

Amend Revenue and Taxation Code Section 401.10 to extend for five years the assessment valuation methodology for intercounty pipeline rights-of-way which are otherwise scheduled to sunset.

Source: Legislative Section

Existing Law

Revenue and Taxation Code Section 401.10 sets forth the assessment methodology used to determine the value of intercounty pipeline rights-of-way. This section of law is scheduled to be repealed on January 1, 2011.

The valuation methodology was first established in 1996 by AB 1286 (Stats. 1996, Ch. 801). It codified an agreement reached between county assessors and intercounty pipeline rights-of-way owners after litigation transferred assessment from the Board of Equalization to local county assessors. The methodology was subsequently extended for ten more years in 2000 by AB 2612 (Stats. 2000, Ch. 607).

The methodology is based upon a prescribed dollars-per-mile schedule that determines value according to the “density classification” of the property as follows: \$20,000 per mile for high density; \$12,000 per mile for transitional density; and \$9,000 per mile for low density. The value determined using the methodology has a rebuttable presumption of correctness. In addition, the property owner is precluded from challenging the legality of the assessment. If the methodology is not used, then the assessor’s presumption of correctness is negated and the property owner may challenge the legality of the assessment.

Commencing in 1993 local county assessors were required to begin to assess intercounty pipeline rights-of-way after a lawsuit ruling that the prior assessment of these rights by the Board was outside of its assessment jurisdiction. The court ruled that, while the pipelines themselves are properly assessed by the Board, the rights-of-way through which the pipelines run were outside of the Board’s assessment jurisdiction. County assessors were directed to make these assessments instead. (*Southern Pacific Pipe Lines, Inc. v. State Board of Equalization* 14 Cal.App.4th 42)

The initial transition from state to local assessment had several problems. For one, the intercounty nature of these interests made the valuation process difficult under traditional local assessment procedures. Additionally, the valuation of these interests by the various counties was not uniform. Furthermore, there were contentions regarding legality of the assessments. Thus, to avoid protracted litigation over how these assessments would be made at the local level, property owners and counties negotiated the assessment methodology codified in Section 401.10. These provisions are scheduled to sunset after the 2010-11 fiscal year.

This Proposal

This proposal would extend the codified valuation methodology for an additional five years. The valuation methodology in place since 1996 has proven to work

well. If the provision sunsets, there would be a void in existing law with respect to property tax assessment of intercounty pipeline rights-of-way.

The California Assessors' Association and taxpayer representatives have requested that these provisions be extended and have requested that the Board sponsor legislation as part of its annual Property Tax Omnibus measures. The Board took a neutral position on the 1996 legislation establishing the methodology and supported the 2000 legislation extending its provisions for 10 years.

Section 401.10 of the Revenue and Taxation Code is amended to read:

401.10. (a) Notwithstanding any other provision of law relating to the determination of the values upon which property taxes are based, values for each tax year from the 1984-85 tax year to the ~~2010-11~~ 2015-16 tax year, inclusive, for intercounty pipeline rights-of-way on publicly or privately owned property, including those rights-of-way that are the subject of a change in ownership, new construction, or any other reappraisable event during the period from March 1, 1975, to June 30, ~~2014~~ 2016, inclusive, shall be rebuttably presumed to be at full cash value for that year, if all of the following conditions are met:

(1) (A) The full cash value is determined to equal a 1975-76 base year value, annually adjusted for inflation in accordance with subdivision (b) of Section 2 of Article XIII A of the California Constitution, and the 1975-76 base year value was determined in accordance with the following schedule:

(i) Twenty thousand dollars (\$20,000) per mile for a high density property.

(ii) Twelve thousand dollars (\$12,000) per mile for a transitional density property.

(iii) Nine thousand dollars (\$9,000) per mile for a low density property.

(B) For purposes of this section, the density classifications described in subparagraph (A) are defined as follows:

(i) "High density" means Category 1 (densely urban) as established by the State Board of Equalization.

(ii) "Transitional density" means Category 2 (urban) as established by the State Board of Equalization.

(iii) "Low density" means Category 3 (valley-agricultural), Category 4 (grazing), and Category 5 (mountain and desert) as established by the State Board of Equalization.

(2) The full cash value is determined utilizing the same property density classifications that were assigned to the property by the State Board of Equalization for the 1984-85 tax year or, if density classifications were not so assigned to the property for the 1984-85 tax year, the density classifications that were first assigned to the property by the board for a subsequent tax year.

(3) (A) If a taxpayer owns multiple pipelines in the same right-of-way, an additional 50 percent of the value attributed to the right-of-way for the presence of the first pipeline, as determined under paragraphs (1) and (2),

shall be added for the presence of each additional pipeline up to a maximum of two additional pipelines.

For any particular taxpayer, the total valuation for a multiple pipeline right-of-way shall not exceed 200 percent of the value determined for the right-of-way of the first pipeline in the right-of-way in accordance with paragraphs (1) and (2).

