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PROPERTY TAX LEGISLATION
2015

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Assembly Bill 571 (Brown) Chapter 501

Penalty Abatement: Reasonable Cause

Effective January 1, 2016. Amends Section 463 and 483 of the Revenue and Taxation Code.

Summary

This bill exempts conforms the reasonable cause standard for abating penalties related to late-filed change in ownership statements and property statements to other property tax law penalty abatement provisions.

Sponsor: California Assessors' Association

Law Prior to Amendment

The law imposes a penalty for failure to file change in ownership statements and property statements within the prescribed time period.[1] The law authorizes the county assessment appeals board to abate the penalty if the assessee establishes to the appeals board satisfaction that the failure to file timely was due to reasonable cause and not due to willful neglect.[2]

The Revenue and Taxation Code allows taxing authorities to abate various penalties for "reasonable cause."[3] For most provisions, the law specifically allows penalty abatement for reasonable cause and circumstances beyond the taxpayer's control that occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect.[4] BOE property tax provisions for state assessees,[5] the Private Railroad Car Tax,[6] and the Timber Yield Tax[7] use this same standard. But the text differs in the change in ownership and property statement provisions. Those sections provide that penalties can be abated "due to reasonable cause and not due to willful neglect."

Amendment

This bill modifies both the business property statement and change in ownership statement penalty abatement provisions to conform the language to other provisions of law by substituting the phrase "circumstances beyond the assessee's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect" for "not due to willful neglect."

Commentary

1. **Purpose.** To align penalty forgiveness provisions in property tax law.

2. **Amendments. The September 1, 2015** amendments made a conforming amendment to RTC Section 483(a) for internal consistency of the penalty abatement standard. Previously, the bill only amended RTC Section 483(b). **The May 5, 2015 amendments** deleted a provision related to base year value transfers for persons with a disabled child included in the bill as introduced. The author introduced ACA 6 to propose a constitutional amendment to voters to authorize these transfers.

3. **Penalty Abatement Conformity.** The county assessment appeals board has the authority to abate certain property tax-related penalties for reasonable cause. Counties note that different standards on "reasonable cause" apply to different county officials and the BOE. One standard applies to the

[1] Revenue and Taxation Code (RTC) Sections 441 and 482.
[2] RTC Sections 463 and 483
[3] The RTC contains 76 separate sections authorizing penalty abatement for reasonable cause.
[4] Fifty-six of the 76 RTC sections.
[5] RTC Sections 830 and 862.
[6] RTC Sections 11273, 11316, 11534, and 11597.
[7] RTC Sections 38452 and 38577.

tax collector for late tax payments (RTC 4985.2), to the assessor for allowing the welfare exemption on property in the course of construction (RTC 214.2), and to the BOE for state-assessed taxes (RTC 830, 862, 11273, 11316, 11534, 11597, 38452 and 38577). This results in different standards and possibly different interpretations across jurisdictions. With the exception of RTC Section 5367 related to late-filed aircraft statements, this bill will align penalty abatement standards in the property tax law so that they mirror each other.

4. **This bill conforms the reasonable cause standard to the standard most often used in the Revenue and Taxation Code.** The Revenue and Taxation Code contains 76 separate sections authorizing penalty abatement for reasonable cause, 56 of those sections use the same language as this bill proposes.

Assembly Bill 668 (Gomez) Chapter 698

Affordable Housing: Nonprofit Organization-Imposed Use Restrictions

Effective January 1, 2016. Amends Section 402.1 of the Revenue and Taxation Code.

Summary

Requires assessors to consider the impact upon value of a home purchased with a 30-year owner-occupied affordable housing use restriction imposed by a nonprofit corporation.

Sponsor: Habitat for Humanity

Law prior to amendment

When determining a property's fair market value, property tax law requires the assessor to consider the effect of restrictions on a property's use, such as zoning or environmental constraints, that can be legally enforced.[8] Similarly, when determining land value, the law requires the assessor to consider the effect of *government-imposed* restrictions on land use.[9] Except for certain easements granted to nonprofit organizations to preserve and protect land in its natural state,[10] the law does not allow the assessor to consider the effect of a nonprofit's *organization-imposed* restriction that negatively impacts value.[11]

Amendments

This bill requires the assessor to consider the effect upon value of a contract with specified nonprofit corporations that have received the welfare exemption to the list of enforceable restrictions when valuing land for assessment purposes.[12] To qualify:

- The contract must restrict the land's use for at least 30 years to owner-occupied housing available at an affordable cost,[13]
- The nonprofit corporation imposing the restriction must have received the welfare exemption the law[14] provides for corporations organized and operated for the specific and primary purpose of building and rehabilitating single or multifamily residences for sale at cost to low-income families, with financing in the form of a zero interest rate loan and without regard to religion, race, national origin, or the sex of the head of household.
- The contract includes a deed of trust (silent second mortgage) on the property in favor of the nonprofit corporation to ensure homeowner compliance with program terms, which has no value unless the owner fails to comply with home sale terms, covenants and restrictions.
- The local housing authority finds that the long-term deed restrictions in the contract serve a public purpose. If the location isn't served by a housing authority, then an equivalent agency, or, if none exists, the city attorney or county counsel conclude such findings.
- The contract is recorded and a copy is provided to the assessor.

[8] Revenue and Taxation Code (RTC) Section 110(a)
[9] RTC Section 402.1(a)
[10] RTC Section 402.1(a)(8)
[11] *Carlson v. Assessment Appeals Board No. 1* (1985) 167 Cal.App.3d 1004
[12] For purposes of this analysis, "nonprofit corporation" and "nonprofit organization" have the same meaning.
[13] Health and Safety Code Section 50052.5 defines "affordable housing cost."
[14] RTC Section 214.15.

In General

Purchase Price. Existing property tax law requires the assessor to reassess property to its fair market value when it is sold. The law provides that the property's "purchase price" is rebuttably presumed to be its "fair market value."[15] It also provides that "purchase price" means the *total consideration* provided by the purchaser or on the purchaser's behalf, valued in money, whether paid in money or otherwise.

Relevant to this bill, some government and nonprofit organizations' affordable housing programs use silent second mortgages (silent second) to assist low-income home buyers to purchase homes they could not otherwise afford. Typically, the silent second has no, or a deferred, repayment obligation.

When a home is purchased through an affordable housing program, "purchase price" may include more than the nominal sales price when the silent second is considered since "total consideration" is the measure of value for tax purposes.

Enforceable Restrictions. When determining a property's fair market value, RTC §110(a) requires the assessor to consider the effect of restrictions on a property's use, such as zoning or environmental constraints, that can be legally enforced. Similarly, when determining the value of land, RTC §402.1(a) requires the assessor to consider the effect of governmentally-imposed restrictions on land use. Except for certain easements granted to nonprofit organizations to preserve and protect land,[16] the assessor may not consider a nonprofit-corporation imposed restriction that negatively impacts its value.[17]

Relevant to this bill, a nonprofit organization typically requires its home buyers to enter into a contract that limits the homeowner's ability to sell, lease, refinance, encumber, or mortgage the home. The contract is recorded and could be legally enforced should the home buyer violate contract terms.

Determining Fair Market Value – Silent Second Mortgages. Property tax law does not address how to determine value when the total consideration for a property includes a silent second mortgage. Relevant to this bill, in the case of silent seconds that involve a governmental agency, the BOE advises assessors to estimate the property's purchase price by adding the sum of:

- the down payment,
- the first mortgage face amount, and
- the assessor's estimate of the *present economic value* of the silent second reflecting all the agreement's terms and conditions. Such terms include whether the silent second will have to be repaid, repaid at the time of sale, or assumed by the next buyer.

After determining the purchase price, the assessor is required to consider the effect of any government-imposed restrictions on value. Specifically, the assessor exercises his or her judgment under RTC §402.1 to determine whether the property's value is equal to, or more or less than, the purchase price as a result of the enforceable government restrictions.

Previous Legislation: In 2013, SB 499 (Wyland) proposed legislation identical to this bill, which was held in the Senate Appropriations Committee. The bill's sponsor, Habitat for Humanity, surveyed 22 counties in 2007 regarding how affordable homes built, financed, and sold by Habitat for Humanity affiliates were assessed after the sale. The assessment treatment varied. In some areas, the assessed value is based on whether or not the construction involved city or county funds, and in others, the value is based on verbal agreements with the local assessor.

In 2007, AB 793 (Strickland), related to a home purchased under an affordable housing program, would

[15] RTC Section 110(b)
[16] RTC 402.1(a)(8)
[17] *Carlson v. Assessment Appeals Board No. 1* (1985) 167 Cal.App.3d 1004

have:

- Excluded from the calculation of purchase price the amount of any "silent second mortgage" if payment is not required for at least 30 years.
- Expressly provided that resale price restrictions on homes purchased through a program operated by a governmental agency must be considered when determining property value.
- Allowed resale price restrictions on homes purchased through a program operated by a nonprofit organization to be treated as an enforceable restriction that must be considered when determining property value.

The Senate Appropriations Committee held AB 793.

