STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	**6/30/03**	Bill No:	**SB 593**
Tax:	**Property**	Author:	**Ackerman**
Board Position:		Related Bills:	

BILL SUMMARY

With respect to **personal property** that is owned by a commercial air carrier, as defined, this bill would:

- Transfer assessment responsibility from the local county assessor to the Board of Equalization (Board).
- Establish special revenue allocation procedures to provide for distribution solely to the specific local tax rate area where the property is located.

Summary of Amendments

The amendments since the prior analysis do the following:

- Provide that if the valuation methodology is followed, then value established by the Board shall be **conclusively** presumed to be fair market value.
- Specify the calculation of fleet discounts when the original cost of leased aircraft is unknown.
- Allow a county to file a suit against the Board in the Superior Court of Sacramento if the Board does not follow the valuation methodology specified.
- Restore treatment of aircraft subject to a sale/leaseback.
- Require the Board to audit commercial air carriers once each four years.

ANALYSIS

Current Law

A. Assessment Jurisdiction

Under current assessment practices, local county assessors assess both the real and personal property owned or controlled by a commercial air carrier.

Real property owned by commercial air carriers (air passenger carriers and commercial freight carriers) could include:

- real property directly owned
- possessory interests in publicly owned airports[1]
- real property fixtures (personal property affixed in such a manner that it becomes a part of the real property)

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[11] Commercial air carriers typically have a general possessory interest in publicly owned airports from which they operate as well as possessory interests in site-specific facilities at the airport such as terminal, cargo, hangar, automobile parking lot, storage and maintenance facilities and other buildings and the land leased by an airline.

Personal property owned by commercial air carriers (air passenger carriers and commercial freight carriers) includes:

- certificated aircraft[2]
- all other business personal property[3]

Section 19 of Article XIII of the California Constitution specifies that the Board of Equalization is to assess:

- certain types of property[4] and
- property owned or used by certain kinds of companies.[5]

It also provides that the Legislature may authorize Board assessment of property owned or used by **other public utilities**.

B. Valuation Methodology

Aircraft. Revenue and Taxation Code Section 401.15 specifies a valuation methodology for certificated aircraft. These provisions are applicable for assessed values determined for fiscal years 1997-98 to 2003-04. Consequently, commencing with the 2004-05 fiscal year, no methodology will be specified for certificated aircraft.

Possessory Interests. Revenue and Taxation Code Section 107.9 specifies a valuation methodology for determining the value of possessory interest in publicly owned airports for certificated aircraft carriers. This section of code is not limited in its application to specified fiscal years.

C. Value Allocation Formulas

Revenue and Taxation Code Sections 1150 through 1156 provide additional laws for assessing certificated aircraft related to determining situs and determining that portion of the entire value of the fleet of certificated aircraft flown into California by any air carrier that will be subject to tax to reflect actual presence in California.

D. Revenue Allocation

Under current law, the allocation procedures for property tax revenues derived from state assessed property are different than those for locally assessed property. Generally, property tax revenues from locally assessed property are allocated by the situs of the property and 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.

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[2] Revenue and Taxation Code Section 1150 defines certificated aircraft as aircraft operated by a domestic or foreign air carrier engaged in air transportation while there is in force a certificate or permit issued by the Civil Aeronautics Board of the United States, or its successor, or a certificate issued by the California Public Utilities Commission authorizing such air carrier to engage in such transportation.

[3] Such as unlicensed surface vehicles, computers, ramp equipment, passenger service equipment, maintenance and engineering equipment, communications and meteorological equipment, ground equipment, furniture, and supplies. Additionally, property at off-airport locations such as distribution centers and drop-off boxes for the package carriers.

[4] The types of property are pipelines, flumes, canals, ditches and aqueducts lying within two or more counties.

[5] 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.

