Assembly Bill 2622 (Nazarian)
Date: 05/19/16
Program: Property Tax
Sponsor: Author
Revenue and Taxation Code Sections 401.17, 441, 1153, and 1153.5
Effective January 1, 2017

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Summary: Related to the property taxation of commercial air carriers:

- Extends for three years the existing certificated aircraft[1] assessment methodology applicable to commercial air carriers[2] and local centralized administrative procedures including a "lead county" system.
- Requires the CAA Aircraft Advisory Subcommittee to establish best practices for administering the lead county system.
- Requires the BOE to set the representative period for measuring aircraft presence in California for value allocation purposes equally from a week or group of weeks in January and July.

Summary of Amendments: The amendments since the previous analysis delete the statement of legislative intent to change the representative period to a 365-day period and instead, require the representative period to consist of a BOE-selected week(s) in January and an equal period in July.

Purpose: According to the author, the bill's purpose is to extend aircraft valuation methodology provisions and streamlined administrative procedures for counties and airlines that will otherwise sunset this year, improve communication between airlines and county staff, and more accurately measure aircraft presence in California.

Fiscal Impact Summary: **Sunset Provisions:** Unknown, but maintains the status quo.
Representative Period: Likely a revenue increase.

Existing Law: The law permits assessors and commercial air carriers to streamline administrative procedures. In addition, the law details the assessment methodology to value certificated aircraft. These provisions, which will sunset this year, are as follows:

Centralized System - One Return/One Audit.[3] 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 process for the California Assessors' Association (CAA) Aircraft Advisory Subcommittee (Subcommittee), after soliciting input from the airlines, to select a "lead" county for each air carrier. The selected county notifies the air carrier it will serve as the lead county,[4] 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)[5] 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. After these laws sunset on December 31, 2016, air carriers will 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.

[1] 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).
[2] Commercial air carriers include both passenger airlines and freight delivery services.
[3] RTC Section 441(m).
[4] RTC Section 1153.5.
[5] 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.

Lead County Calculates Fleet Value.[6] The lead county calculates the total unallocated fleet value of the air carrier's certificated aircraft for each make, model, and series and transmits the calculated fleet value to the other counties, as described below.[7] 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, 2016.

Aircraft Valuation Methodology.[8] The law specifies a mandatory aircraft valuation methodology 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:

- Trended acquisition cost less depreciation,
- Wholesale prices listed in the *Airliner Price Guide*, a commercially published value guide, less 10%, or,[9]
- Original price paid.

The resulting value is rebuttably presumed to be correct. After the 2016-17 fiscal year, these provisions are no longer effective. Assessors will assess aircraft at the "fair market value," using any valid approach for determining value, as generally provided under Property Tax Law.[10]

Representative Period.[11] Related to the value allocation process described above, the law requires the Board of Equalization (BOE) to designate the period to measure aircraft presence in California after consulting with assessors annually. The law is silent regarding the details of the representative period to be designated. The law[12] specifies that the allocation formula will be based on an air carrier's ground and flight time (i.e., "time in state") weighted 75%, and arrival and departures activity weighted 25%. Since 1997, the BOE has selected various weeks from the month of January.

CAA Aircraft Advisory Subcommittee. Created in 1965,[13] this Subcommittee typically meets twice a year. Its members consist of county assessor staff with certificated aircraft assessment expertise. A BOE staff member generally attends the meetings. Additionally, the Subcommittee dedicates a portion of each meeting to confer with airlines on assessment issues.

Proposed Law:

Sunset of Commercial Air Carrier Provisions. This bill extends the commercial air carrier administrative provisions and aircraft valuation methodology otherwise set to expire for the next three fiscal years; fiscal years 2017-18 through 2019-20.

Representative Period. This bill requires the BOE to designate the representative period, which must consist equally of (1) a week or group of weeks in January and (2) a week or group of weeks in July.