Commentary

1. **Purpose.** To require assessors to consider restrictions imposed by specified nonprofit corporations when determining the value of a home purchased at a below market price from a nonprofit corporation housing program.
2. **Amendments. The September 1, 2015 amendments** double joint this bill to AB 1251 (Gomez), which relates to greenway easements, to prevent chaptering out issues. **The June 25, 2015 amendments** required the assessor to be provided with a copy of the contract between the homebuyer and the nonprofit organization. **The May 5, 2015 amendments** limited the bill's application and added several conditions. First, the bill only applies when a use restriction is imposed by a nonprofit organization that has received a welfare exemption under RTC 214.15 for homes sold at cost and with no-interest loans. Second, the bill is limited to owner-occupied homes. Third, the silent second must operate only as an enforcement mechanism, and will be forgiven unless the owner fails to comply with the contractual restrictions. Finally, a public agency must make a finding that the contract restriction serves a public purpose.
3. **This bill requires assessors to consider the effect upon value when qualified nonprofit corporations restrict land use to affordable owner-occupied housing for at least 30 years.** When determining value for property tax purposes, the assessor may not consider any privately imposed use restrictions that negatively impact values. But, the assessor must consider the effect upon value of any government-imposed restriction or any recorded contract involving a government agency. For nonprofit organization-imposed restrictions, the law provides one exception: an easement entered into between a private land owner and a nonprofit organization for an open space, scenic, or trail easement. This bill adds a second exception for affordable owner-occupied housing use restrictions.
4. **Habitat for Humanity reports that county practices vary.** In 2015, the organization surveyed 15 counties and found that assessment practices varied on homes their affiliates sold. The organization states that in some areas the assessed value is based on whether or not the construction involved city or county funds, and in others, the value is based on verbal agreements with the local assessor.
5. **This bill requires assessors to consider the effect upon value of homes sold in affordable housing programs run by qualified nonprofits, thus allowing assessors to potentially reduce the assessed value of such homes.** Without this bill, the assessor may assess the same home at different amounts depending on whether or not the buyer purchased the home from a nonprofit affordable housing program or a city affordable housing program. For example, if the total consideration for a home was determined to be $100,000, and, in the assessor's judgment, the enforceable restriction negatively impacted land value by $20,000, then the property tax value would be:
   - $100,000 if purchased from a nonprofit organization, or
   - $80,000 if purchased from a city's affordable housing program.

6. **This analysis focuses on homes sold with silent second mortgages because this has been an area causing concern.** Some argue that a home's "purchase price" should not take into account the silent second mortgage. However, because the law requires *total consideration*, whether paid in money *or otherwise*, to be the assessment basis, it must be considered. A mitigating factor is that the face amount of the silent second, which can be substantial, will be discounted. Once the assessor analyzes the silent second terms, it is possible that no amount, or a negligible sum, is added to the nominal sales price to calculate the statutory "purchase price" definition.

7. **Assessment of affordable housing sold when encumbered with silent second mortgages.** In 2007, BOE published Property Tax Annotations 460.0004 and 535.0006, to set forth a recommended approach for homes sold by *government* agencies (in this case a city's affordable housing program). The approach has two steps, as explained in comment 8. Without this bill, the approach's second step, which can result in a value reduction, cannot be used for homes sold by affordable housing programs operated by nonprofit corporations. This is because the restriction limiting use of the property is imposed by a nonprofit corporation and not by a government agency.

8. **The BOE recommends the following assessment approach.** First, the purchase price of the home must be determined by adding the sum of:

   - the down payment,
   - the face amount of the first mortgage, and
   - the *present economic value* of the silent second reflecting all the terms and conditions of the agreements. Such terms would include whether, if at all, the silent second will have to be repaid at the time of sale, or must be assumed by the next buyer.

   In practical application, the discount on a silent second, which may have a delayed payment as long as 30, 45, or an indefinite number of years, may be a negligible sum.

   The second step in the process, which is the subject of this bill, is for the assessor to consider the effect upon value, if any, of enforceable restrictions on land use required under RTC §402.1.

   This approach is administratively complex. The assessor must calculate a discount period and discount rate appropriate for the terms of the silent second mortgage. After determining the purchase price, the assessor is required to consider the effect of the government-imposed restrictions on value. Specifically, the assessor must exercise judgment under the RTC §402.1 requirement to determine whether the value of the property is equal to, or more or less than, the purchase price due to the use restriction.

9. **Silent Seconds and Recorded Contracts Vary**. When the BOE reviewed this issue, it didn't find a standard or pro forma "silent second." The specific terms and conditions of each silent second must be analyzed separately and independently to determine their respective property tax implications. Some silent seconds may only take effect if the purchaser violates the agreement, and are forgiven if the agreement is fulfilled. Such silent seconds operate primarily as an enforcement mechanism to encourage compliance with the enforceable restrictions. In these cases, the BOE generally does not regard the silent second as part of the purchase price. In other cases, while the silent second may or may not have some enforcement goal, it nevertheless is payable whether or not the purchaser breaches the enforceable government restrictions. In such cases, where the purchaser has unconditionally committed to pay the silent second under its terms and conditions, the assessor must consider the silent second in the determination of the purchase price. Moreover, regulatory agreements related to the resale of affordable housing units also vary. Therefore, to determine whether enforceable restrictions have an effect on value, the assessor must review and analyze the agreement's specific restrictions and conditions, as well as take into consideration the local marketplace for homes subject to similar or identical enforceable restrictions.

Assembly Bill 681 (Ting), Chapter 404

Assessment Practices Survey Program

Effective January 1, 2016. Amends Section 15645 and amends, repeals and adds Section 15643 of the Government Code.

Summary

Modifies the county assessment practices survey cycle, reduces the time within which the Board of Equalization (BOE) must issue a survey report from two years to one year, and allows former assessors to provide feedback on the survey of their former office.

Sponsor: Assemblymember Ting

Law Prior To Amendment

The law requires the BOE to perform duties related to state oversight of local property tax administration. Specifically, the law requires the BOE to survey each county and city and county to determine the adequacy of the assessor's procedures and practices in property valuation.[18]

Survey Cycle. The law requires the BOE to survey each county's assessment procedures and practices as rapidly as feasible and repeat or supplement each survey at least once every five years.[19] In some cases, surveys include a statistical sample of the property assessments in the county under review. In an assessment sampling, BOE appraisers independently value the selected properties to compare the BOE's estimate of value to the county's value.

Written Report. After the survey is complete, the law requires the BOE to prepare a written survey report setting forth its findings and recommendations. Before preparing its written survey report, the law requires the BOE to meet with the assessor to discuss and confer on those matters that may be included in the written survey report. Existing law requires the BOE to issue the final survey report within two years after the date the BOE begins the survey.[20]

Former Assessor. Existing law does not require the BOE to meet with the former assessor if the survey reviews the former assessor's administration. In addition, the law does not provide a process for the former assessor to formally respond to the survey.

Amendments

Written Report. This bill requires for surveys started on or after July 1, 2017, the BOE to issue a final survey report within 12 months after the date the BOE began the survey. The bill allows a gradual transition from 2 years to 15 months to 12 months, depending on the year the survey was started, as specified.

Survey Cycle. To mitigate the impact of reducing the time period to publish final survey reports, this bill modifies the survey cycle to reduce the number of surveys the BOE is required to conduct as follows:

- Continue to survey the ten counties with the largest value of locally-assessed property on the existing five-year cycle.[21]
- Continue to conduct the assessment sampling of each of the ten counties with the largest value

[18] Chapter 2, "Surveys of Local Assessment Procedures" commencing with Government Code (GC) §15640.
[19] GC §15643.
[20] GC §15645.
[21] The assessment rolls for these counties represent approximately 75 percent of California's total assessment roll.

of locally-assessed property on a five-year cycle.

- Annually, survey one county and conduct the assessment sampling of another county from the ten counties in the next tier of locally-assessed property values.[22] The BOE and California Assessors' Association (CAA) would randomly select these counties from stratified five-year lists.
- Annually, survey three counties and conduct the assessment sampling of another two counties from the remaining 38 counties.[23] The BOE and CAA would randomly select these counties from stratified five-year lists.

The provisions would sunset five years from the date of enactment and revert to the existing five-year schedule for all counties.

Former Assessor. The bill requires the BOE to notify and meet with the former assessor whose administration is being reviewed upon his or her request, prior to publishing its written survey report. This bill allows the former assessor to prepare a written response to the report that the BOE must publish as an addendum to the final survey report.

In General

In the course of five years, BOE staff examines all 58 county assessor's offices, in a process known as a "survey." BOE appraisers and auditor-appraisers conduct onsite field audits of each county to review the procedures and practices the assessor uses to value property and administer the property tax.

Surveys. In the survey, the BOE audits each assessor's compliance with the laws. The written report details staff's findings and recommends areas of improvement. In some cases, the law requires the BOE's survey to include a "sampling" of assessments in the county.

Sampling. BOE selects a statistically representative sample of property types, and BOE appraisers independently value the selected properties. The BOE's results are then compared to the assessor's results.

Background

Currently, the survey program is functioning within the timeframe mandated by statute and the BOE is publishing reports within two years. However, because of the extreme workload involved with conducting surveys of all 58 County Assessors' offices at least once in each five-year period, publication of final reports can take the two full years allowed in law. The time period to publish is impacted by:

- **Program staffing issues**. As with many State programs that are suffering the effects of baby boomers' retirement, the program has sustained a significant reduction in staff with the skill sets necessary to conduct surveys of the County Assessors' offices.[24]
- **The workload of County Assessors.** The pending publication of survey reports can be exacerbated by the workloads in County Assessors' offices whereby there are times throughout the assessment year that County Assessors cannot accommodate a survey team in their offices. Additionally, County Assessors may be unable to meet the deadlines established for their review of survey drafts and conferencing discussions with BOE staff if those deadlines occur when the county is in the process of meeting their annual assessment roll deadlines.

Commentary

1. **Purpose.** To accelerate the release of a survey report and allow former assessors whose administration is being reviewed an opportunity to provide input.

