STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE ENROLLED BILL ANALYSIS

Date Amended:	**Enrolled**	Bill No:	**AB 81**
Tax:	**Property**	Author:	**Migden**
Board Position:	**Support**	Related Bills:	**AB 2073 (2002)**

BILL SUMMARY

This bill would, with respect to certain electric generation facilities with a generating capacity of 50 megawatts or more:

- Statutorily transfer assessment responsibility for property tax purposes from the local county assessor to the Board of Equalization.[1]
- Change the allocation of property tax revenues derived from these facilities from the county-wide pool system to the specific local tax rate area where the facility is located.

ANALYSIS

Current Law

Under existing law and regulations practices, some electrical generation facilities are assessed by the Board of Equalization (i.e., "state assessed") while others are assessed by local county assessors (i.e., "locally assessed"). Certain elements of taxation differ depending upon whether property is state or locally assessed. With respect to this bill, the following two elements are of particular interest:

- **Annual Valuation Standard**. State assessed property is revalued every year at its current fair market value. In contrast, locally assessed property is subject to Proposition 13 value limitations, which generally means acquisition value with annual increases limited to no more than 2%. (The basic tax rate applied to the assessed value of the property is essentially the same, 1%, but the exact tax rate may vary.)
- **Revenue Allocation to Governmental Agencies.** For state assessed property, certain growth in revenues after 1987 are placed in a pool and shared with nearly all governmental agencies in a county according to a statutory formula. In contrast, property tax revenues from locally assessed property are distributed to only those governmental agencies in the tax rate area where the property is located.

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[1] The Board of Equalization has amended a regulation, Property Tax Rule 905, which was approved by OAL on May 14, 2002, that will transfer assessment responsibility for certain locally assessed facilities to the Board on January 1, 2003.

Part 1. Assessment Jurisdiction of Electrical Generation Facilities

Section 19 of Article XIII of the California Constitution provides that "[t]he Board shall annually assess * * * property, except franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the State, and companies transmitting or selling gas or electricity." Differences in opinion have been expressed as to whether this means that the assessment jurisdiction of the Board extends to any company that transmits or sells electricity or only "regulated" companies. Any property subject to property tax that is not within the Board's jurisdiction, or where the Board declines to assert jurisdiction, is subject to property tax assessment by the local county assessor.

Deregulation. Local county assessors have historically assessed all electrical generation facilities except those owned by the regulated public utilities. For instance, county assessors have always assessed co-generation facilities as well as facilities using renewable sources of energy such as wind or solar. Since 1999, county assessors additionally assumed the assessment of power plants divested by regulated public utilities as well as newly constructed power plants built by private companies post-deregulation. The transfer of assessment jurisdiction of divested plants was a result of a Board regulation, Rule 905, as discussed below. The Board maintained, and continues to assess, generation facilities still owned by public utilities (primarily hydroelectric and nuclear facilities.) However, beginning in 2003, the Board will reassert its jurisdiction over divested electrical generation facilities as well as certain newly constructed facilities, as noted below.

Local Assessment of Electrical Generation Facilities From 1999 to 2002: *Transfer of divested power plants from state to local assessment and local assessment of future newly constructed facilities.* As a result of electrical deregulation, 22 electrical generation facilities previously owned by public utilities were sold to private companies. As an additional consequence of deregulation, it was anticipated that non-public utility companies would construct future generation facilities. Because of these developments, the Board decided to examine the question of the boundaries of its assessment jurisdiction over companies selling electricity in a post-deregulation era.

Formal discussion of assessment jurisdiction began in November of 1998 and a series of Board hearings and interested parties meetings were held. Following a public hearing on July 29, 1999, and after accepting and publishing proposed amendments, the Board, on September 1, 1999, adopted Rule 905, *Assessment of Electric Generation Facilities*. Rule 905 was approved by the Office of Administrative Law, and became effective on November 27, 1999.

Property Tax Rule 905 provided that electrical generation facilities would be state assessed only if:

(1) "the facility was constructed pursuant to a certificate of public convenience and necessity issued by the California Public Utilities Commission to the company that presently owns the facility; or,

(2) the company owning the facility is a state assessee for reasons other than its ownership of the generation facility or its ownership of pipelines, flumes, canals, ditches, or aqueducts lying within two or more counties."

