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 1152, 1153, and 1155 of, and to add Sections 100.51, 721.51, and 828.1 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 661, as introduced, 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 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. 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.

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

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

SECTION 1. Section 100.51 is added to the Revenue and Taxation Code, to read:

100.51. Notwithstanding any other law, for the 2016–17 fiscal year and each fiscal year thereafter, all of the following apply:

(a) The property tax assessed value of taxable personal property that is owned by a commercial air carrier, as defined in Section 721.51, and that is assessed by the board, shall be allocated entirely to that tax rate area in the county in which the property is located.

(b) The tax rate applied to the assessed value allocated pursuant to subdivision (a) shall be the rate calculated pursuant to Section 93.

(c) The revenues derived from the application of the tax rate to the assessed value allocated to a tax rate area pursuant to subdivision (a) shall be allocated among the jurisdictions in that tax rate area, in those same percentage shares that property tax revenues derived from locally assessed property are allocated to those jurisdictions in that tax rate area, subject to any allocation and payment of funds as provided in subdivision (b) of Section 33670 of the Health and Safety Code, and subject to any modifications or adjustments made pursuant to Sections 99 and 99.2.

SEC. 2. Section 721.51 is added to the Revenue and Taxation Code, to read:

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

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

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

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

SEC. 3. Section 755 of the Revenue and Taxation Code is amended to read:

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

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

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

SEC. 4. Section 756 of the Revenue and Taxation Code is amended to read:

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

(b) Notwithstanding subdivision (a), in making the roll referred to in subdivision (a), the value of property described in paragraph (1) of subdivision (a) of Section ~~100.1~~ *100.11* and the nonunitary value of the property of regulated railway companies, property subject to subdivisions (i), (j), (k), and (*l*) of Section 100, ~~and~~ property subject to Section 100.9*, and property subject to Section 100.51* shall be enrolled by revenue district.

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

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

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

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

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

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

SEC. 6. Section 1152 of the Revenue and Taxation Code is amended to read:

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

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

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

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

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

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

(f) This section shall remain in effect only until January 1, 2016, and as of that date is repealed.

SEC. 7. Section 1152 is added to the Revenue and Taxation Code, to read:

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

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

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

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

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

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

(f) This section shall become operative on January 1, 2016.

SEC. 8. Section 1153 of the Revenue and Taxation Code is amended to read:

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

(b) This section shall remain in effect only until January 1, 2016, and as of that date is repealed.

SEC. 9. Section 1153 is added to the Revenue and Taxation Code, to read:

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

(b) This section shall become operative on January 1, 2016.

SEC. 10. Section 1155 of the Revenue and Taxation Code is amended to read:

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

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

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

(c) This section shall remain in effect only until January 1, 2016, and as of that date is repealed.

SEC. 11. Section 1155 is added to the Revenue and Taxation Code, to read:

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

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

(2) If the aircraft arrives from out of state or leaves the state, the flight time from or to the state boundary shall be allocated to the tax rate area entitled to the assessed value of the aircraft in which the aircraft first lands or last takes off, as the case may be.

(b) This section shall become operative on January 1, 2016.

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