DRAFT

STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date:	**04/01/14**	Bill No:	**Assembly Bill 2262**
Tax Program:	**Private Railroad Car**	Author:	**Frazier**
Sponsor:	**BOE**	Code Sections:	**RTC 11206, 11292, 11293, and 11294**
Related Bills:		Effective Date:	**01/01/15**

BILL SUMMARY

Among its provisions, this Board of Equalization (BOE)-sponsored bill changes the method of measuring presence in California from car days to mileage for purposes of imposing the Private Railroad Car Tax.

ANALYSIS

CURRENT LAW

California law imposes a property tax on privately owned railroad cars (PRRCs) operating on the state's railroads.[1] The law specifies the methodology to value PRRCs.

Valuation. The BOE determines value based on acquisition cost less depreciation for each railroad car class in the owner's fleet. The law allows additional deductions in the form of depreciation for cars purchased used and newly installed improvements (i.e., betterments) to existing cars.

Apportionment. Because PRRCs are involved in interstate travel, the value must be apportioned among the states. PRRCs are taxed on a pro rata basis consistent with actual presence in California. The law requires presence to be measured by the number of "car-days" each car class spent in the state during the preceding calendar year.

PROPOSED LAW

Valuation. This bill changes the way PRRCs purchased used are valued. It also changes how to value improvements made to existing railroad cars. Specifically:

- **Used Cars.** The bill eliminates the additional depreciation given to the purchase of used PRRCs by deleting the phrase "minus the age at acquisition."
- **Improvements.** The bill eliminates the additional depreciation given to improvements made to PRRCs by deleting subdivision (g) of Section 11292, the provision that states the new improvements are based on the PRRC's remaining depreciable life. [2]

For valuation purposes, the bill continues to calculate depreciation for all cars based on a 22- or 25-year life depending on car class.

[1] Part 6 of Division 2 of the Revenue and Taxation Code (commencing with Section 11201).
[2] The strike-out of subdivision (g) is not reflected in the amended bill due to an oversight.

Apportionment. This bill changes the way physical presence is measured from the number of days each car class spends in California to the pro rata number of miles the owner's PRRC fleet traveled in California. This eliminates the need to distinguish cars by class (data which is not actually maintained).

BACKGROUND

The PRRC tax is in lieu of all other state and local ad valorem property taxes on PRRCs. Unlike other property taxes, the taxes are state general fund revenues.

Generally, companies that own PRRCs haul their own products or lease their cars to shippers. The PRRC tax does not apply to railroad companies.

Car-Day Count Software. The car-day count software program the BOE uses to measure presence is near the end of its useful life. Switching to a mileage-based system would avoid the cost to replace this software, which BOE staff estimates would cost at least $500,000.

The car-day count system measures the presence of PRRCs within California. Each month, five railroad car companies report border crossing data (movements in and out of California) to the BOE. The BOE's computer program processes this data and determines the number of days each car was physically present in California during the calendar year immediately preceding each lien date. The results are converted to an equivalent number of cars, for a specific car class based on the American Association of Railroads Alpha designation, as explained below.

Applying the car-day method, the car's value is multiplied by the number of days per year that each car was present in California. For example, if the aggregate number of days a company's tank cars were physically present in California was 730 days, the equivalent number of tank cars would be 2 (730 days / 365 days). If the tank car's value is $50,000, calculated using the statutorily required method, then this value is multiplied by 2 to arrive at a $100,000 taxable value of this class of PRRCs ($50,000 x 2).[3] The company's liability is therefore the tax imposed on an assessed value of $100,000.

COMMENTS

1. **Sponsor and Purpose.** The BOE is sponsoring this bill to establish a simplified procedure for assessing PRRCs that is appropriate and fair, that allocates value among states in a consistent manner, and reduces the administrative burden on both taxpayers and the BOE.
2. **Valuation changes.** The valuation changes related to used cars and improvements to existing cars will produce values that are reasonably within fair market value range. These changes serve to reduce the bill's overall revenue impact and simplify tax reporting and administration.
3. **The car-day count software program the BOE uses to measure presence is near the end of its useful life.** Switching to a mileage-based system avoids the cost to replace the software, which BOE staff estimates would cost at least $500,000. The current program uses obsolete code language that is no longer supported and thus increasingly difficult to maintain.

[3] In addition, to comply with the Federal Railroad Revitalization and Regulatory Reform Act (the 4-R Act), the BOE must assess rail transportation property, including PRRCs, at a percentage of full value. In 2013, the percentage was 80.46%.

4. **Conformity.** A mileage based system conforms to the way all other states that impose a PRRC tax measure presence. In addition, railroad companies use mileage to bill PRRC owners for traveling on their systems. Thus, mileage data is already captured.
5. **Taxpayer Compliance Burden**. Switching to mileage reduces the compliance burden on PRRC owners and railroads to comply with California's unique car-day system. Using the same mileage system as other states reduces compliance costs for PRRC owners and railroads.
6. **Administrative Complexity.** Measuring presence with a mileage based system is less complex and less costly to administer. Making the tax easier to administer would allow the BOE to assign more senior staff to other duties.
7. **Accuracy.** The mileage data is more accurate than car days because the BOE must rely on 2nd and 3rd party data (from Rail Inc.) for verification of car days reported by railroads (these sources provide information on movements into and out of California). Under the mileage based system, the BOE could obtain mileage data directly from the source (private car owners). Car day counts have not always been accurate.
8. **Amendments.** Subdivision (g) of Section 11292 should be shown as deleted in the bill. The failure to show subdivision (g) in strike-out is an inadvertent omission.

COST ESTIMATE

Enactment of this bill in its current form could affect the BOE's administrative costs. A cost estimate is pending.

REVENUE ESTIMATE

Comparing mileage and car-day data from the last three years, BOE staff estimates that the switch to a mileage based system would result in a revenue loss between $1,160,000 and $1,200,000 annually. This loss would be offset, in part, by canceling an annual $13,000 car registration subscription and avoiding the $500,000 cost to replace the aging car-day counting software.

The state retains the revenue from the PRRC tax. In 2013, the tax revenue from 221 PRRC companies was $8,352,317.[4] Annual tax revenues vary with the level of new car investments and California economic activity. The previous five years values and billings are as follows:

Year	Total Full Value	Total Assessed Value	Tax Rate	Amount of Tax
2009	$922,188,463	$535,934,266	1.097%	$5,879,199
2010	$865,148,570	$564,386,221	1.102%	$6,219,536
2011	$901,214,873	$732,007,910	1.107%	$8,103,328
2012	$879,655,573	$720,268,858	1.108%	$7,980,579
2013	$932,432,014	$753,819,189	1.108%	$8,352,317

[4] 2013 Private Railroad Car Assessment Value Recommendations
Private Railroad Car Tax Historical Data 1938 to present.
Private Railroad Companies

Qualifying Remarks. Mileage-based assessments could result in tax liability for individual companies that is either higher or lower depending on their business operation. Also, this revenue estimate does not account for any changes in economic activity that may or may not result from enactment of these changes.

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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