In practical application, this generally limited state assessment of electrical generation facilities to those owned by rate regulated public utilities, such as Pacific Gas and Electric Company. Consequently, after this regulation was adopted, the jurisdiction to assess the 22 conveyed electrical generation facilities was transferred from the Board to the local assessors in the counties in which the facilities are located.

State Assessment of Electrical Generation Facilities Commencing in 2003: ***Transfer of divested power plants and newly constructed plants from local to state assessment in 2003.*** In mid-2001, certain changed conditions and developments in the electric energy industry on a statewide basis, as well as the experience of two years of application of the existing Rule 905, led the Board to re-consider its 1999 decision regarding their assessment jurisdiction pursuant to Article XIII, Section 19. Among those facts and developments were: the bankruptcy of the Power Exchange in January 2001; the rolling blackouts that were required to match the supply of electricity to the demand; the fluctuation in prices being charged for electrical power in the market place; the execution of long term contracts between the State Department of Water Resources and some 22 power suppliers; the creation of the California Consumer Power and Conservation Financing Authority; the bankruptcy of Pacific Gas and Electric Company and the financial difficulties of other regulated electrical utilities. It was widely stated in the press and elsewhere that the assumptions about the effect of restructuring on the electric power market - assumptions on which the original deregulation legislation and Rule 905 were founded - were largely incorrect. The Board determined that central assessment of these generation facilities by the Board would more appropriately reflect the assessment jurisdiction given to the Board under the Constitution, and more accurately reflect the value of generation facilities on a statewide basis in the competitive power market.

Therefore, on November 28, 2001, the Board amended Rule 905 and on May 14, 2002, the Office of Administrative Law approved the amendments to the rule. Under the amendments to Rule 905, certain facilities, currently locally assessed, will become subject to state assessment on January 1, 2003. Those facilities will include the 22 divested plants plus a currently unknown number of newly constructed post-deregulation plants. The exact number is unknown because of changes in the viability of the construction of new plants.

Revised Property Tax Rule 905 provides that commencing with the 2003 assessment year, an electric generation facility shall be state assessed property only if:

(1) the facility has a generating capacity of 50 megawatts or more; and

(2) is owned or used by a company which is an electrical corporation as defined in subdivisions (a) and (b) of section 218 of the Public Utilities Code; or, the facility is owned or used by a company which is a state assessee for reasons other than its ownership of the electric generation facility or its ownership of pipelines, flumes, canals, ditches, or aqueducts lying within two or more counties.

Property Tax Rule 905 excludes from the definition of “electric generation facility” a qualifying small power production facility or a qualifying cogeneration facility within the meaning of Sections 201 and 210 of Title II of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§796(17), (18) and 824a-3) and the regulations adopted for those sections under that act by the Federal Energy Regulatory Commission (18 C.F.R. 292.101-292.602).

Part 2. Revenue Allocation

Locally Assessed. Generally, property tax revenues from locally assessed property are allocated by the situs of the property and accrue only to the taxing jurisdictions in the tax rate area where the property is located. A tax rate area is a grouping of properties within a county wherein each parcel is subject to the taxing powers of the same combination of taxing agencies.

State Assessed. For state assessed property, a certain amount of the incremental growth in revenues after 1987 is placed in a pool and shared with nearly all governmental agencies in a county according to a statutory formula. Specifically,

- Each local agency has a tax base (hereafter called the “unitary base”) for any jurisdiction which had state assessed property sited within its boundaries in the 1987-88 fiscal year.
- Thereafter, the formula annually increases each local agency’s “unitary base” by two percent (provided revenues are sufficient).
- If, there is any property tax revenue remaining after each local agency has been distributed its “unitary base” plus two percent, then this surplus revenue, referred to as “incremental growth,” is distributed to all agencies in the county. Agencies with unitary bases also receive a share of the incremental growth.
- “Incremental growth” revenues are shared with all jurisdictions in the county (i.e., county-wide distribution) in proportion to the entity’s share of property tax revenues derived from locally assessed property.

Existing law provides three exceptions to this revenue allocation system for certain state assessed properties newly constructed after 1987. The property tax revenues derived from these properties go to the jurisdictions in the tax rate area where the project is sited rather than being shared with all jurisdictions located in the county as “incremental growth.”