Proposed Law

A. Assessment Jurisdiction

This bill would add Section 721.51 to the Revenue and Taxation Code to provide that the Board would assess the personal property of a commercial air carrier engaged in air transportation as defined in Revenue and Taxation Code 1150 commencing with the lien date for the 2005–06 fiscal year (January 1, 2005). Subdivision (c) of Section 721.51 would require that the Board audit the air carriers once each four years. Subdivision (d) of Section 721.51 would specify that the Department of Finance would make appropriate adjustments to the State-County Property Tax Administration Grant Program to provide the Board with the necessary revenues to administer these provisions.

This bill would also add Section 828.1 of the Revenue and Taxation Code to require commercial air carriers to file property statements with the Board. In addition, property would be required to be reported by tax rate area so that revenue could be allocated accordingly.

B. Valuation Methodology

This bill would extend the provisions of subdivision (c) of Section 401.15 for use by assessors in establishing the value of certificated aircraft for the 2004-05 fiscal year.

This bill would add Section 751.52 to the Revenue and Taxation Code to revise and recast the existing valuation methodology used by assessors for the 2003-04 assessment year (Section 401.15(c)) for use by the Board commencing on January 1, 2005. If this valuation methodology is followed the values so determined would be conclusively presumed to be the full market value of the certificated aircraft. Subdivision (c) of Section 751.52 would provide that if the Board determines the value of certificated aircraft in a manner contrary to the valuation methodology, counties may file a suit in Sacramento County.

C. Value Allocation Formulas

This bill would repeal the existing allocation formula used by assessors in Section 1152 and 1155 of the Revenue and Taxation Code on January 1, 2005 and revise and recast those same provisions for use by the Board beginning on January 1, 2005.

D. Revenue Allocation

This bill would add Section 100.51 to, and amend Sections 755 and 756 of, the Revenue and Taxation Code to provide that the property tax revenue from this property would be allocated by 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 Board (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 Comments section.)

Section 19 of Article XIII of the California Constitution specifies that the Board is to assess certain types of property and property owned or used by certain kinds of 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. 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, it appears that commercial air carriers could be considered "public utilities" under this definition. Further, even if they were not, the Legislature could "prescribe that additional classes of private corporations or other persons are public utilities."

Outside of any legislation that specifies Board assessment of property, the Board's determination of jurisdiction does not rest on the outward appearances of a property or company, but rather on whether the Board concludes that Section 19 of Article XIII provides the Board with jurisdiction to assess.

Certificated Aircraft

Under existing law, all property is taxable unless there is a specific constitutional or statutory exemption for the property. The determination of taxability is generally made as of the lien date, January 1 of each year. 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. The term "certificated aircraft" is defined in Revenue and Taxation Code Section 1150 as

> . . . aircraft operated by an air carrier or foreign air carrier engaged in air transportation, as defined in subdivisions (3), (5), (10), and (19) of Section 101 of Title I of the "Federal Aviation Act of 1958" (P.L. 85-726; 72 Stat. 731), while there is in force a certificate or permit issued by the Civil Aeronautics Board of the United States, or its successor, or a certificate or permit issued by the California Public Utilities Commission, or it successor, authorizing such air carrier to engage in such transportation.

Certificated aircraft are valued for purposes of property taxation under a "fleet" concept. This means that the basis of the assessed value is not the value of any single aircraft owned by an air carrier, but rather the value of **all** aircraft of each particular fleet type[6] (i.e., all aircraft owned of an identical make and model regardless of age) that is flown into a particular airport. Aircraft fly in and out of the State, and no single or particular aircraft remains located in the State on a permanent basis. Under the "fleet" concept, the types of aircraft of an air carrier that have gained situs in California by their entry into revenue service are valued as a fleet and then only a portion of the entire value of the fleet is ultimately taxed to reflect actual presence in California.

[6] Types are grouped by make and model. For example, Boeing 737-300s and 737-500s, Boeing 747-400s; Airbus A300-F4-600S; McDonnnel Douglas DC 10-30s.

Revenue and Taxation Code Section 401.15 (which will expire on January 1, 2004) provides the methodology for valuing certificated aircraft and Section 1152 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. Property Tax Rule 202 provides further details in the allocation procedure. Under current law, an 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 type of aircraft operated by an air carrier and, thus, the calculation of the assessed value for that type of aircraft. 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.

