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Program: Property Tax
Sponsor: Author
Revenue and Taxation Code Sections 100.51, 721.51, 755, 756, 828.1, 1152, 1153, and 1155
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Summary: Transfers assessment responsibility for commercial air carrier[1]-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-owned[2] real and personal property. Air carrier-owned real property includes: (1) real property directly owned, (2) taxable possessory interests in publicly-owned airports[3] 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 aircraft[4] and all other business personal property.

The Constitution[5] requires the BOE to assess certain types of property[6] 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

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[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.

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 audit[18] 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.

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[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.

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

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[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.

reproduction cost new 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 law[26] 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).

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 procedures[33] 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 issues[37] 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.

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	**Personal Property** Current Fair Market Value **Real Property (Including Fixtures)** Current Fair Market Value	**Personal Property** Current Fair Market Value **Real Property (Including fixtures)** Acquisition Value Factored by no more than 2% per year or Current Fair Market Value, whichever is lower.
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 *de novo*[41]	Legal Issue – Trial *de novo* Factual Issue[42] – Court Reviews Administrative Record
Assessment Roll	Real and Personal Property: Secured Roll[43]	Personal Property: Unsecured Roll
Payment Delinquent	1st Installment: December 10[44] 2nd 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.

	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.

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 that 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-

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 Constitution[56] 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."