Proposed Law

Part 1. Assessment Jurisdiction

This bill would add Section 721.5 to the Revenue and Taxation Code to provide that the Board of Equalization will annually assess every electric generation facility with a generating capacity of 50 megawatts or more that is owned or operated by an electrical corporation, as defined in subdivisions (a) and (b) of Section 218 of the Public Utilities Code. Qualifying small power production facilities and qualifying co-generation facilities would be excluded from state assessment.

This bill would also provide that proposed Section 721.5 supersedes any regulation in existence as of the effective date of this section, that is contrary to it. With respect to the assessment jurisdiction issue, this bill and Rule 905 are substantively identical. Therefore, this bill will not repeal the recently revised regulation.

Part 2. Revenue Allocation

This bill would add Section 100.9 to the Revenue and Taxation Code to change the allocation of property tax revenue from the affected facilities to tax rate area situs rather than the existing county-wide system used for most other state assessed property.

Note. While the assessment jurisdiction issues are substantively identical in revised Rule 905 and AB 81, Rule 905 does not address revenue allocation since it is not within the Board's purview. The authority to determine the allocation of property tax revenue among local governments is granted to the Legislature pursuant to Article XIII A, Section 1(a). Since assessment jurisdiction of the affected facilities will be transferred to the state on January 1, 2003 pursuant to Rule 905, if AB 81 is not enacted then the revenue from the affected facilities would be allocated according to the county-wide formula.

Background

Electrical Restructuring: Existing Facilities and New Facilities

As a result of the restructuring of the electric utility industry in California (AB 1890, Stats. 1996, Ch. 854), rate regulated public utilities sold many of their electrical generation facilities. Public utilities were required to sell certain generation facilities, and some additionally opted to sell other facilities voluntarily.

Twenty-two previously state assessed plants were sold between 1998-1999 and until January 1, 2003 are subject to local assessment. The following table lists the original purchasers and purchase price paid. On January 1, 2003, these facilities will revert to state assessment.

Seller – Buyer – Sales Price	**Plants**	**County**
PG&E to Duke Energy	Moss Landing	Monterey
$501 Million for 3 Plants	Morro Bay	San Luis Obispo
	Oakland	Alameda
PG&E to Southern Energy[2]	Pittsburg Power Plant	Contra Costa
$801 Million for 3 Plants	Contra Costa	Contra Costa
	Potrero	San Francisco
PG&E to Calpine Corp.	The Geysers	Sonoma
$213 Million for 2 Plants	The Geysers	Lake
Southern California Edison to AES	Alamitos	Los Angeles
$781 Million for 3 Plants	Redondo Beach	Los Angeles
	Huntington Beach	Orange
Southern California Edison to Reliant	Ormand Beach	Ventura
$280 for 5 Plants	Etiwanda	San Bernardino
	Cool Water	San Bernardino
	Mandalay	Ventura
	Ellwood	Santa Barbara
Southern California Edison to NRG/Destec[3]	El Segundo	Los Angeles
$117.5 Million for 2 Plants	Long Beach	Los Angeles
Southern California Edison to Thermo-Ecotek	Highgrove	San Bernardino
$9.5 Million for 2 Plants	San Bernardino	San Bernardino
San Diego Gas & Electric to San Diego Unified Port District (Duke has a ten year lease) $110 Million	South Bay Power Plant	San Diego
San Diego Gas & Electric to Dynergy/NRG $356 Million	Encina Power Plant	San Diego

[2] These plants are currently owned by Mirant.
[3] These plants are currently owned by Dynergy/NRG. Destec was purchased by Dynergy.

Additionally, the restructuring and subsequent opening of electrical generation to competition has resulted in the planned development and construction of many new electrical generation facilities across the state.

Five facilities with an online capacity of at least 50 MW have been newly constructed:

Owner	Name	MW	City	County
Dynergy/NRG	Kearney	162.5	San Diego	San Diego
Equilon/LA Refining[4]	Texaco LA Refinery	60	Wilimington	Los Angeles
PG&E Natural Energy Group	La Paloma	1048	McKittrick	Kern
Calpine	Los Medanos Energy	559	Pittsburg	Contra Costa
Calpine	Sutter Power	500	Yuba City	Sutter

Thirteen facilities are planned to be under construction with an online capacity of at least 50 MW by January 1, 2003 include:

Owner	Name	MW	City	County
Wisvest	Blythe Energy	520	Blythe	Riverside
Calpine/Bechtel	Delta Energy	880	Pittsburg	Contra Costa
Sempra/OXY	Elk Hills	500	Elk Hills	Kern
Inland Group/Constellat	High Desert	720	Victorville	San Bernardino
Edison Mission Energy and Area Energy LLC	Midway Sunset	500	McKittrick	Kern
Thermo Ecoteck[5]	Mountain View	1056	Redlands	San Bernardino
Calpine	Pastoria	750	Tejon	Kern
GWF Power Systems	Hanford	99	Hanford	Kings
Calpine/Bechtel	Metcalf Energy	600	San Jose	Santa Clara
Ogden Pacific Power	Three Mountain	500	Burney	Shasta
El Paso Energy	United Golden Gate	570	S. Fran. Airport	San Mateo
Calpine	E. Altamont	1100	Unincorporated	Alameda
Flordia P&L	Rio Linda/Elverta	560	Rio Linda	Sacramento

Property Tax Revenue Allocation

Prior to Proposition 13, each local government with taxing powers (counties, cities, schools, and special districts, etc.) could levy a property tax on the property located within its boundaries. Each jurisdiction determined its tax rate independently (within certain statutory restrictions) and the statewide average tax rate prior to Proposition 13, under this system, was 2.67 percent. After Proposition 13, the property tax rate was limited to a maximum of one percent of a property's assessed value.

[4] The California Energy Commission identifies this facility as not being a cogeneration plant and not being a qualifying facility. See www.energy.ca.gov, "Power Plant Database."

[5] This is a repowering project, currently it has been placed on hold.

Since local jurisdictions could no longer set their own individual tax rates and instead were required to share in a pro rata portion of the maximum one percent tax rate, the Legislature was given the authority to determine how the property tax revenue proceeds should be allocated. The legislation that established the current property tax allocation system, found in Revenue & Taxation Code §95 - §99.2, was Assembly Bill 8 (Stats. 1979, Chap. 282; L. Greene). The descriptive term for the allocation procedure for locally assessed property tax revenues is still commonly referred to as "AB 8," some twenty years later.

In addition to establishing allocation procedures, AB 8 also provided financial relief to local agencies to offset most of the property tax revenue losses incurred after Proposition 13. AB 8 provided relief in two ways: first, it reduced certain county health and welfare program costs and, second, it shifted property taxes from schools to cities, counties and special districts, replacing the school's lost revenues with increased General Fund revenues. (There were six counties - Alpine, Lassen, Mariposa, Plumas, Stanislaus, and Trinity – referred to as "negative bailout" counties, where the amount of property taxes allocated to the county was *reduced* because the health and welfare components of AB 8 were so favorable to those counties.)

In 1992, the Educational Revenue Augmentation Fund (ERAF), was established. ERAF partially reversed the relief provided to local agencies by AB 8. The effect of ERAF was to redirect a portion of property tax revenues previously allocated to cities, counties, and special districts to schools, thus reducing the state's General Fund obligations for funding schools under Proposition 98.

Additional information on these property tax allocation procedures can be obtained from various publications authored by the Legislative Analyst's Office (LAO) and available online at http://www.lao.ca.gov.

Allocation Generally

- "Reconsidering AB 8: Exploring Alternative Ways to Allocate Property Taxes", LAO Report, February 2000
- "Property Taxes—Why Some Local Governments Get More Than Others", LAO Policy Brief, August 1996
- "Why County Revenues Vary: State Laws and Local Conditions Affecting County Finance", LAO Report, May 1998

Allocation and ERAF

- "Reversing the Property Tax Shifts", LAO Policy Brief, April 1996
- "Property Tax Shift", Perspectives and Issues (pp. 203 - 213), February 1997
- "Improving Incentives for Property Tax Administration", Perspectives and Issues (pp. 215 - 226), February 1997
- "Major Milestones: 25 Years of the State-Local Fiscal Relationship", California Update, December 1997
- "Shifting Gears: Rethinking Property Tax Shift Relief", LAO Report, February 1999

Locally Assessed Property. Generally, property tax revenues from locally assessed property are allocated by the situs of the property and accrue only to the taxing jurisdictions in the tax rate area where the property is located. A tax rate area is a grouping of properties within a county wherein each parcel is subject to the taxing powers of the same combination of taxing agencies.