2. **Amendments. The July 15, 2015 amendments** made two technical amendments suggested in the

[22] The assessment rolls for these counties represent approximately 15 percent of California's total assessment roll.
[23] The assessment rolls for these counties represent approximately 10 percent of California's total assessment roll.
[24] Over a recent five-year period, 100 percent of the survey program positions realized a turnover.

prior BOE-analysis. First, the amendments fix the counties in each tier or grouping within a five-year cycle for purposes of the random selection process, in the event any county or city and county shifts from one of the three groupings to another grouping. Second, the amendments restore, revise, and move into a separate paragraph, previously deleted language related to the need to conduct a sampling of assessments in counties that have significant assessment problems. The amendments also clarify that since the bill becomes effective January 1, 2016, those surveys started before the July 1, 2016 transition to a shorter completion date and will have a two year completion requirement, as the law currently provides. **The April 22, 2015 amendments** provided a necessary transition period to the 12-month survey completion requirement, as requested in the BOE's prior analysis. For surveys started on July 1, 2016 through June 30, 2017, the deadline is 15 months. Surveys begun on and after July 1, 2017 are subject to the one-year requirement.

3. **Without modifying the survey schedule, publishing written surveys within one year would not be possible**. The bill shortens the time to complete the written survey report from two years to one year. This reduces the time by half. To mitigate this impact, the bill reduces the number of county surveys the BOE must complete over a 5-year cycle, from 58 to 30. The bill reduces the number of county sampling the BOE must undertake over a 5-year cycle, from 26 to 25.
4. **Under the current cycle, 22 surveys are in process at any given time.** Under this bill, 11 surveys or samples would be in process each year (30 + 25/5). The 22 survey reports in progress are in various stages of production—from initial fieldwork, to drafting the report, managerial reviews, editing the report, conferencing the draft report with the County Assessor, and printing/publishing the final report. If the survey cycle is legislatively amended to reduce the number of county surveys required each year, the 12-month publication goal should be attainable. This goal, however, is predicated on adequate staffing levels and the ability to complete or eliminate the current 22 survey reports in the existing pipeline.
5. **To complete the surveys in the allotted time using existing staff resources would require the BOE to curtail the audit's scope and depth.** Thus, additional staff is needed to meet the compressed schedule and maintain the audit's scope. To implement this bill, additional staffing would be necessary to ensure that the surveys do not suffer qualitatively. Property tax appraisal positions require extensive training to acquire the appraisal and legal knowledge necessary to conduct a meaningful survey of a County Assessor's assessment program. Historically, the BOE staffed the survey teams with journey-level employees from a candidate pool consisting of county assessor staff from the surrounding Sacramento areas. However, BOE's ability to hire journey level staff has been severely diminished due to the inability to offer a state compensation package that is comparable to the counties. Thus, even if funds are provided for additional staff, hiring the journey level staff necessary to audit counties presents a challenge.
6. **The BOE and the CAA have a procedure dedicated to improving the survey process.** An ad hoc committee collaboratively works to improve and refine the program. In the last year, BOE staff and assessors streamlined the survey report, created a master document detailing proper assessment practices, and developed a questionnaire for the assessor to complete in advance of the audit that is field-check verified.
7. **Impact on assessor office operations.** Presently, the BOE attempts to minimize disruption by scheduling around the assessors' peak workload periods. The proposed one-year timeframe will reduce flexibility in scheduling. Smaller counties will be particularly impacted due to the smaller staff.
8. **While a report may take 24 months to publish, assessors address issues prior to the final published report.** Although a report may take 24 months to publish, its impact is felt well before publication. BOE staff and assessor interaction in the field and the exit interview is a key part of the survey process. For this reason many recommendations are adopted prior to the publication date.

Assembly Bill 1157 (Nazarian) Chapter 440

Certificated Aircraft Assessment: Sunset Date Extension

Effective January 1, 2016. Amends Section 401.17, 441, and 1153.5 of the Revenue and Taxation Code.

Summary

Extends for one-year property tax law provisions related to commercial air carriers[25] that detail certificated aircraft[26] assessment methodology and allow centralized administrative procedures at the local level using a "lead county" system.

Sponsor: California Assessors' Association (CAA)

Law Prior to Amendment

The law permits assessors and commercial air carriers to use a streamlined administrative procedure. In addition, the law details the assessment methodology to value certificated aircraft. These provisions are as follows.

Centralized System - One Return/One Audit.[27] The law allows commercial air carriers operating in multiple California airports to file a single consolidated property statement (tax return) with a designated "lead" county. The law outlines the lead county selection process for each air carrier. The selected county notifies the air carrier it will serve as the lead county,[28] and each air carrier files its annual tax return with that lead county. The tax return details necessary information about the air carrier's property holdings (both certificated aircraft and other business personal property and fixtures)[29] that are subject to property tax in California. The lead county transmits return information related to non-aircraft personal property and fixtures to other relevant counties where the air carrier operates. The law requires an audit team directed by the lead county to audit the air carriers. When the statutes sunset on December 31, 2015, air carriers must file returns with each individual county. In addition, each county will be required to audit the air carrier, if the air carrier's assessment qualifies as a mandatory audit in that county.

Lead County Calculates Fleet Value.[30] The lead county calculates the total unallocated fleet value of the air carrier's certificated aircraft for each make, model, and series, as described below,[31] and transmits the calculated fleet value to the other counties. To assess the aircraft, each county determines its allocated portion of the calculated fleet value based on the flight data for its particular county. The allocation process limits each county's assessment to reflect the aircraft's physical presence in that county. The law repeals these provisions on December 31, 2015.

Aircraft Valuation Methodology.[32] The law specifies an aircraft valuation methodology county assessors must use that expires this year; next year, the law will be silent on assessment methodology for certificated aircraft. The law provides that preallocated fair market value will be the lowest of:

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25 Commercial air carriers include both passenger airlines and freight delivery services.

26 Certificated aircraft includes certificated aircraft per Revenue and Taxation Code (RTC) Section 1150 and scheduled air taxi operators per RTC Section 1154 (a) and (b).

27 RTC Section 441(m).

28 RTC Section 1153.5.

29 Business personal property subject to property tax includes items such as unlicensed surface vehicles, ground and cargo handling equipment, ramp equipment, machinery and other equipment, spare parts, rotables, computers, furniture, fuel and other supplies.

30 RTC Section 1153.5.

31 RTC Section 401.17.

32 RTC Section 401.17.

- Trended acquisition cost less depreciation,
- Wholesale prices listed in the *Airliner Price Guide*, a commercially published value guide, less 10%, or,[33]
- Original price paid.

The resulting value is rebuttably presumed to be correct. After the 2015-16 fiscal year, these provisions are no longer effective. Assessors will assess aircraft at the "fair market value," as generally provided under Property Tax Law, using any valid approach to value.[34]

Amendment

This bill extends the current commercial air carrier administrative procedure and the aircraft valuation methodology provisions for use in the 2015-16 fiscal year to the 2016-17 fiscal year and extends the repeal date from December 31, 2015 to December 31, 2016.

In General

Business Personal Property. All property, real and personal, is subject to property tax, unless a specific constitutional or statutory exemption applies. Generally, taxability is determined on the lien date, January 1, of each year. The Constitution allows the Legislature to exempt or provide for differential taxation of any personal property with a 2/3 vote.[35]

Personal property used in a trade or business is taxable. Proposition 13's valuation limitations do not apply to business personal property. Consequently, the law requires the assessor to determine its current fair market value every year as of January 1. Mass appraisal techniques generally are necessary given the enormity of this task. To aid in the task, the law requires property owners to annually report their personal property holdings having an aggregate acquisition cost of $100,000 or more on a business property statement.[36]

The assessor determines the fair market value of most business personal property using the property's acquisition cost. The assessor multiplies acquisition cost by a price index (an inflation trending factor based on acquisition year) to estimate reproduction cost new. Next, the assessor multiplies reproduction cost new by a percent good factor (from BOE-issued percent good tables) to estimate depreciated reproduction cost (reproduction cost new less depreciation). The assessor uses the reproduction cost new less depreciation value as the property's taxable value for the fiscal year. The personal property tax rate is the same as the real property tax rate, which is 1% plus voter approved indebtedness in the locality. The BOE's Assessors' Handbook Section 504 *Assessment of Personal Property* provides more detailed guidance.

Certificated Aircraft. 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. California law[37] defines "certificated aircraft" as

> [A]ircraft operated by an air carrier or foreign air carrier engaged in air transportation, as defined in Section 40102(a)(2), (5), (6), and (21) of Title 49 of the United States Code, while there is in force a certificate or permit issued by the Federal Aviation Administration, or its successor, authorizing such air carrier to engage in such transportation.

33 Generally, the "Used Price of Average Aircraft Wholesale" listed guide value less 10% for a fleet discount.
34 RTC Section 110 defines "fair market value" as the amount of cash … that property would bring if exposed for sale in the open market under conditions in which neither buyer nor seller could take advantage of the exigencies of the other…"
35 California Constitution, Article XIII, Section 2.
36 RTC Section 441.
37 RTC Section 1150

Certificated aircraft are valued under a "fleet" concept. This means that the assessed value basis is not the value of any single aircraft owned by an air carrier, but rather the value of *all* aircraft of each type that is flown into the state. Aircraft regularly fly in and out of California and the various California counties with major airports; typically no single or particular aircraft remains located in the state on a permanent basis. Under the "fleet" concept, aircraft types that have gained situs in California by their entry into revenue service in this state are valued as a fleet, while only an allocated portion of the entire fleet's value is ultimately taxed to reflect actual presence in California's counties.[38] Under the federal Due Process and Commerce Clauses, personal property taxes on these aircraft must be fairly allocated.

The Fleet Concept - Example. An individual air carrier, Blue Sky Airlines, operates the following aircraft types in its overall fleet: Boeing 737-300s and 737-500s; Boeing 747-400s; and Boeing 767-200s and 767-300s. Each of these aircraft types (Boeing 737, 747, 767) is 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 make any 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 then the computed allocation ratio is applied to that value.