An individual air carrier, Blue Sky Airlines, for example, may operate the following types of aircraft in its overall fleet: Boeing 737-300s and 737-500s, Boeing 747-400s, and Boeing 767-200s and 767-300s. Each of these types of aircraft are 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 may actually make 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 the computed allocation ratio is applied to that value.

Background

Settlement Agreement

Prior to January 1, 1999, California law did not provide any specific assessment methodology procedure for valuing certificated aircraft or for valuing the carrier's possessory interest in the publicly owned airport. In 1997-98, a group of counties and airline industry representatives met to resolve issues related to the property taxation of property owned and used by airlines which would be embodied in a written settlement agreement to dispose of outstanding litigation and appeals over the valuation of possessory interest assessments in airports and the valuation of certificated aircraft. The settlement agreement was codified in a three-piece legislative package:

AB 1807 (Stats. 1998, Ch. 86; Takasugi)

- outlined the valuation procedures for certificated aircraft for a six year period
- included the monetary portion of the settlement agreement, and
- included extensive uncodified legislative findings and declarations.

AB 2318 (Stats. 1998, Ch. 85; Knox) specified the assessment methodology for valuing the airlines' possessory interests in publicly owned airports.

SB 30 (Stats. 1998, Ch. 87; Kopp) allowed counties and taxpayers to enter into written settlement agreements granting taxpayers tax credits.

Possessory Interest Methodology. AB 2318 added Section 107.9 to the Revenue and Taxation Code to specify the assessment methodology for valuing possessory interests in publicly owned airports. These sections are operative indefinitely.

Aircraft Assessment Methodology. AB 1807 added Sections 401.15 to the Revenue and Taxation Code to outline the assessment methodology for valuing certificated aircraft to ensure statewide uniformity. Its provisions were effective for the 1998-99 through the 2003-04 fiscal years and becomes inoperative at the end of this year. Key provisions of Section 401.15 are noted as follows:

- **Valuation Standard**. Established a historical cost basis for valuing certificated aircraft.
  - Specifically, for fiscal years 1998-99 through 2002-03, the value of certificated aircraft shall be presumed to be assessed at full market value if (1) the aircraft original cost, as defined, is used as the basis for the assessment; (2) the original cost is thereafter adjusted by the producer price index for aircraft; and (3) a 16-year straight-line percent good table was established to determine percent good.
  - The bill also codified the calculation of minimum values for aircraft in service for at least eight years or more using values as specified, from the *Airliner Price Guide*, a commercially-prepared value guide for aircraft. (In some cases, this reduced the minimum aircraft values that had been previously used by counties.)
  - With respect to aircraft acquired under a sale/leaseback provision, the historical cost established is the cost to the leasing company. However, commencing in 2003-2004 fiscal year, the sale-leaseback cost was reduced by an amount equal to one-half of the difference between a taxpayer's book cost and the cost stated in a sale/leaseback agreement. For example, if an aircraft was purchased for $90 million and sold to a leasing company for $100 million, for the first five years the value used would have been based on the $100 million sale and for the final year the value used would have been based on $95 million ($100 - [($100M - $90M/2)]). (This part of the settlement agreement specified how the value of an aircraft subject to a sale-leaseback transaction would be determined - this issue was previously in dispute.)

Airline Tax Credits. AB 1807 also added Section 5096.3 to the Revenue and Taxation Code to provide the monetary portion of the settlement agreement, which related to both the personal and real property issues. Airlines received a $50 million credit on future property tax liabilities that was used over a five year period in equal installments ending this year. The $50 million was redeemed by airlines as credits on future tax liabilities. The following airlines participated in the settlement agreement: Alaska Airlines, Inc.; American Airlines, Inc.; Continental Airlines, Inc.; Delta Air Lines, Inc.; Federal Express Corporation, Northwest Airlines, Inc.; Trans World Airlines, Inc.; United Airlines, Inc.; United Parcel Service; U.S. Airways, Inc.; Wings West Airlines; Southwest Airlines; and America West Airlines. Participating counties extended the following tax credits:

County	Amount
Alameda	$4,455,110
Contra Costa	1,000
El Dorado	1,000
Fresno	264,630
Humboldt	500
Kern	33,540
Los Angeles	18,335,720
Monterey	148,560
Orange	2,916,995

County	Amount
Riverside	435,780
Sacramento	1,070,185
San Bernardino	1,991,405
San Diego	4,262,610
San Joaquin .	1,000
San Mateo	13,544,005
Santa Barbara	167,880
Santa Clara	369,080
Solano	1,000

Tax Credits. SB 30 added Revenue and Taxation Code Section 5103 to the Revenue and Taxation Code to provide general authority for counties and taxpayers to enter into written settlement agreements that provide taxpayers with a credit towards future tax liabilities rather than an immediate property tax refund. This general language was intended to preclude the need to introduce special purpose legislation to authorize other similar agreements in the future.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the Air Transport Association (ATA). Its purpose is to move property tax assessment responsibility for airline personal property to the Board. According to the sponsor, the proposal would "increase efficiency and reduce administrative costs for both the airlines and the government, while not affecting the amount or distribution of state and local property tax revenue."

2. **Key Amendments**. The **June 30** amendment requires that the Board audit commercial air carriers once each four years. The **June 19** amendments do the following:
   - Provide that if the valuation methodology is followed, then value established by the Board shall be conclusively presumed to be fair market value. *§721.52*
   - Specify the calculation of fleet discounts when the original cost of leased aircraft is unknown. *§721.52*
   - Allow a county to file a suit against the Board in the Superior Court of Sacramento if the Board does not follow the valuation methodology specified. *§721.52*
   - Restore treatment of aircraft subject to a sale/leaseback. *§721.52*

   The **April 24** amendments do the following:

   - Extend the current assessment methodology for use by the assessors to the 2004-05 fiscal year. *§401.15*
   - Delay assessment transition to the Board to the 2005-06 fiscal year. *§100.51, §721.51*
   - Require the Department of Finance to make appropriate adjustments to the State-County Property Tax Administration Grant program to fund the Board for its cost to assess the personal property of commercial air carriers. *§721.51*
   - Specify the valuation methodology to be used by the Board. *§721.52*
   - Modify the definition of commercial air carriers for use by the Board to the existing definition in Section 1150 used by assessors. *§100.51*
   - Specify that the Board may audit a commercial air carrier. *§721.51*
   - Require that air operators file property statements with the Board according to tax rate area. *§828.1*
   - Require the Board to provide county auditors with assessed value allocations by tax rate area. *§755, §756*
   - Provide for the allocation formula currently used by assessors for use by the Board to measure presence of aircraft within California and make various changes to replace the term "assessor" with "board." *§1152, §1153*
   - Provide for allocation of value for flights occurring within the state between two airports by tax rate area. *§1155*

3. **Differences between State and Local Assessment procedures.** The fundamental differences in state vs. local assessment is noted in the following table:

	State Assessment	**Local Assessment**
Standard of Value	**<u>Personal and Real Property</u>** Current Fair Market Value	**<u>Personal Property</u>** Current Fair Market Value **<u>Real Property (Including fixtures)</u>** 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 (local tax rate area)
Value Setting	Board Members	County Assessor
Appeal of Value	Board Members	Assessment Appeals Board
Appeal Filing Deadline	July 20 (Unitary Property) or September 20 (Nonunitary Property)	September 15 or November 30
Assessment Roll	Real and Personal Property: Secured Roll	Personal Property: Unsecured Roll
Payment Delinquent	Dec. 10 and April 10	August 31
Mandatory Audits	No	Yes
Disaster Relief - Post Lien Date	No	Yes
Court Actions	Trial *de novo*	Legal Issue – Trial *de novo* Factual Issue - Review of Administrative Record

4. **It appears that the Legislature could transfer the assessment of property owned by commercial air carriers to the Board on the basis of the companies being a "public utility."** However, as noted in the table above, if real property were transferred to the Board, then the value standard would change to annual current fair market value. Thus, it is possible that either both the real and the personal property could be transferred to the Board or just the personal property under Section 19 of Article XIII which provides that the Legislature may authorize Board assessment of

"property owned or used" by other public utilities. (However, Section 19 of Article XIII allows the Board 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, but it does not appear that any real property directly owned by a state could be delegated to assessors.) Personal property is already valued at its current fair market value each year by the local county assessor since the value aspects of Proposition 13 only apply to real property. 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.