(B) If the State Board of Equalization has determined that an intercounty pipeline, located within a multiple pipeline right-of-way previously valued in accordance with subparagraph (A), has been abandoned as a result of physical removal or blockage, the assessed value of the right-of-way attributable to the last pipeline enrolled in accordance with subparagraph (A) shall be reduced by not less than 75 percent of that increase in assessed value that resulted from the application of subparagraph (A).

(4) If all pipelines of a taxpayer located within the same pipeline right-of-way, previously valued in accordance with this section, are determined by the State Board of Equalization to have been abandoned as the result of physical removal or blockage, the assessed value of that right-of-way to that taxpayer shall be determined to be no more than 25 percent of the assessed value otherwise determined for the right-of-way for a single pipeline of that taxpayer pursuant to paragraphs (1) and (2).

(b) If the assessor assigns values for any tax year from the 1984-85 tax year to the ~~2010-11~~ 2015-16 tax year, inclusive, in accordance with the methodology specified in subdivision (a), the taxpayer's right to assert any challenge to the right to assess that property, whether in an administrative or judicial proceeding, shall be deemed to have been raised and resolved for that tax year and the values determined in accordance with that methodology shall be rebuttably presumed to be correct. If the assessor assigns values for any tax year from the 1984-85 tax year to the ~~2010-11~~ 2015-16 tax year, inclusive, in accordance with the methodology specified in subdivision (a), any pending taxpayer lawsuit that challenges the right to assess the property shall be dismissed by the taxpayer with prejudice as it applies to intercounty pipeline rights-of-way.

(c) Notwithstanding any change in ownership, new construction, or decline in value occurring after March 1, 1975, if the assessor assigns values for rights-of-way for any tax year from the 1984-85 tax year to the ~~2010-11~~ 2015-16 tax year, inclusive, in accordance with the methodology specified in subdivision (a), the taxpayer may not challenge the right to assess that property and the values determined in accordance with that methodology shall be rebuttably presumed to be correct for that property for that tax year.

(d) Notwithstanding any change in ownership, new construction, or decline in value occurring after March 1, 1975, if the assessor does not assign values for rights-of-way for any tax year from the 1984-85 tax year to the ~~2010-11~~ 2015-16 tax year, inclusive, at the 1975-76 base year values specified in subdivision (a), any assessed value that is determined on the basis of valuation standards that differ, in whole or in part, from those valuation

standards set forth in subdivision (a) shall not benefit from any presumption of correctness, and the taxpayer may challenge the right to assess that property or the values for that property for that tax year. As used herein, a challenge to the right to assess shall include any assessment appeal, claim for refund, or lawsuit asserting any right, remedy, or cause of action relating to or arising from, but not limited to, the following or similar contentions:

(1) That the value of the right-of-way is included in the value of the underlying fee or railroad right-of-way.

(2) That assessment of the value of the right-of-way to the owner of the pipeline would result in double assessment.

(3) That the value of the right-of-way may not be assessed to the owner of the pipeline separately from the assessment of the value of the underlying fee.

(e) Notwithstanding any other provision of law, during a four-year period commencing on ~~the effective date of this section~~ January 1, 1996, the assessor may issue an escape assessment in accordance with the specific valuation standards set forth in subdivision (a) for the following taxpayers and tax years:

(1) Any intercounty pipeline right-of-way taxpayer who was a plaintiff in *Southern Pacific Pipe Lines, Inc. v. State Board of Equalization* (1993) 14 Cal. App. 4th 42, for the tax years 1984-85 to 1996-97, inclusive.

(2) Any intercounty pipeline right-of-way taxpayer who was not a plaintiff in *Southern Pacific Pipe Lines, Inc. v. State Board of Equalization* (1993) 14 Cal. App. 4th 42, for the tax years 1989-90 to 1996-97, inclusive.

(f) Any escape assessment levied under subdivision (e) shall not be subject to penalties or interest under the provisions of Section 532. If payment of any taxes due under this section is made within 45 days of demand by the tax collector for payment, the county shall not impose any late payment penalty or interest. Taxes not paid within 45 days of demand by the tax collector shall become delinquent at that time, and the delinquent penalty, redemption penalty, or other collection provisions of this code shall thereafter apply.

(g) For purposes of this section, "intercounty pipeline right-of-way" means, except as otherwise provided in this subdivision, any interest in publicly or privately owned real property through which or over which an intercounty pipeline is placed. However, "intercounty pipeline right-of-way" does not include any parcel or facility that the State Board of Equalization originally separately assessed using a valuation method other than the multiplication of pipeline length within a subject property by a unit value determined in accordance with the density category of that subject property.

(h) This section shall remain in effect only until January 1, 2016 ~~2014~~, and, as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016 ~~2014~~, deletes or extends that date.