State Assessed Property. Under current law, the allocation procedures for property tax revenues derived from state assessed property are different than those for locally assessed property. The revenue allocation system for state assessed property was established by legislation enacted in 1986 via AB 2890 (Stats. 1986, Chap. 1457). Prior to the 1988-89 fiscal year, the property tax revenues from state and locally assessed property were allocated in the same manner – by tax rate area. However, the process of identifying property according to tax rate area had become overwhelming for state assessees. As a result, AB 2890 was enacted to simplify the reporting and allocation process for state assessees except railroads. It allowed state assesses to report their unitary property holdings by county rather than by individual tax rate area. It additionally allowed the Board to allocate unitary value by county rather than by tax rate area. This change allowed state assessees to receive only one tax bill for all unitary property per county. Previously, each state assessee received hundreds of property tax bills from each county where they owned unitary property because a separate tax bill was prepared for each tax rate area where unitary property was physically located. (Statewide there are nearly 58,000 tax rate areas.)

Essentially, AB 2890 established a prescribed formula, performed by the county auditor. The results of AB 2890 are as follows:

- Preserves each local agency's tax base (hereafter called the "unitary base") for any jurisdiction which had state assessed property sited within its boundaries in the 1987-88 fiscal year.
- Thereafter, annually increases each local agency's "unitary base" by two percent (provided revenues are sufficient).
- If, after the county auditor distributes to each local agency its "unitary base" plus two percent, there is any property tax revenue remaining, then this surplus revenue, referred to as "incremental growth," is distributed to all agencies in the county. Agencies with unitary bases also receive a share of the incremental growth.
- "Incremental growth" revenues are shared with all jurisdictions in the county (i.e., county-wide distribution) in proportion to the entity's share of property tax revenues derived from locally assessed property.
- It is often stated that all state assessee revenue is shared "county-wide," but this is not technically true. In essence, it is only incremental growth that is distributed "county-wide" without regard to where the growth in value took place or where new construction occurred.
- By establishing unitary bases, jurisdictions were held harmless by the allocation system established by AB 2890 and some jurisdictions (those that had little or no state assessed property located in their jurisdictional boundaries prior to AB 2890) have since benefited from the county-wide system established for sharing the incremental growth.

Special Situations; Local Agencies Created After 1988 and ERAF.

Local agencies that did not exist prior to 1988, which would include ERAF, have a unitary base of *zero*.

- These local agencies may, however, still receive a share of state assessee revenues. However, their share would consist only of a portion of the county-wide incremental growth pool, if any, since they have no "unitary base."
- Once a local agency is granted a portion of the county-wide pool, it is thereafter annually guaranteed some amount of state assessee revenues.
- In some instances, local agencies and *ERAF receive no property tax revenues* from state assessed property. This occurs when:
  - The local agency was not in existence prior to 1988 and;
  - Since the local agency's formation, there has not been a year when there were sufficient revenues to give those local agencies that received property tax revenues in the prior year their previous year's share plus two percent.

Related Legislation

Electrical deregulation legislation was silent as to the state or local assessment of electrical generation facilities after deregulation. Thereafter, in 1999, SB 329 (Peace) and SB 438 (Rainey), would have given *county assessors* assessment jurisdiction over electrical generation facilities, including power plants, cogeneration facilities, and new generation facilities purchased or constructed after January 1, 1997, by an entity other than a regulated public utility company. These bills were introduced in response to pending rule activity by the Board of Equalization. At that time, the staff of the Board had been proposing a rule that would have placed under state assessment companies owning generation facilities with a capacity of 50 megawatts or more and selling more than 50% of their generated electrical power for transport through the statewide grid. For a variety of reasons, many interested parties, both local government and industry, were opposed to this proposal and it was never enacted. The fundamental issue underlying the introduction of both SB 329 and SB 438 was the property tax revenue allocation that would occur under state assessment. Under local assessment, the property tax revenues from new facilities would flow to the government agencies in the tax rate areas in which the facilities were located. Under state assessment, on the other hand, the property tax revenues from the new facilities would be treated as "incremental growth" to be shared with all local governments in the county. These bills were ultimately amended to frame the legislation in terms of revenue allocation rather than assessment jurisdiction. Specifically, revenue from newly constructed facilities would be allocated according to situs, i.e., limited to the local governments where the property was located. Since the rule ultimately adopted by the Board resulted in local assessment of the electrical generation facilities in question, however, these bills were no longer pursued.