5. **The assessment methodology for certificated aircraft codified in 1998 via a settlement agreement between counties and airlines is expiring.** Without this bill, once the settlement agreement expires, no assessment methodology will be specified for certificated aircraft commencing with the 2004-05 fiscal year, whether certificated aircraft remain locally assessed or become subject to state assessment.

6. **This bill establishes a valuation methodology for certificated aircraft if assessment responsibility is transferred to the Board which is nearly identical to the codified methodology used by assessors**. The valuation of aircraft has been a contentious area. As noted in the codified legislative findings and declarations of AB 1807:

   > (1) Two of the most difficult and contentious property tax assessment issues in recent years have concerned the assessment of certificated aircraft and airline possessory interests * * * .
   >
   > (2) These issues have given rise to litigation and appeals challenging assessments involving hundreds of millions of dollars of property tax revenues.
   >
   > (3) The uncertainty created by pending litigation and appeals over the assessment of airline property and possessory interests in publicly owned airports is disruptive to both airline industry tax planning and local government and school finance.

7. **The Aircraft Advisory Subcommittee of the California Assessors' Association Standards Committee meets twice a year to determine and recommend values for certificated aircraft.** The subcommittee has existed since 1965. The subcommittee recommends values for statewide uniformity, but prior to the enactment of Section 401.15, assessors in individual counties were not required by law to use the suggested values. Airline representatives are annually given an opportunity to present market evidence relating to extraordinary obsolescence of specific aircraft types to the Aircraft Subcommittee. Counties note that differences in values between counties on personal property could result from differences in the information reported by the airlines to the counties or differences that have been discovered via an audit of the company.

8. **If the Board is to assess the personal property of commercial air carriers, it may be preferable to limit Board assessment to certificated aircraft for the following administrative reasons:**
   - In a state-county bifurcation of assessment responsibility over aircraft personal property, a bright-line is established that clearly defines property subject to state assessment, eliminating any issues and/or disputes between assessors and air carriers (as well as between assessors and the Board) in classifying specific items of property as an item of personal property or as a real property fixture. Limiting the Board's assessment to aircraft only would eliminate the double taxation or escape assessment of property that may otherwise result from joint assessment responsibility.
   - It is only an air carrier's aircraft personal property that is mobile and where value must be apportioned. An air carrier's other personal property has a fixed situs.
   - The administrative efficiencies in the central assessment of aircraft is more apparent than the central assessment of all personal property. Information about an air carrier's fleet of aircraft is the type of information that is duplicative. If central assessment of either personal property or of aircraft is not enacted, perhaps central reporting procedures for aircraft could be explored as an alternative in reducing the carrier' 'adminstrative reporting burdens.
   - State assessment of aircraft only would not require the onsite inspections of property at each airport or other locations such as distribution facilities for package and freight carriers. However, assessing all of an air carrier's personal property could require occasional onsite inspections of property at each airport as well as all other locations where personal property is located, resulting in an additional cost to the state. Usually, a site inspection is considered a proper component of a complete audit.
   - Counties are already inspecting all the miscellaneous properties since they assess the real property and the possessory interest. If both the Board and the assessor were to visit the locations costs would be duplicated.
   - 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, it does not seem the same level of cost savings could be achieved with other types of personal property because of the level of detail that would still be required to be reported.
   - Likewise if assessment is not limited to aircraft, then the value allocation process will be more administratively complex since value would have to be allocated back out to hundreds of specific tax rate areas where the personal property is located; for instance, all sites where package and freight carriers operate, rather than the more limited approach of allocating to just those tax rate areas where airports are located.
   - The value of the aircraft is the most significant portion of the personal property assessment, estimated at between 90% - 95% of the personal property assessment, and would likely be the subject of any future appeals and/or litigation. Therefore, airlines would have the benefit of “one appeal" for aircraft

and, potentially, one party to litigate matters in dispute. Further, the goal of uniform assessed values for aircraft for any one particular company in each county is still achieved.