Valuation and Allocation. For fiscal years 2005-06 to 2015-16,[39] the law details the assessor's assessment methodology for determining the market value of commercial air carrier-owned certificated aircraft.[40] The law 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.[41] A BOE regulation provides further explanation of the allocation procedure.[42] The 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 aircraft type operated by an air carrier and, thus, the assessed value calculation for that aircraft type. 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.

Background

Settlement Agreement. Prior to January 1, 1999, California law did not specify an assessment methodology for valuing certificated aircraft, or for valuing the carrier's taxable possessory interest in the publicly owned airport in which the aircraft operated. In 1997-98, a group of counties and air carrier industry representatives met to resolve property tax issues on air carrier-owned and -used property. The end result was a written settlement agreement to dispose of outstanding litigation and appeals over the valuation of airport possessory interest assessments and certificated aircraft. The Legislature codified the settlement agreement in a three-piece package:

Aircraft Valuation Methodology and Monetary Settlement. AB 1807 (Stats. 1998, Ch. 86; Takasugi) outlined the valuation procedures[43] for certificated aircraft during a six-year period, and provided $50 million in tax credits against future tax liabilities,[44] as well as extensive uncodified legislative findings and declarations.

[38] Article 6 (RTC Sections 1150 to 1156) enacted in 1968 after the BOE requested the Legislature determine an allocation method that would be uniform. Assembly Revenue and Taxation Committee, Volume 4, Number 22, *A Study of Aircraft Assessment in California* (January, 1968).
[39] For fiscal years 1997-98 to 2003-04, assessors used another detailed methodology outlined in RTC Section 401.15.
[40] RTC Section 401.17.
[41] RTC Section 1152.
[42] Property Tax Rule 202, subdivision (c).
[43] RTC Section 401.15.
[44] RTC Section 5096.3. The settlement agreement also contained the tax credit provisions.

Airport Possessory Interests. AB 2318 (Stats. 1998, Ch. 85; Knox) specified the assessment methodology for valuing the air carrier's taxable possessory interest in publicly-owned airports.[45]

Tax Credits. SB 30 (Stats. 1998, Ch. 87; Kopp) added general purpose provisions to allow counties and taxpayers to enter into written settlement agreements granting taxpayers tax credits.[46]

Centralized System and Valuation Refinements. Beginning in 2006, AB 964 (Stats. 2005, Ch. 699; J. Horton) established the centralized administrative procedure for air carriers and counties using the lead county system. AB 964 also added a new valuation methodology and specified that the lead county would calculate total unallocated fleet value. The new methodology refined and built upon the first valuation methodology as follows:

- **Aircraft Types.** It distinguished between passenger aircraft (main-line jets or regional jets) and freighter aircraft (production or converted).
- **Variable Components.** It added detail for the variable components. To calculate a reproduction cost new less depreciation value indicator (i.e., the historical cost basis) each variable component was addressed; specifically: (1) acquisition cost, (2) price index, (3) percent good factor, and (4) economic obsolescence.
- **Airliner Price Guide.** It changed the prices used in the *Airliner Price Guide*, (APG) a "blue book" value guide for aircraft from the average of retail and wholesale prices to the wholesale price and additionally provided a 10% discount from the wholesale price to recognize that air carriers generally receive a fleet discount not reflected in the guide's listed wholesale prices.
- **Economic Obsolescence Adjustment.** It added detailed procedures to make economic obsolescence adjustments to capture significant market value changes (such as occurred after 9/11) due to severe airline industry economic condition changes.

Another written settlement agreement between counties and airlines accompanied AB 964. The agreement provided airlines with tax credits worth $25 million. Additionally, the parties agreed not to pursue embedded software issues[47] until after the 2010-11 fiscal year. The agreement extended the valuation methodology for use in the 2004-05 fiscal year, a period not otherwise covered in statute due to the sunset.

In 2009, AB 311 (Ma), as introduced, would have made the valuation methodology and centralized provisions permanent and, as amended, would have extended the effective date. However, Governor Schwarzenegger vetoed AB 311 because one airline disagreed with extending the valuation methodology as is, and the timing of the sunset allowed another year before the provisions sunset for all the parties to reach consensus.

In 2010, AB 384 (Stats. 2010, Ch. 228; Ma) extended these provisions to the 2015-16 fiscal year and extended the repeal date provisions to December 31, 2015. In addition, AB 384 changed the valuation provisions as follows:

- **Rebuttable Presumption of Correctness.** Expressly provided that the fair market value of certificated aircraft determined using the specified assessment methodology only enjoys a *rebuttable* presumption of correctness. Previously, the methodology-produced value was deemed to be the aircraft's fair market value.

[45] RTC Section 107.9.
[46] RTC Section 5103.
[47] A computer program that is not a basic operational program under RTC Section 995 and 995.2.

- **Evidence for Rebutting Presumption.** Specified that the preallocated aircraft fair market value produced using the delineated methodology may be rebutted by evidence including, but not limited to, appraisals, invoices, and expert testimony.
- **Original Cost - Maximum Value for Original Owner.** Provided that the value of an individual aircraft assessed to the original owner of that aircraft is not to exceed its original cost from the manufacturer.

The maximum value cap provision was added to appease the airline that opposed AB 311 in the prior year. In calculating total fleet values, this provision requires the county to substitute the original price paid when it is lower than wholesale price less 10% for any individual aircraft in the fleet. This reduces the total fleet value for any airline able to purchase new planes at deeper discounts.

In 2005, AB 964 (J. Horton) initially proposed transferring assessment responsibility for commercial air carriers from the local county assessor to the BOE. Those provisions were amended out of the bill on May 26, 2005. In 2003, SB 593 (Ackerman) also proposed transferring these assessments to the BOE. The Senate Appropriations Committee held the bill in committee. In 2004, the California Performance Review Report[48] recommended to Governor Schwarzenegger that the BOE assess commercial airline-owned aircraft to address certain inefficiencies, which were subsequently mitigated in 2005 by AB 964's new centralized lead county system.

Related Legislation. This year, SB 661 (Hill) proposed to transfer assessment jurisdiction for commercial air carrier personal property, including certificated aircraft, to the BOE using the same valuation methodology for certificated aircraft assessors currently use. This bill was held in the Senate Appropriations Committee.

Commentary

1. **Purpose.** To extend aircraft valuation methodology provisions and streamlined administrative procedures for counties and airlines that will otherwise sunset
2. **Amendments. The May 4, 2015 amendments** extended current law for one more year rather than five years. This amendment was taken when the bill was heard in the Assembly Revenue and Taxation Committee. During the interim, the desire is that the airline industry and county assessors reach consensus on air carrier assessments.
3. **Certificated aircraft valuation is complex and contentious.** The statute that codifies aircraft valuation methodology is expiring. Extending the provisions for one more year provides a period of stability and allows for methodology re-evaluation and adjustment. A statutory methodology has been in place for 16 years and helps reduce conflict. While prior statutory methodologies have not eliminated conflict, they have narrowed its scope.[49] As noted in the legislative findings and declarations of both AB 1807 and AB 964 (see above), the assessment of certificated aircraft is a difficult and contentious property tax assessment issue that has given rise to litigation and appeals challenging assessments. The findings noted the Legislature's need to address the uncertainty because of the disruption to both airline industry tax planning and local government and school finance.

[48] GG19 – Centralize for Efficiency the Assessment of Commercial Aircraft and CAA response.

[49] Beginning in August 2013, some airlines filed numerous appeals, lawsuits and claims for refund related to economic obsolescence calculations under RTC Section 401.17(a)(1)(C) and (D). Counties report that they have prevailed and their assessments have been upheld in cases before the local assessment appeals boards. Airlines report that the 44 lawsuits have been consolidated into one case which is pending in Orange County Superior Court.

4. **How have aircraft been valued historically?**

   - **Trended Cost.** Before 1998, assessors based aircraft values on trended costs pursuant to RTC 110 fair market value standard and Assessors' Handbook guidelines on personal property assessments.

   - **Blue Book – Average Wholesale and Retail Prices.** Between 1998 and 2004, assessors based aircraft values on the average wholesale and retail APG value pursuant to RTC 401.15.

   - **Blue Book – Wholesale Prices Less 10%.** Between 2005 and 2010, assessors based aircraft values at the lower of (1) trended cost or (2) wholesale APG value less 10% pursuant to RTC 401.17.

   - **Blue Book – Wholesale Prices Less 10%.** Between 2010 and 2015, assessors based aircraft values at the lowest of (1) trended cost, (2) wholesale APG value less 10%, or (3) original cost if original owner pursuant to RTC Section 401.17. Most air carriers currently have an assessment based on the wholesale price less 10%, as that method produces the lowest value.

5. **Lead-county fleet value calculation ensures statewide consistency in the base valuation of the fleet.** Extending the centralized procedure's sunset date ensures continued uniform certificated aircraft assessments for each carrier statewide. Before the centralized procedures, air carriers contended that although counties used the same assessment methodology, the fleet value calculations differed. Counties countered that the value discrepancies could be traced to (1) differences in the air-carrier-reported-information provided to different counties and (2) audit-related changes resulting from an individual county audit.

6. **The lead county system promotes administrative efficiency for both air carriers and counties.**

   - **One Return.** This eliminates any airline-reporting discrepancies to counties. Since air carriers may report all information to a single county, which is then distributed, all counties can receive the same information. This also reduces airline tax return compliance costs by eliminating duplicative reporting. Non-aircraft personal property must still be identified by tax rate area to ensure that local jurisdictions receive their share of property tax revenue for property located within their boundaries.

   - **One Audit.** This limits the airline to a single audit by one multi-county audit team and reduces auditing costs incurred by both counties and air carriers for duplicative audits.