COMMENTS

1. **Sponsor and purpose of the bill.** This bill is sponsored by the author. Its purpose is to require the Board of Equalization to assess these plants in order to require annual fair market value assessments of electrical generation facilities of 50 MW or more. Additionally, this bill would change the revenue allocation for these facilities to a local tax rate area allocation, to address the issue of the many local jurisdictions that made decisions to host the construction of the facilities based in part on expected property tax revenues.
2. **Key Amendments.** Amendments to AB 81 are detailed below:
   - As amended March 4, 2002, this bill delays its operative date to January 1, 2003.
   - As amended July 17, 2001, this bill makes a technical correction suggested in the prior Board analysis to apply the tax rate specific to the tax rate area where the property is located rather than the blended county-wide rate. Additionally, the July 17 amendments ensure that for power plants sited within the boundaries of a redevelopment district, those redevelopment agencies will be assured of their share of property tax revenues. (A city's redevelopment agency is eligible to receive all of the growth in assessed value (less statutorily required pass throughs) funds that would normally accrue to the county, special districts, school districts, and the city's general fund.)
   - As amended June 5, 2001, this bill would *exclude* from state assessment property owned by certain types of companies selling or transmitting electricity – co-generation facilities, small power generation facilities, and generation facilities using renewable energy resources - that have always been assessed by county assessors. Additionally, the amendments change the revenue allocation from state assessed facilities to provide that the revenue derived would be distributed by situs (i.e., tax rate area).
   - As amended May 30, 2001, this bill would have transferred to the Board of Equalization *all* plants at and over a 50MW threshold, including those that have always been locally assessed.
3. **Approximately 41 facilities would be affected**. State assessment will result in the transfer of the 22 divested facilities back to the Board. Additionally, 19 facilities recently constructed or soon to be constructed would be transferred to the Board.
4. **With respect to the assessment jurisdiction issue, since Rule 905 has been amended and approved by OAL, the practical effect of AB 81 would be to statutorily codify Rule 905**. The assessment jurisdiction provisions of this bill are substantively identical to Rule 905 which provides that electric generation facilities with a generation capacity over 50 megawatts and owned by an electrical corporation as defined in the Public Utilities Code will be state assessed property beginning in January 2003. Rule 905 similarly excludes certain small qualifying facilities and qualifying co-generation facilities from state assessment. However, the rule does not address revenue allocation issues.

5. **State assessment requires annual fair market assessments.** A key difference between state assessment and county assessment is that under county assessment the valuation provisions of Article XIIIA (Proposition 13) apply, including establishing a base year value, a limit of 2% on annual increases, and valuation on the lower of fair market value or adjusted base year value. These provisions do not apply to state assessed property, which is valued annually at fair market value in accordance with the holding in the case of *ITT World Communications, Inc. v. San Francisco* (1985) 37 Cal.3d. 859. The fundamental differences in state vs. local assessment is noted in the following table:

	State Assessment	**Local Assessment**
Valuation Method	Current Fair Market Value	Acquisition Value Factored By No More than 2% per year or Current Fair Market Value, whichever is lower.
Revenue Allocation	Unitary Base + "County Wide" Incremental Growth	Situs Based
Value Setting	Board Members	County Assessor
Appeal of Value	Board Members	Assessment Appeals Board
Court Actions	Trial *de novo*	Legal Issue – Trial *de novo* Factual Issue - Review of Administrative Record

6. **The value setting process.** In the valuation process, Board staff prepares 3 or 4 value indicators using general appraisal techniques. These techniques would include the replacement cost less depreciation approach, the income approach (capitalized earnings ability), the sales comparison approach, and the historical cost less depreciation approach. Board staff would then weigh the values indicated by the various approaches to value as to which would be most reliable and appropriate for the industry and for the particular plant (i.e., new plant, old plant, recently sold etc.) as of each January 1 (the lien date). Those value recommendations would be presented to the Board and the Board Members would then set the value.

7. **From a purely theoretical perspective, one might expect the annual fair market value of electrical generation facilities to result in a value that is higher or equal to its Proposition 13 value.** However, real estate appraisal is somewhat subjective and opinions of value differ. There is no guarantee that the values determined by the Board would be higher, lower, or the same than if the plants were assessed by local county assessors.