9. **Discovery of Charter/Nonscheduled Air Carriers.** It is often difficult for counties to discover charter and nonsechduled air carriers since their flights are not publicly posted. Those discovery issues would be compounded at the Board level.

10. **Transition from Unsecured to Secured Roll.** Generally, the personal property of commercial air carriers is assessed on the unsecured roll. However, state assessed property is placed on the secured roll (§109). The final date to pay taxes due on property on the unsecured roll without a delinquency penalty is August 31 and the full amount of taxes is due in one installment (§2922). The property taxes on property on the secured roll, on the other hand, is generally payable in two equal installments and the final date to pay each installment without a delinquency penalty is December 10 and April 10 (§2617, §2618). (Section 2605 requires that the first installment of taxes on the secured roll include *all* the taxes on personal property and one half of the taxes on the real property, but most counties have adopted a Board of Supervisor resolution under Section 2700 et seq. which instead allows collection of all taxes in two equal installments.) Thus, it appears that this bill would result in the delay of the collection of taxes on the personal property of commercial air carriers from August 31 to one half on December 10 and one half on April 10 of the following year. The author's office has indicated that amendments will be considered to address this issue.

11. **The Practices of Other States.** According to the sponsors, some states have central assessment. The sponsors are compiling a list of the assessment practices of commercial air carriers in other states, which they indicated they would share with the Board when completed. Some states exempt aircraft from property taxation, but some of these states may instead charge more substantial landing fees than California.

12. **Theoretically, one might expect the annual fair market value of personal property assessed by the Board to be the same as that determined by the local county assessor.** However, property appraisal is somewhat subjective and opinions of value differ. There is no guarantee that the values determined by the Board would be the same, higher, or lower than if the property was assessed by local county assessors.

13. **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 revenue allocation system for state assessed property was established.** The Legislature has approved four exceptions to the revenue allocation system for state assessed property: Revenue and Taxation Code §100(i)[7], (j)[8], and (k)[9] and more recently, Section 100.9 for electrical generation plants, which was added by AB 81 (Stats. 2002, Chap. 57;

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

Migden). These exceptions ensure that, for these specific projects, property tax revenue are allocated as if they were subject to assessment by the county assessor. Hence, the property tax revenues derived from these properties are allocated to the jurisdictions in the tax rate area where the property is located rather than being shared with all jurisdictions located in the county as "incremental growth."

COST ESTIMATE

The Board would incur costs to assess the personal property of commercial air carriers of approximately $312,000 in fiscal year 2004-05, $410,000 in fiscal year 2005-06; and annual costs thereafter of $387,000.

REVENUE ESTIMATE

Assessment Jurisdiction: Theoretically, one might expect the annual fair market value of personal property assessed by the Board of Equalization to be the same as that determined by the local county assessor. However, property appraisal is somewhat subjective and opinions of value differ. There is no guarantee that the values determined by the Board would be the same, higher, or lower than if the property was assessed by local county assessors. An emerging issue in the assessment of aircraft is a deduction for "embedded software." According to counties, some property owners have sought a 2% to 10% reduction in aircraft values to account for non-taxable software (i.e., a computer program that is not a basic operational program under Section 995 and 995.2), which, to date, has not been granted. It is possible that, absent a specific statute or regulation on this matter as it relates to aircraft, and/or after the settlement agreement has expired, the Board and counties could reach a different administrative decision. To provide a frame of reference, it is estimated that the assessed value of certificated aircraft alone that is allocated to California totals approximately $10 billion.

Revenue Allocation: Changes in property tax revenue allocation procedures is a zero sum game with winners and losers and this bill would ensure that the status quo is maintained. Therefore, local agencies that currently receive property tax revenue from this property would continue to receive the same percentage of revenue that is ultimately derived from the property.

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