7. **The current reporting practices of airlines.** The law[50] requires aircraft information to be filed with the lead county and all airlines do so. While the law also requires airlines to file "one signed property statement for [the airline's] personal property at all airport locations and fixtures at all airport locations" in practice this does not always occur. With respect to flight activity information, some airlines report all flight activity segregated by airport location with the lead county and others instead report flight activity directly to each county. With respect to non-aircraft personal property and fixtures, many airlines continue to file with each county despite the streamlining provisions in law since 2006. Additionally, the law[51] gives airlines the option to file electronically via the California Assessor's Standard Data Record network.

8. **Rebuttable Presumption of Correctness.** The annual fair market value determined using the proposed methodology only enjoys a rebuttable presumption of correctness. Thus, either the assessor or the air carriers could rebut the presumption.
   - If the assessor deviates from the methodology, the assessor would lose the presumption of correctness before the appeals board should the air carrier appeal the assessment.

[50] RTC Code Section 441(m)(1)
[51] RTC Code Section 441(m)(4)

- If the assessor uses the methodology and the taxpayer appeals those assessments, the taxpayer must provide sufficient evidence to overcome the presumption of correctness.

9. **What happens if the provisions sunset?** Administration returns to the pre-2006 system without unallocated fleet value calculations by a lead county. Without centralization, each county would calculate the total aircraft fleet value and audit each airline that lands in their county if the assessment qualifies as a mandatory audit. The valuation method returns to pre-1999 "fair market value" standard without a delineated methodology specific to certificated aircraft.

- **Property Statements.** Airlines would file separate property statements with every county. Prior to 2006, air carriers' submitted duplicative aircraft fleet information to every county for every location in which they operated. The one-stop reporting to a single lead-county reduced the carriers' administrative burdens.
- **Value Method.** Assessors could use any valid method (cost, income, comparable sales, published market value guides) to determine fair market value, as defined in RTC Section 110.
- **Uniformity**. The California Assessors' Association Aircraft Advisory subcommittee could continue to recommend valuation methodologies for all assessors to ensure statewide uniformity. Nonetheless, individual assessors still may use different valuation methods, such as trended cost basis or market/comparable sales basis using the *Airliner Pricing Guide.*
- **Audits**. Counties would need to perform, and airlines would endure, multiple audits.
- **Presumption of Correctness.** Only the assessor would enjoy the presumption of correctness in any appeal. The burden of proof would rest with the airline challenging assessed values.

10. **A codified valuation methodology addresses appraisal process variables.** Codifying a valuation methodology reduces conflict by specifying which of the many variables to use in the valuation process, such as:

- Cost basis (i.e., trended cost, reproduction/replacement cost new less depreciation, historical cost less depreciation)
- Trending. (The inflation rate benchmark selected to trend historical cost to current cost or eliminating any trending factor.)
- Depreciation schedule (i.e., life term selected and method selected such as straight-line depreciation, declining-balance method, or booked depreciation)
- Minimum value (i.e., floor percentage or remove any floor)
- Functional and economic obsolescence adjustments
- Embedded software adjustments
- Nontaxable intangible adjustments
- Maintenance costs, capitalized addition costs
- Market basis:
    - Commercial blue book selected (APG, Avitas, or Avmarkinc)
    - Edition Selected (Winter or Spring)
- Blue book application:
    - Retail or Wholesale Price, Average, Weighted Average
    - Fleet Discount (amount, if any, applied)

11. **This bill will provide more certainty and predictability in the valuation of aircraft for both assessors and commercial air carriers.** Absent a codified methodology, there is no guarantee that the values determined by each individual county assessor would be the same, higher, or lower than they would be without this bill.

Assembly Bill 1251 (Gomez) Chapter 639

Greenway Easements: Enforceable Restrictions

Effective January 1, 2016. Amends Section 402.1 of the Revenue and Taxation Code.

Summary

Requires assessors to consider the impact upon the value of land subject to a recorded greenway easement, which the bill creates as the Greenway Development and Sustainment Act.

Sponsor: Assemblymember Gomez

Law Prior to Amendment

When determining a property's fair market value, property tax law[52] requires the assessor to consider the effect of legally enforced restrictions on a property's use, such as zoning or environmental constraints. Similarly, when determining land value, the law requires the assessor to consider the effect of any *government-imposed* restrictions on land use.[53] Except for conservation, trail, or scenic easements granted to specified nonprofit organizations,[54] the law does not allow the assessor to consider the effect of an agreement with a nonprofit organization that may negatively impact value.[55]

Amendments

This bill amends the law to explicitly require the assessor to consider any negative value impact resulting from recorded greenway easements granted in favor of a public agency, or in favor of a nonprofit corporation with a primary purpose to develop and preserve greenways. Although not explicitly stated, the law already requires this consideration for any public agency easements, so the bill extends this consideration to a nonprofit corporation greenway easement.

To the extent that existing law for nonprofit organizations related to conservation, trail, or scenic easements would not apply to these particular easements, this bill corrects that deficiency by expressly including greenway easements.

In General

The BOE has generally held that the creation of an easement is not a change ownership of the property subject to the easement, and the easement remains taxable to the property owner. Specifically, Assessors' Handbook Section 501 "Basic Appraisal" on Page 50, Part I, reads:

> There are no change in ownership statutes or rules dealing specifically with the private grant of an easement or right of way from one landowner to another. Although an easement or right of way generally does not constitute "a transfer of value substantially equivalent to the fee" to the benefited person, as discussed in Chapter 3, courts have determined that a recorded permanent transfer of a present beneficial property right from one parcel to another can be a reassessable event. (*Mitsui Fudosan, Inc.* v. *Los Angeles County*, 219 Cal.App.3d 525.). Where the agreement between the property owners documents a recorded permanent grant of an appurtenant easement that includes present beneficial interests in that property described that are in fact substantially equivalent to the value of the fee, it qualifies as a change in ownership of the easement transferred, per section 60. Most easements do not meet the change in ownership test in section 60 and therefore remain taxable to the property owner; however, they may need to be

[52] Revenue and Taxation Code (RTC) Section 110(a)
[53] RTC Section 402.1(a)
[54] RTC Section 402.1(a)(8)
[55] *Carlson v. Assessment Appeals Board No. 1* (1985) 167 Cal.App.3d 1004

considered when determining the legally permissible highest and best use for appraisal purposes.

Relevant to this bill regarding conservation easements, Assessors' Handbook 521 "Assessment of Agricultural and Open-Space Properties" on Page 17, Part I reads:

> Despite a conservation easement's legal status as an interest in real property, the conveyance of such an interest does not generally constitute a change in ownership of the property subject to the easement, where the primary purpose of the easement is the mere right to enforce *restrictions* (i.e., negative covenants) against the grantor. This is because, in such a case, with respect to the property subject to the easement, the conveyance would constitute neither a transfer of the beneficial use nor a transfer of an interest with a value substantially equivalent to that of the fee. Revenue and Taxation Code section 60 requires that a conveyance satisfy both conditions in order for a change in ownership to occur.

Legislative Background

Assembly Bill 99 (Stats. 1993, Ch. 1002, Andal) amended RTC Section 402.1 to require the assessor to consider the effect of a recorded conservation, trail, or scenic easement, as described in Civil Code Section 815.1, on the assessment of land. These easements must be granted to a public agency, or to a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code. These nonprofit corporations must have as their primary purpose the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, or open space condition or use. The California Parks and Recreation Society, Inc. sponsored this provision to encourage private property owners to grant easements to public parks agencies trying to create continuous scenic trail systems accessible to the public. In 1993, Civil Code Section 815.10 already required that any conservation easements granted under Chapter 4 (commencing with Civil Code Section 815) be considered enforceable restrictions under Revenue and Taxation Code Section 402.1. Thus, while AB 99 was declaratory of existing law, it provided a useful cross reference to the property tax provisions included in the Civil Code that were lacking in the Revenue and Taxation Code.

Commentary

1. **Purpose**. To provide an assessment reduction if a proposed easement reduces property value.
2. **Amendments. The September 4, 2015 amendments** double joint this bill to AB 668 (Gomez), related to nonprofit corporation imposed restrictions on affordable housing, to prevent chaptering out issues.
3. **Greenway easements**. This bill authorizes certain entities to acquire easements for the purpose of developing greenways along urban waterways. The bill defines a greenway as a separate path for bikes and pedestrians that must be located within 400 yards of an urban waterway where access to the property has been granted through some sort of agreement with the property owner. An urban waterway is a creek, stream, or river that crosses developed property or open space where the relevant local agency's planning document designates the land as residential, commercial or industrial.
4. **Granting an easement does not guarantee a property tax reduction.** The creation of the easement may or may not result in a property tax reduction.
5. **An easement is an interest in real property.** While an easement is an interest in real property, it is not always separately assessable to the person who holds that one particular interest apart from the remainder of the bundle of rights held by another person.
6. **If the easement triggers a change in ownership, it becomes separately assessable.** If the granting of the easement meets the change in ownership definition (a transfer of value substantially

equivalent to the fee), then the easement becomes subject to separate assessment. This requires two actions:

Create New Assessment. First, the assessor must establish a new base year value for the easement and assess it to the new owner. For a public agency, the property interest automatically becomes tax exempt as government owned property. For a nonprofit corporation, the property interest becomes eligible for a property tax exemption under the welfare exemption.

Reduce Existing Assessment. Second, the assessor must reduce the granting property owner's land base year value. Generally, the assessor would proportionately reduce the value according to the method initially established.

7. **If the easement doesn't trigger a change in ownership, the property value will only be reduced if the easement negatively impacts the property's value below its Proposition 13 protected value.** If the test isn't met, the easement remains taxable to the property owner. In this case, the assessor must consider whether the easement added to, subtracted from, or did not affect the property's value. If after granting the easement the property's market value falls below its Proposition 13 base year value, then the property's assessed value can be reduced. This process must be repeated each year as noted below.