8. **The purpose of the uncodified language.** This bill specifically addresses only revenue allocation and assessment jurisdiction issues. Section 3 of the bill includes uncodified language that states: "This act shall not be construed to affect the manner in which property to which this act applies is assessed by the State Board of Equalization." According to the author's office, the purpose of this language, which was recommended by Legislative Counsel, is to clarify that the bill is not intended to change any other element, including valuation procedures, for electrical generation facilities.

9. **The historical rationale for the county-wide system.** The county-wide system was established to ease the administrative burdens on state assesseees, the state, and counties. Detailed record keeping was necessary to report property holdings, allocate property value, and allocate property tax revenue by the fine detail of the tax rate area. According to a news release on 1986's AB 2890 (Hangman), the bill that created the county-wide system, the Assembly Revenue and Taxation Committee had held an interim hearing in the fall of 1985 on property tax issues resulting in a number of suggested reforms subsequently included in AB 2890. The press release summarizes the various reforms and with respect to the new revenue allocation system, it describes the proposed new system as follows:

    Distribute the value of state assessed property to counties on a county-wide basis, and distribute the revenue to local jurisdictions in proportion to their local assessed value.

    Rationale: This will eliminate a very burdensome administrative job for the Board of Equalization and for taxpayers – the placing of state assessed value into tax rate areas. No jurisdiction will lose any money because the AB 8 distribution formula (and the specific provisions of this legislation) will guarantee all taxing jurisdictions that they will get the same amount of revenue that they got in the prior year from state assessees plus an amount for growth.

    In 1987, an Assembly Revenue and Taxation Committee analysis on a related measure, AB 454, provided additional insight into the rationale for establishing the county-wide system. That analysis notes:

    In AB 2890 (Hannigan) of 1986, a formula distribution of state assessed unitary values was adopted. The justification for this provision were 1) that state assessed unitary property is assessed on a company basis, not on a location basis, and a situs allocation is not consistent with the theory and practice with state assessed valuation procedures and 2) that the attempt to break apart a unitary assessment for the purpose of a situs assessment was causing taxpayers and the State to spend hundreds of thousands of dollars for a bureaucratic purpose that provided no social purpose other than to provide jobs to those doing the work.

10. **The Legislature has established the precedent of situs-based revenue allocations for certain stand-alone state assessed properties that were newly constructed after the county-wide system was established.** With respect to any change in the revenue allocation from future or existing electrical generation facilities that may be state assessed, the Legislature has approved three exceptions (Revenue and Taxation Code §100(i)[6], (j)[7], and (k)[8]) to the revenue allocation system for state assessed property established by AB 2890. (One of these exceptions is for a power plant that was ultimately never built.) Those exceptions ensured that, for three specific projects to be constructed by public utilities, their property tax revenue would be allocated as if they were subject to assessment by the county assessor. Hence, the property tax revenues derived from these proposed projects (only two of the three projects were subsequently constructed) would go to the jurisdictions in the tax rate area where the project was to be sited rather than being shared with all jurisdictions located in the county as "incremental growth."

11. **The special revenue allocation procedures would not affect all generation facilities that are state assessed.** These revenue allocation procedures would not apply to generation facilities still owned by the public utilities that are currently assessed by the Board (i.e., hydroelectric plants and nuclear plants).

12. **A number of bills introduced in 2001 would have given a greater share of property tax revenues from power plants to the cities and counties that host them at the expense of other local agencies and/or the state via greater school backfill.** Those bills included:

    - SB 1019 (Torlakson)
    - SB 28X (Sher)
    - SB 30X (Brulte)
    - AB 49X and AB 226 (B. Campbell)
    - AB 62X and AB 31XX (Cohn)

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[6] A computer center in the City of Fairfield (Pacific Bell).
[7] An education and training center in the City of Livermore (PG&E).
[8] For a proposed power plant in the City of Chula Vista (SDG&E), which was never constructed.

COST ESTIMATE

Staff has determined that the cost to assess the additional facilities would be $150,000 in fiscal year 2002-03 and $267,000 in fiscal year 2003-04 and each year thereafter. However, since the Board's regulation has been adopted and approved by the Office of Administrative Law, legislative committee consultants have noted that the increase in costs associated with these new assessment responsibilities are attributable to the regulatory action taken by the Board rather than this bill.

REVENUE ESTIMATE

Assessment Jurisdiction: Staff has determined that there is insufficient information available to make any reliable estimate of the revenue impact of this proposed amendment.

Revenue Allocation: Revenue allocation is a zero sum game with winners and losers.

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