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[6] RTC Section 1153.5.
[7] RTC Section 401.17.
[8] RTC Section 401.17.
[9] Generally, the "Used Price of Average Aircraft Wholesale" listed guide value less 10% for a fleet discount.
[10] 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…"
[11] RTC Sections 1151, 1152 and 1153. Additionally, Property Tax Rule 202(f) "REPRESENTATIVE PERIOD. Annually, on or before December 20, the board shall consult with the assessors of the counties in which air carriers' aircraft normally make physical contact. On or before January 15, the board shall designate a representative period to be used by all assessors in assessing the aircraft of each carrier for the forthcoming fiscal year."
[12] RTC Section 1152.
[13] In 1965, the Subcommittee was formed to decide on a method to allocate aircraft values; there was no law specific to aircraft value allocation. Assembly Revenue and Taxation Committee, Volume 4, Number 22, *A Study of Aircraft Assessment in California* (January, 1968), page 9. Eventually, in 1968 AB 1257 added Article 6 (commencing with RTC Section 1150), to establish the procedure for allocating the value of certificated aircraft and air taxis to California taxing agencies.

CAA Aircraft Advisory Subcommittee. By March 1, 2017, this bill requires the Subcommittee to do the following.

- **Best Practices.**[14] Establish best practices for the effective administration of the lead county system including the audit process.
- **Converted Freighters.**[15] Evaluate methods related to converted freighters. Converted freighters are former passenger aircraft converted to cargo transportation purposes.

Property Statements. Related to annual property statements, the bill does the following:

- **Designated Contact Points.**[16] Designate two persons in each lead county that the airline can contact to address issues related to (1) property statement reporting and (2) electronic filing of property statements (i.e., California Assessor's Standard Data Record (SDR) network).
- **Nonlead-County Questions.**[17] Requires any county assessor that receives a property statement from a lead county to ask the lead county about any questions it has related to the property statements contents. Only if the lead county is unable to answer the question, is the non-lead county authorized to contact the airline directly.
- **Lead County Property Statement Transmittal.**[18] Explicitly states that the lead county will transmit the property statement to other counties. Although the law already directs airlines to file one property statement for its personal property at all airport locations with the lead county, it appears that not all airlines have done so.
- **Corrects Cross Reference.**[19] In addition, this bill corrects a cross-reference error created when legislation relettered subdivision letter designations in Section 441.

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, which is 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.[20]

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 with an aggregate acquisition cost of $100,000 or more on a business property statement.[21]

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 and Fixtures* provides more detailed guidance.

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14 Proposed RTC Section 1153.5(a)(3)(B).
15 Proposed RTC Section 1153.5(a)(3)(B).
16 Proposed RTC Section 1153.5(a)(3)(A).
17 Proposed RTC Section 1153.5(b)(3)(B).
18 Proposed RTC Section 1153.5(b)(3)(A).
19 RTC Section 1153.5(b)(3) corrects cross reference from RTC Section 441(l) to 441(m).
20 California Constitution, Article XIII, Section 2.
21 RTC Section 441.

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[22] 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.

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.[23] 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,[24] the law details the assessor's assessment methodology for determining the market value of commercial air carrier-owned certificated aircraft.[25] 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.[26] A BOE regulation provides further explanation of the allocation procedure.[27] The allocation ratio is made up of two components: (1) a ground and flight time factor, which accounts for 75% of the ratio, and (2) 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 to arrive at 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 associated with 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:

[22] RTC Section 1150.
[23] 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).
[24] For fiscal years 1997-98 to 2003-04, assessors used another detailed methodology outlined in RTC Section 401.15.
[25] RTC Section 401.17.
[26] RTC Section 1152.
[27] Property Tax Rule 202, subdivision (c).

Aircraft Valuation Methodology and Monetary Settlement. AB 1807 (Stats. 1998, Ch. 86; Takasugi) outlined the valuation procedures[28] for certificated aircraft during a six-year period and provided $50 million in tax credits against future tax liabilities,[29] as well as extensive uncodified legislative findings and declarations.

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.[30]

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.[31]

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[32] 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 the 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, and the timing of the sunset allowed another year for all the parties to reach consensus before the provisions sunset.