8. **Annual Assessment: Lower of Two Values**. Properties with a greenway easement that can't be separately assessed will be assessed at the lower of two values as of each lien date:

   - Current fair market value as impacted by the easement (RTC *§§*110 and 402.1)
   - Factored base year value (RTC *§*110.1)

   As a practical matter, the greenway easement must have a significant negative impact on property value for a property owner to receive a property tax reduction. The reason is that the property's value must fall below the Proposition 13 protected value before the easement's value impact can be considered in the assessment.

Assembly Bill 1534 (Committee on Revenue and Taxation) Chapter 446

Assessment Analyst Certification

Effective January 1, 2016. Amends and renumbers Section 674 of the Revenue and Taxation Code, adds Article 8.3 (commencing with Section 674).

Summary

Allows local boards of supervisors to impose certification and annual training requirements on county assessor employees responsible for property tax change in ownership and exemption decisions.

Sponsor: California Assessors' Association

Law Prior To Amendment

Existing California law[56] imposes certification and annual training requirements on property tax appraisers and auditor-appraisers who are state or county employees.[57] The law requires the Board of Equalization (BOE) to administer the property tax appraiser certification program.[58]

The law does not impose certification requirements on county assessor employees involved in other aspects of property tax administration.

Amendment

This bill requires any county assessor employee that makes change in ownership decisions or property tax exemption decisions (excluding the homeowners' exemption) to hold a BOE-issued assessment analyst certificate. County assessor employees who are BOE-certified appraisers[59] are excluded from these provisions, including an assessor (elected or appointed) who is required by law to hold an appraiser certification from the BOE.

This bill requires the county assessor employee to:

- Pass a certification examination.
- Annually receive 24 hours of BOE-approved or BOE-conducted training. Excess training hours may be carried forward for 3 years.
- Annually disclose financial interests in any legal entity.

The bill requires the BOE to:

- Adopt regulations to define competency in change in ownership and exemption decisions.
- Create the certification examination in consultation with the California Assessors' Association (CAA).
- Prescribe an advanced course of training and create the advanced exam in consultation with the CAA.
- Approve or conduct the required training.
- Revoke certifications for failure to complete required training.

The bill provides **three different special certifications**:

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[56] Appraiser Qualifications Article 8 (commencing with Section 670) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code (RTC).
[57] Including the city and county of San Francisco.
[58] Appraiser Training & Certification: BOE certification forms, reference materials, and training guidelines.

- **Temporary Certification**. New county assessor employees that the BOE finds competent to make change in ownership and exemption decisions are eligible for a temporary certification. New county assessor employees could perform their duties for up to a one-year period before passing the exam. The certificate is not renewable.
- **Interim Certification.** Existing county assessor employees currently making change in ownership and exemption decisions are provided an interim certification that allows them to continue to do so for up to four years until they pass the new exam.
- **Advanced Certification**. County assessor employees certificated for at least 3 years can complete an advanced course of study or pass an advanced level exam and receive an advanced certification. For advanced certification holders, the annual continuing education requirement reduces to 12 hours. Excess training hours may be carried forward for only 2 years.

Noncertificated staff. Assessors may use noncertificated staff to prepare and work with exemption applications and change in ownership documents, provided the noncertificated staff does not make change in ownership or exemption decisions.

County Optional. Certification is only required in those counties that have passed a resolution upon the recommendation of the assessor to require certification.

Contract Appraisers. This bill also renumbers RTC Section 674 related to contract appraisers to Section 681.

Legislative Background

In 2014, AB 2756 (AR&T) contained similar provisions with the exception of the optional county provision. The governor vetoed the bill writing: “This is something the Assessors can and should be doing without a state mandate.”

Commentary

1. **Purpose.** To ensure county assessor employees making change in ownership and exemption decisions are adequately trained and educated.
2. **The April 30, 2015 amendments** limited certification to employees of the county assessor's office. As introduced, in addition to being applicable to BOE staff, the bill could have been interpreted to apply to assessment appeals board members, county counsel staff that advises the appeals board or assessor, BOE legal staff, and BOE Members.
3. **Certification procedures and training requirements would be similar to those for appraisers.** The CAA states that certification procedures and ongoing training requirements are needed to help ensure that employees making change in ownership and property tax exemption decisions are adequately trained and educated. These decisions can be complex, requiring a thorough understanding of different legal documents, statutes, regulations, and court decisions.
4. **Appraiser certification pre-dates Proposition 13’s change in ownership provisions.** Determining whether a property has changed ownership is increasingly complex. For instance, using trusts for estate planning purposes is now widespread. Many trust documents include multifaceted transfers that require additional analysis. Additionally, laws providing for change in ownership exclusions, such as the parent-child exclusion, or base year value transfers, such as for persons over the age of 55, are increasingly detailed with many qualifications and conditions requiring examination.
5. **Welfare exemption administration has changed.** Since bifurcation, the BOE’s role is limited to processing and issuing organizational clearance certificates. The assessor staff processes annual welfare exemption applications and examines property use. Consequently, assessor staff now bears responsibility to determine exemption eligibility without BOE involvement.

6. **Certified appraisers and the assessor are excluded.** These provisions do not apply to county assessor employees that hold a valid appraiser's certificate. This includes the person holding the office of the assessor who is a BOE-certified appraiser.

7. **Current county assessor employees have four years to pass the test**. Employees currently engaged in making change in ownership and exemption decisions would be provided with a four-year period to pass the exam.

8. **BOE approves training and tracks educational requirements.** The BOE does not anticipate being the primary education provider. Counties, the California Assessors' Administrative Services Association, and the BOE together would provide education. The BOE would issue certifications, conduct tests, approve training, as well as maintain and monitor training hours.

9. **The CAA anticipates working with the BOE to develop implementing regulation.** The regulation would include defining the term "decisions" and setting competency standards for the testing and certification process.

Senate Bill 803 (Committee on Governance and Finance) Chapter 454

Property Tax Omnibus Bill

Effective January 1, 2016. Amends Government Code Section 7510 and amends Revenue and Taxation Code Sections 63.1, 68, 401.10, 423.2, 480, and 482

Summary

Among other things, contains Board of Equalization (BOE)-sponsored housekeeping and technical Property Tax proposals to:

- Replace a valuation methodology related to possessory interests in state retirement system-owned property which was ruled unconstitutional. *(Government Code Section 7510)*
- Expressly provide that the parent-child change in ownership exclusion applies to a transfer of a pro rata ownership interest in a resident-owned manufactured home park or a floating home marina owned by a legal entity. *(Revenue and Taxation Code (RTC) Section 63.1)*
- Allow displaced persons to receive an eminent domain base year value transfer retroactively for the last four fiscal years on late-filed claims. *(RTC Section 68)*
- Extend for five years the assessment valuation methodology for intercounty pipeline rights-of-way, which are otherwise scheduled to sunset. *(RTC Section 401.10)*
- Correct the subdivision references to Government Code Section 16142, related to Williamson Act assessments. *(RTC Section 423.2)*

Also includes a California Assessors' Association proposal to expressly require change in ownership reporting for floating homes. *(RTC 480 and 482)*

Sponsor: Board of Equalization
California Assessors' Association *(RTC 480 and 482)*

Possessory Interests: PERS and STRS

Government Code Section 7510

Purpose: To replace a possessory interest valuation methodology for state retirement system-owned property, which a court ruled unconstitutional.

Law Prior to Amendment

Government Code Section 7510 contains provisions specific to possessory interests in state retirement system-owned property (i.e., investment real property owned by the Public Employees Retirement System (PERS) and the State Teachers Retirement System (STRS)). This law specifies a valuation methodology for the assessor to value a lessee's possessory interest in PERS- and STRS-owned property.

The law[60] provides that, where a lessee has leased the entire property, the assessed value is limited to the full cash value of the taxable possessory interest. If, however, the lessee has leased less than the entire property, the assessed value of each taxable possessory interest is the greater of (1) the full cash value of the taxable possessory interest or (2) a value based on the possessor's allocable share of the full cash value of the real property, which is the value that would have been enrolled under Article XIII A of the California Constitution and related statutes for the entire fee simple interest. The law further provides that each possessor's "allocable share" shall be a simple allocation based on the square feet

[60] Subdivision (b)(1) of Government Code Section 7510.

leased by the possessor divided by the total leasable square feet of the real property.[61]

Amended Law

This bill deletes the above formula and replaces it with a reference to a pre-existing BOE regulation.[62] This regulation applies to the valuation of taxable possessory interests generally.

In General

In certain instances, a property tax assessment may be levied when a person or entity uses publicly-owned real property that, with respect to its public owner, is either immune or exempt from property taxation.[63] These uses are commonly referred to as "possessory interests" and are typically found where an individual or entity leases, rents, or uses federal, state or local government facilities and/or land.

Background

On May 7, 2013, the Second District Court of Appeal (*California State Teachers' Retirement System v. County of Los Angeles,* (2013) 216 Cal.App.4th 41 held that the valuation methodology provided in Section 7510(b)(1) is unconstitutional.[64] First, the court noted that Section 7510(b)(1) does not become constitutional simply because it shifts the tax on the reversionary interest to the lessees. The court concluded that the value of rights retained by the exempt owner of the real property (reversionary interest) must be excluded in order to determine the proper value of the lessee's taxable possessory interest. Second, by including the full value of the fee interest in the assessable value of the lessee's possessory interest, Section 7510(b)(1) also violates the prohibition on taxing property in excess of its fair market value. Including the value of the retirement system's reversionary interest in the value of the lessee's possessory interest increased the assessed value of the possessory interest above its fair market value. The court opined that the correct possessory interest valuation standard is fair market value, rather than the formula dictated by Section 7510(b)(1).

