemed to

1 be made on behalf of each county for which an audit would
2 otherwise be required under Section 469.

3 (e) This section shall remain in effect only until ~~December 31,~~
4 ~~2015,~~ *July 1, 2017*, and as of that date is repealed.

5 ~~SEC. 10.~~

6 *SEC. 13.* Section 1155 of the Revenue and Taxation Code is
7 amended to read:

8 1155. For purposes of Section 404, certificated aircraft shall
9 be deemed to be situated only in those taxing agencies in which
10 the aircraft normally make physical contact with sufficient
11 regularity to entitle such agencies to tax the aircraft under the laws
12 and Constitution of the United States. Flight time within the state
13 shall be allocated as follows:

14 (a) If the aircraft takes off in one taxing agency which is entitled
15 to tax (within the meaning of the preceding sentence) and lands
16 in another agency which is entitled to tax, the flight time between
17 such taxing agencies shall be allocated one-half to each such
18 agency.

19 (b) If the aircraft arrives from out of state or leaves the state,
20 the flight time from or to the state boundary shall be allocated to
21 the taxing agency entitled to tax in which the aircraft first lands
22 or last takes off, as the case may be.

23 (c) This section shall remain in effect only until ~~January 1, 2016,~~
24 *July 1, 2017*, and as of that date is repealed.

25 ~~SEC. 11.~~

26 *SEC. 14.* Section 1155 is added to the Revenue and Taxation
27 Code, to read:

28 1155. (a) For purposes of Section 100.51, certificated aircraft
29 shall be deemed to be situated only in those tax rate areas in which
30 the aircraft normally make physical contact with sufficient
31 regularity to entitle that tax rate area to the assessed value of the
32 aircraft under the laws and Constitution of the United States. Flight
33 time within the state shall be allocated as follows:

34 (1) If the aircraft takes off in one tax rate area that is entitled to
35 the assessed value of the aircraft and lands in another tax rate area
36 that is entitled to the assessed value of the aircraft, the flight time
37 between the two tax rate areas shall be allocated one-half to each
38 of the two tax rate areas.

39 (2) If the aircraft arrives from out of state or leaves the state,
40 the flight time from or to the state boundary shall be allocated to

1 the tax rate area entitled to the assessed value of the aircraft in
2 which the aircraft first lands or last takes off, as the case may be.

3 (b) This section shall become operative on ~~January 1, 2016.~~
4 *July 1, 2017.*

5 *SEC. 15. Section 1157 is added to the Revenue and Taxation*
6 *Code, to read:*

7 *1157. (a) Notwithstanding Section 469, the board shall conduct*
8 *an audit of a commercial air carrier that has a full value of four*
9 *hundred thousand dollars (\$400,000) or more of assessable*
10 *California personal property once every four years. An audit, so*
11 *conducted, shall encompass all of the California personal property*
12 *of the air carrier and is deemed to be made on behalf of each*
13 *county for which an audit would otherwise be required under*
14 *Section 469.*

15 *(b) This section shall become operative on July 1, 2017.*

Resolution Opposing SB 661 – City of Los Altos

WHEREAS the current methodology for assessing commercial aircraft reflects a settlement agreement between assessors and the airline industry that was codified into law, primarily to provide property tax relief to the commercial airline industry in the wake of the September 11, 2001 terror attacks; and

WHEREAS the current law was intended to be temporary for five years, was subsequently extended for five years, and is due to expire in December, 2015; and

WHEREAS the current law created a streamlined process for assessing commercial aircraft that improved the administration by assessors and taxpayer compliance; and

WHEREAS in the last ten years, revenue from the assessment of commercial aircraft has not significantly changed to reflect increased market values, unlike all other business-owned equipment and machinery; and

WHEREAS this creates an unfair tax break not provided to other business taxpayers whose business property assessments reflect current market conditions; and

WHEREAS, as of the expiration date, California assessors plan to return to the practice of assessing commercial aircraft at market value, consistent with the assessment of all business property in California; and

WHEREAS the airline industry has experienced its third straight year of record profits and completely recovered from financial losses sustained after the September 11, 2001 terror attacks; and

WHEREAS SB 661 seeks to transfer responsibility for the assessment of commercial aircraft from county assessors to the State Board of Equalization (BOE) for the primary purpose of reducing the tax burden for commercial airlines; and

WHEREAS the current law streamlined the administration of commercial airline assessments and created a centralized process that has worked well for over ten years, during which time there has been no formal complaint to the BOE or assessors by the airlines regarding the accuracy of the assessments or consistency of the process; and

WHEREAS comprehensive compliance audits by the BOE of county assessors' offices have repeatedly praised assessors for their accurate assessments of commercial aircraft, and

WHEREAS the overall cost to administer and comply with the provisions of SB 661 will increase due to the proposed transfer of the assessment of a portion of an air carrier's equipment to the BOE, with the remainder assessed by county assessors; and

WHEREAS the assessment of the business properties of a single company by two completely separate agencies increases the opportunity for business property to escape discovery and assessment and decreases consistency; and

WHEREAS the assessment of commercial aircraft is a complex task requiring experience and expertise to fairly, equitably and appropriately assess commercial aircraft; and

WHEREAS the BOE has never administered nor assessed commercial aircraft, and has neither the professional personal property auditors, technical expertise, assessment experience nor other resources to manage a substantial increase in its assessment, audit and appeal workload; and

WHEREAS the BOE has, by its own analysis, “sustained a significant reduction in staff with the skill sets necessary” during the past five years to support existing programs; and

WHEREAS current practice mandates regular independent third-party audits of county assessor’s offices, providing critical oversight and verification that would be entirely eliminated by SB 661; and

WHEREAS lower assessed values would likely have fiscal impacts for the recipients of property tax revenue with disproportionately greater impacts on cities and basic aid school districts, including the City of Los Altos and Los Altos School District; and

WHEREAS transferring responsibility for the assessment of commercial aircraft will substantially impact county assessors’ ability to perform their constitutional responsibility to administer the property tax system for all other Californians in a timely, fair and equitable manner; and

WHEREAS the passage of SB 661 would create a significant policy concern by setting a precedent for other types of businesses or individuals with properties in multiple jurisdictions wishing to shift assessment responsibility away from local agencies; and

WHEREAS City of Los Altos wishes to maintain local control over property taxation and protect property tax revenues;

NOW, THEREFORE, BE IT RESOLVED that City of Los Altos supports legislation enabling local county assessors to assess commercial aircraft consistent with the assessment of all other business equipment and machinery; and

NOW, THEREFORE, BE IT RESOLVED that City of Los Altos supports legislation that encourages efficient and streamlined compliance, administration and assessment of commercial aircraft by local assessors and

NOW, THEREFORE, BE IT RESOLVED that City of Los Altos opposes Senate Bill 661, for the purpose of retaining the assessment of commercial aircraft at the county level and preserving the integrity of fair and equitable property tax administration practices in California.

Dated this ____ day of _____, 2015.