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.

[28] RTC Section 401.15.
[29] RTC Section 5096.3. The settlement agreement also contained the tax credit provisions.
[30] RTC Section 107.9.
[31] RTC Section 5103.
[32] 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.

Last year, AB 1157 (Stats. 2015, Ch. 440, Nazarian) extended the sunset date for one year allowing use for the 2016-17 fiscal year.

Representative Period. In 2013, the California Assessors' Association requested that the BOE consider changing the representative period for certificated air carriers and scheduled air taxi operators. At that time, two periods were suggested - the second or third week of December or the second week of March. Air carriers were opposed to any change. BOE staff commenced the interested parties process and ultimately concluded that the representative period should not change from the week in January, as had been the process since 1999, because there wasn't a compelling reason at that time. Only two individual counties responded, with different recommendations, and the California Assessors' Association did not submit a position at that time.

- LTA 2013/019. Commencement of Interested Parties process at request of the California Assessors' Association (CAA) Aircraft Advisory Subcommittee that asked the BOE to consider changing the representative period from the current week in January. (Note the letter erroneously stated that the representative week had been the second week of January since 1997. Since 1997, the first week has been selected 9 times, the second week 5 times, the third week 3 times, and the fourth week twice.) In 1998, the week that included the lien date and starting December 28 was selected.)
- LTA 2013/037. After reviewing the comments submitted by interested parties, BOE staff determined that there is no compelling reason to change the representative period from the long-standing week in January each year and concluded the interested parties process.

2013 Airline Industry Comments:

- Airlines for Americas Comments "A4A maintains that the representative period should be as close as possible to the lien date to ensure that information reported by airlines will most accurately reflect the activity of the assets being assessed. The current representative period offers the best solution as it is closer to the lien date than the proposed alternatives. The Assessor's proposals create a significant risk that the aircraft assessed on the lien date will not match the apportionment activity reflected in the representative period."

The following airlines requested the BOE maintain the current representative period:

- Alaska Airlines Comments; US Airways Comments; United Airlines Comments and American Airlines Comments
- Southwest Airlines Comments "requests that the Board maintain the current representative period designation-the second full week of January. The current representative period offers the best solution, plus it is closer to the lien date. In addition, it is used in other California State Tax calculations. Any proposed alternatives would adversely affect and complicate both property tax and income tax."

2013 Comments from Counties:

Los Angeles County noted that "[t]he lien date changed from March 1 to January 1 beginning with 1997. Prior to the change, the representative period included the lien date or took place prior to the lien date. When the lien date was changed to January 1, the representative week was also changed as to not capture flight activity from the Christmas and New Year travel season. This is the main driver of setting the representative period to a week after the lien date."

San Bernardino County noted the practices of other states to use the preceding 12 months prior to lien date. "Airlines…would not be burdened regardless of the level of traffic if the BOE establishes the representative period as the preceding 12 months."

Since 2013, the counties have expressed continued interest in changing the representative period. In recent years, the counties have advocated to BOE staff, in the annual consultation process with assessors, that the BOE switch to actual flight activity in the prior year, such as this bill proposes. The BOE staff has not granted this request.

In 2015, the introduced version of SB 661 (Hill) specified in statute that aircraft presence in California was to be measured in the second full week of January.

- BOE Analysis of SB 661 as amended 04/15/15. Note that the BOE analysis erroneously stated that the second full week has been the week since the lien date change.[33] While a representative week in January has been selected, the week has varied.

BOE State Assessment of Aircraft. 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[34] 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. In 2015, SB 661 (Hill) as introduced proposed transferring assessment jurisdiction for commercial air carrier personal property, including certificated aircraft, to the BOE using the existing valuation methodology for certificated aircraft. This bill was held in the Assembly.