The court directed that the matter be remanded back to the assessment appeals board to determine the proper value of the possessory interest pursuant to the valuation method contained in the BOE's regulation Property Tax Rule 21, "Taxable Possessory Interests – Valuation."

At the request of the court, the BOE filed an *amicus curiae* brief with the court. After the decision, the BOE issued guidance to assessors via Letters to Assessors 2014/023.

Commentary

1. **The July 15, 2015 amendments** specifically reference Property Tax Rule 21 as in effect on January 1, 2015. The Assembly Revenue and Taxation Committee requested this amendment to the existing regulation currently in effect. The Committee's analysis stated that "[t]his bill eliminates the assessment methodology the Court found unconstitutional, and instead directs assessors to value possessory interests in CALSTRS in accordance with BOE regulations. Unfortunately, as currently drafted, this bill may provide an unconstitutional delegation of legislative authority. In order to prevent such a delegation, the Committee may wish to specify the specific regulation which provides the method of valuation."
2. **Court rules the law is unconstitutional.** This bill amends Government Code Section 7510 to conform to the 2013 court ruling. The court ruled the method unconstitutional because in some cases it taxes the lessee based on the entire fee simple interest.[65] This method is improper because the lessee is assessed for both the possessory and reversionary interest even though the lessee only owns a

[61] Assessors' Handbook Section 510, *Assessment of Taxable Possessory Interests*, page 73.
[62] Property Tax Rule 21 "Taxable Possessory Interests – Valuation."
[63] Revenue and Taxation Code (RTC) Section 107.
[64] Letter to Assessors 2014/32.
[65] The entire fee simple interest includes the possessory interest plus the reversionary interest.

possessory leasehold interest.

3. **Assessors would use Property Tax Rule 21 to value the possessory interest.** Property Tax Rule 21, which is applicable to possessory interests generally, is the proper valuation standard for investment property owned by state public retirement systems. This change will ensure that these possessory interests will not be valued in excess of fair market value.
4. **Any future change to Property Tax Rule 21 that should apply to these possessory interests will require an explicit follow-up amendment to Government Code 7510.** Because Government Code 7510 specifically references Property Tax Rule 21 as that section read on January 1, 2015, any future change to Rule 21 that changes possessory interest valuation procedures will require a statutory change approved by the Legislature and the Governor if those changes should also apply to retirement system-owned property.

Parent-Child Exclusion: Mobile Homes and Floating Homes

Revenue and Taxation Code Sections 63.1, 480, and 482

Law Prior to Amendments

Generally, the parent-child change in ownership exclusion does not apply to transfers of interests in legal entities.[66] However, the law provides three exceptions for certain resident-owned legal entities. These are:

- Cooperative housing corporations (i.e., co-ops)[67]
- Tenant-owned mobilehome parks[68]
- Tenant-owned floating home marinas[69]

The law requires property owners to report a change in ownership to the assessor.

Amendment

This bill includes a pro rata ownership interest in a legal entity that owns a mobilehome park and a floating home marina among the types of real property subject to the parent-child exclusion.

This bill also expressly requires a new owner of a floating home file a change in ownership statement with the assessor.

Background

The parent-child exclusion statute lists the cooperative housing corporation exception within its provisions. But the two other legal entity exceptions are not listed. Instead, they are addressed within other statutory provisions specific to mobilehome parks and floating home marinas. These provisions allow the resident-tenants to organize and buy their park or marina from the former owner without triggering any reassessment related to the initial conversion to resident ownership. But these laws provide that subsequent sales to new residents in the park or marina result in a pro rata reassessment of park or marina real property unless another exclusion,[70] like the parent-child exclusion, applies.

[66] Parents and children must transfer real property, not an interest in a legal entity.
[67] RTC Section 63.1(c)(8).
[68] RTC Section 62.1(b)(1).
[69] RTC Section 62.5(b)(1).
[70] These exclusions include RTC Section 62 (Definitional Exclusions), Section 63 (Interspousal Transfers), and Section 63.1(Parent-Child Transfers).

Commentary

1. **Purpose.** To expressly provide that the parent-child change in ownership exclusion applies to a transfer of a pro rata ownership interest in a resident-owned manufactured home park or a floating home marina owned by a legal entity.
2. **The June 29, 2015 amendments** added a California Assessors' Association-sponsored provision to include floating homes in change in ownership reporting laws. The amendment also changes a cross reference to the definition of "pro rata portion of real property" in RTC 62.5(c)(2) rather than the requirement to reassess such pro rata portions in RTC 62.5(b)(1).
3. **Clarity and Consistency.** Listing all the legal entity exceptions within the parent-child exclusion statute eliminates uncertainty for taxpayers and tax administrators and makes related code sections consistent.

Eminent Domain: Base Year Value Transfer

Revenue and Taxation Code Section 68

Law Prior to Amendment

The law[71] allows owners of certain property taken by the government to acquire a replacement property without increased property tax liability through a "base year value transfer." The law requires the property owner to file a timely claim. To be timely, the property owner must file with the assessor a base year value transfer request within four years of the following dates, whichever is applicable:

- For property acquired by eminent domain—the date the final order of condemnation is recorded or the date the taxpayer vacates the property taken, whichever is later.
- For property acquired by a public entity by purchase or exchange—the date of conveyance or the date the taxpayer vacates the property taken, whichever is later.
- For property taken by inverse condemnation—the date the judgment of inverse condemnation becomes final or the date the taxpayer vacates the property taken, whichever is later.[72]

Amendment

This bill amends the law to allow retroactive relief for base year value transfer claims filed after the four-year timeline, consistent with a recent court decision. Specifically, for claims filed after the deadline a base year value transfer will be available with respect to the lien dates for the last four fiscal years. The county would make any necessary roll corrections, tax refunds, or tax cancellations to provide retroactive property tax relief for years open to adjustment.

This bill also deletes obsolete date references and adds subdivision lettering for clarity.

In General

For property tax purposes, real property is reassessed from its Proposition 13 protected value (called a "base year value") to its current market value whenever a change in ownership occurs.[73] The law allows owners of certain property taken by the government to acquire a replacement property without increased property tax liability through a "base year value transfer." Specifically, the law does not define "change in ownership" to include the acquisition of real property as a replacement for comparable property[74] if the person acquiring the real property has been displaced by eminent domain proceedings,

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[71] RTC Section 68.
[72] Property Tax Rule 462.500(g)
[73] Cal. Const. Art. XIII A, Sec. 2
[74] Replacement real property is deemed comparable to the property taken if it is similar in size, utility, and function. (Property Tax Rule 462.500(c).)

acquisition by a public entity, or governmental action resulting in a judgment of inverse condemnation. Instead of reassessing a newly acquired replacement property to its current value, the assessor "transfers" the base year value from the taken property to the replacement property, as specified.

To receive this constitutionally[75] provided property tax savings, the implementing statute[76] requires a person acquiring replacement property to request the base year value transfer within four years of the date the property was acquired by eminent domain or purchase or the date the judgment of inverse condemnation becomes final. A property tax rule[77] requires the taxpayer to acquire the replacement property before making the request and requires that the request be timely.[78]

Background

In 2014, a court ruled that a property owner should not be permanently barred from a base year value transfer because he or she makes a claim after the filing deadline. The Fourth District Court of Appeal, in *Olive Lane Industrial Park, LLC v. County of San Diego* (2014) 227 Cal.App.4th 1480 held that RTC Section 68 does not expressly preclude prospective relief in the event a claim is filed after the four-year timeline, and Section 68 could be interpreted to permit prospective relief when a taxpayer acquires replacement property within the four-year period but misses the four-year filing deadline. The court held that "[t]his interpretation, which maintains the four-year deadline with respect to *acquisition* of the property but provides prospective relief for claims *filed* after the four-year period, accommodates the public policy interest in placing reasonable time limits on the exercise of constitutional rights, while also effectuating the plain language of Article XIIIA that a change in ownership does not occur when property is acquired to replace condemned property."

Both the parent-child change in ownership exclusion[79] and the base year value transfer provisions for persons over the age of 55 and the disabled[80] allow prospective relief for late-filed claims. The Legislature subsequently amended these laws so that taxpayers would not be permanently barred from these constitutionally authorized provisions.[81]

Commentary

1. **Purpose.** To allow displaced persons to prospectively receive an eminent domain base year value transfer on late-filed claims.

2. **The July 15, 2015 amendments** deleted the provisions that allowed transfers on a prospective basis only. The Assembly Revenue and Taxation (ART) Committee requested this amendment noting that "[a]s currently drafted, a homeowner who purchases a replacement property two months after the original property was taken and waits an additional four years to file a request for reassessment is barred from receiving a refund or cancellation of taxes prior to the date that the request is made. Late requests for assessments may occur for several reasons but many individuals may simply not be made aware or understand that their replacement properties are eligible for a base-year value transfer. As such, this bill provides a serious penalty for property owners who request a reassessment years after purchasing a replacement property. As a way of mitigating the financial penalty, the Committee may wish to apply a four-year, look-back period from the date the filing for

75 Cal. Const. Art. XIII A, Sec. 2(d).
76 RTC Section 68.
77 Property Tax Rule 462.500.
78 It has long been the BOE's opinion that if a timely request is not made, the exclusion does not apply (Annotation 200.0315, C 12/22/1988).
79 RTC Section 63.1(e)(2).
80 RTC Section 69.5(f).
81 Senate Bill 542 (Stats. 1997, Ch. 941) for RTC Section 63.1 and Assembly Bill 3076 (Stats. 2006, Ch. 364) for RTC Section 69.5.

reassessment is made." **The June 24, 2015 amendments** corrected a cross reference to the definition of pro rata ownership in a floating home marina.

3. **This bill permits relief for base year value transfer claims filed after the four-year timeline.** This change is consistent with the court's decision. This amendment ensures that affected property owners will receive their constitutionally authorized right to property tax protection when their property is taken.
4. **This bill will allow the assessor to use the most administratively effective method to provide a retroactive base year value transfer depending upon the timing of the request and the fiscal year(s) open to modification.** The assessor could make roll corrections, cancel outstanding taxes, or process refunds, as the case may be, for any one of the four fiscal years subject to "look-back" period. The phrase "with appropriate" roll corrections, refunds, or cancellations is intended to provide administrative flexibility to provide the retroactive relief using the most appropriate means for any of the four prior fiscal years.
5. **Similar laws allow prospective relief only.** For other late-filed claims related to the parent-child change in ownership exclusion and base year value transfers for the elderly and disabled, the law allows prospective relief. As introduced this bill allowed only prospective relief, and amendments were made to reflect the desire of the ART Committee. It is possible that allowing retroactive relief in this case, will result in future requests to allow retroactively in these other areas of the law.

Valuation for Intercounty Pipelines

Revenue and Taxation Code Section 401.10

Law Prior to Amendment

Existing law[82] sets forth the assessment methodology for assessors to value intercounty pipeline rights-of-way. The prescribed methodology applies to assessments made for the 1984-85 through 2015-16 tax years. The law sunsets on January 1, 2016.

Amendment

This bill extends the sunset on the codified valuation methodology for five years until January 1, 2021.

In General

The methodology for determining value applies a tiered dollars-per-mile schedule that is based on the property's density classification to establish the 1975-76 base-year value as follows:

- High Density: $20,000 per mile
- Transitional Density: $12,000 per mile
- Low Density: $9,000 per mile

These amounts are annually adjusted for inflation. The value derived by applying the statutory methodology is rebuttably presumed to be correct, precluding the property owner from challenging either the right-of-way value or the assessment's legality. The property owner may only challenge the assessment if the assessor declines to use the statutory methodology and, if so, the assessor loses the presumption of correctness.

Background

For a limited period between 1984 through 1993, the BOE asserted its assessment jurisdiction over both intercounty pipelines and intercounty pipeline rights-of-way. In 1993, a court ruled that, while BOE

[82] RTC Section 401.10.

assessment jurisdiction over intercounty pipelines is proper, state assessment of the rights-of-way through which the pipelines run is not proper. Thus, the court directed county assessors to make these assessments. (*Southern Pacific Pipe Lines, Inc*. v. *State Board of Equalization* (1993) 14 Cal.App.4th 42) A key difference between state-assessed and locally-assessed property is that Proposition 13's acquisition-based value standard does not apply to state-assessed property. County-assessed property is assessed at the base year value (year of acquisition), increased by the annual 2% maximum inflation factor.

The initial transition from state to local assessment had several problems. First, the intercounty nature of the rights-of-way made the valuation process difficult under traditional local assessment procedures. Second, local assessments lacked statewide uniformity. Third, property owners contested the assessments' legality. Intercounty pipeline owners asserted that rights-of-way were not subject to assessment separate from the underlying fee parcel, and that the rights-of-way values were already reflected in the assessment of the fee parcel. Ultimately in 1996, to avoid costly and protracted litigation, property owners and counties negotiated the settlement agreement that is currently in law. Both parties sought efficiency and cost-effectiveness in the local assessment of these interests to avoid administrative and economic waste. These provisions are scheduled to sunset after the 2015-16 fiscal year.

Previous Legislation. In 1996, AB 1286 (Takasugi, Stats. 1996, Ch. 801) codified the settlement agreement and established the valuation methodology.

- Sponsor: Los Angeles County and Western States Petroleum Association
- BOE position: Neutral

In 2000, AB 2612 (Brewer, Stats. 2000, Ch. 607), extended the methodology for 10 years.

- Author-sponsored
- BOE position: Support

In 2010, SB 1494 (Revenue and Taxation Committee, Stats. 2010, Ch. 654), extended the methodology for 5 years.

- BOE-sponsored, at the request of the California Assessors' Association and industry.

Commentary

Purpose. To extend the intercounty pipeline rights-of-way valuation methodology that will otherwise sunset.

For nearly 20 years, the valuation methodology has proven to work well. It is administratively cost-efficient and avoids assessment appeals and litigation.

Some assessors and taxpayer representatives have requested that these provisions be extended and the BOE sponsor legislation as part of its annual Property Tax Omnibus measures.

Williamson Act Assessments

Revenue and Taxation Code Section 423.3

Law Prior to Amendment

The cross references in the Revenue and Taxation Code to the Government Code for prime agricultural land and non-prime agricultural land definitions are incorrect.

Amendment

This bill updates cross references.

In General

The Williamson Act[83] helps conserve agricultural and open-space lands. Under the Williamson Act, landowners may enter into contracts with participating cities and counties to restrict the land to agricultural or open-space uses. The contract must be for a minimum 10-year term with automatic yearly extensions unless specific action to remove the property from the program is taken (i.e., nonrenewal or immediate cancellation). In exchange for entering into these contracts, the assessor values the land and any living improvements (trees and vines) according to income earning potential. The law provides a formula to value the land.[84] The valuation method capitalizes the income derived from the land's agricultural use. The statute details how to determine income and specifies the appropriate capitalization rate.

Counties and cities can enact a special law[85] that requires the assessor to cap assessments on Williamson Act-restricted land at a specified percentage of the property's factored base year value as if unrestricted. Typically, the assessor values Williamson Act property at the lowest of three values: Williamson Act restricted value,[86] current fair market value,[87] or Proposition 13 factored base year value.[88] However, if a local government enacts the special law, the "percentage of factored base year value" option also is available.

Shortly after Proposition 13's enactment, the Legislature added the "percentage of factored base year value" option to address concern that landowners could withdraw from the Williamson Act if Proposition 13 provided more property tax savings. This option guaranteed that if Proposition 13's factored base year value resulted in the lowest value, the local government could choose to allow assessment at an even lower value.

Under this option, the minimum percentage of factored base year value depends on land type: prime agricultural land, prime commercial rangeland, non-prime[89] agricultural land, and waterfowl habitat. Except for "prime commercial rangeland," land type is defined by cross reference to other code sections. The table below lists the specified minimum percentage and cross reference definition for each land type:

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[83] Government Code Section 51200 et. seq
[84] RTC Section 423.
[85] RTC Section 423.3.
[86] RTC Section 423.
[87] RTC Section 110.
[88] RTC Section 110.1.
[89] Non-prime means "all land other than prime agricultural land, which is devoted to open-space uses of statewide significance, as defined in Government Code Section 16143." Government Code Section 16142(a)(2).

Type	Provision	Land Definition	Minimum Percent Reduction
Prime Agricultural Land	§423.3(a)	Government Code §16142(a)(1) Government Code §51201	70%
Prime Commercial Rangeland	§423.3(b)	RTC §423.3(b)	80%
Non-prime Agricultural Land	§423.3(c)	Government Code §16142(a)(2) Government Code §16143	90%
Waterfowl Habitat	§423.3(d)	RTC §423.7	90%

Background

In 1999, legislation[90] changed the cross reference to Government Code Section 16142 for prime agricultural land and non-prime agricultural land definitions. However, RTC Section 423.3 was not updated accordingly. Specifically, former Government Code Section 16142(a) and (b) became Section 16142(a)(1) and (a)(2), respectively. This provision details the per-acre amounts that the state must reimburse to local governments to offset property tax revenue loss related to prime agricultural land and other than prime agricultural land placed into the Williamson Act.[91]

Commentary

Purpose. To correct cross references in the Government Code for prime agricultural land and other than prime agricultural land. This amendment maintains the code.

[90] Senate Bill 649 (Stats. 1999, Ch. 1019) amended Government Code Section 16142.
[91] However, subvention payments have been suspended in recent budget years.

TABLE OF SECTIONS AFFECTED

SECTIONS		BILL NUMBER	CHAPTER NUMBER	SUBJECT
Revenue & Taxation Code				
§63.1	Amend	SB 803	Ch. 454	Floating Homes
§68	Amend	SB 803	Ch. 454	Eminent Domain
§401.10	Amend	SB 803	Ch. 454	Intercounty Pipelines
§401.17	Amend	AB 1157	Ch. 440	Certificated Aircraft
§402.1	Amend	AB 1251	Ch. 639	Greenway Easements
§402.1	Amend	AB 668	Ch. 698	Affordable Housing Use Restrictions
§423.3	Amend	SB 803	Ch. 454	Williamson Act
§441	Amend	AB 1157	Ch. 440	Lead County Airline Reporting
§463	Amend	AB 571	Ch. 501	Penalty Abatement
§480	Amend	SB 803	Ch. 454	Floating Homes
§482	Amend	SB 803	Ch. 454	Floating Homes
§483	Amend	AB 571	Ch. 501	Penalty Abatement
§674	Add Renumber	AB 1534	Ch. 446	Assessment Analyst Certification
Article 8.5 (commencing with §674)	Amend Renumber	AB 1534	Ch. 446	Assessment Analyst Certification
§1153.5	Amend	AB 1157	Ch. 440	Certificated Aircraft Valuation
§2609	Amend	SB 803	Ch. 454	Tax Collector Notice
§3726	Amend	SB 803	Ch. 454	Tax Deed Sales
Government Code				
§7510	Amend	SB 803	Ch. 454	Possessory Interest; PERS and STRS Property
§15643	Add	AB 681	Ch. 404	Assessment Practice Survey Program
§15645	Amend	AB 681	Ch. 404	Assessment Practice Survey Program
§65560	Amend	AB 1251	Ch. 639	Greenway Easements