Commentary:

1. **Last year, these provisions were also scheduled to sunset.** The sunset date was extended for one year with the desire that the airline industry and county assessors could reach consensus on air carrier assessments in the interim. To date, a series of meetings between airlines, counties, Senate, and Assembly staff have been held at the Capitol; however the parties remain unable to reach full consensus. Other than the sunset date extension, this bill includes those issues raised where common ground appears to exist, such as improving communication by (1) identifying key persons in the assessor's office for airlines to contact if they are having e-filing issues or need other help, (2) funneling questions to the lead county first to limit nonessential contact and (3) ensuring airlines are availing themselves of one-return filing provisions. The bill also establishes best administrative practices for the effective administration of the lead county system and the audit process.

2. **The May 19, 2016 amendments** replace the legislative intent provisions with representative periods selected in a week or group of weeks in January and July. The weeks selected in both months must be equal. **The April 26, 2016 amendments** substituted the representative period provisions related to measuring California aircraft presence with a statement of legislative intent to make those same changes. The April 12, 2016 version of the bill repealed existing RTC Section 1153 and replaced it with a new section that would have eliminated the BOE's duty to annually establish the representative period after first consulting with assessors. Instead, the April 12, 2016 version set the representative period based on Federal Aviation Administration flight operation records during

33 In 1997, the assessment lien date for locally-assessed property changed from March 1 to January 1.

34 GG19 – Centralize for Efficiency the Assessment of Commercial Aircraft and CAA response (August 2004).

the 12-month period of the prior calendar year for ground and flight time and arrival and departure activity.

3. **Converted Freighters.** Currently, the law specifies a valuation methodology for converted freighters (passenger planes converted to cargo planes) that is different from production freighters (planes originally built to carry cargo). There is a desire to change the valuation methodology. As the sentence currently reads, the direction to the Subcommittee is unclear. At page 14, line 26 to 28, the bill directs the Subcommittee to "establish best practices for the effective administration of the . . . methods to evaluate converted freighters." Since the law details the valuation methodology, other valuation methods are not administratively possible. It may be preferable to separate the converted freighter issue from the provisions related to establishing best administrative practices by adding a new subparagraph (C) and using terms that are consistent with the author's intent.

4. **Certificated aircraft valuation is complex and contentious.** This year, the statute that codifies aircraft valuation methodology expires. Extending the provisions provides a period of stability, and a sunset date allows for evaluation and adjustment of methodology. A statutory methodology has been in place for 17 years and has helped reduce some conflict. While prior statutory methodologies have not eliminated conflict, they have narrowed its scope.[35] As noted in the legislative findings and declarations of both AB 1807 and AB 964 (see above), the certificated aircraft assessments are 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.

5. **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, pursuant to RTC Section 401.17 assessors based aircraft values at the lowest of (1) trended cost, (2) wholesale APG value less 10%, or (3) original cost, but only if the aircraft is stilled owned by the original owner. Most air carriers currently have an assessment based on the wholesale price less 10%, as that method produces the lowest value.

6. **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.

7. **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

[35] 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.

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.

8. **The current reporting practices of airlines.** The law[36] 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 data, some airlines segregate flight activity information by airport location and file all the information with the lead county. But other airlines 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[37] gives airlines the option to file their returns electronically via the California Assessor's Standard Data Record network. Because some airlines experienced e-filing difficulties, this bill requires that airlines be provided the names of persons to contact for assistance.

9. **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.
    - If the assessor uses the methodology and the taxpayer appeals those assessments, the taxpayer must provide sufficient evidence to overcome the presumption of correctness.

10. **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 carrier' submitted duplicative aircraft fleet information to every county for every location in which they operated. The one-stop reporting to a single lead county should have reduced the carriers' administrative burdens. However, some airlines may not have filed a consolidated return as the law provides. This bill's amendments attempt to ensure that airlines avail themselves of one-stop reporting.
    - **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 CAA 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 multiple audits, which also is burdensome to the airlines.
    - **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.

[36] RTC Code Section 441(m)(1)
[37] RTC Code Section 441(m)(4)

11. **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)
12. **This bill will provide more certainty and predictability in the valuation of aircraft for both assessors and commercial air carriers.** Absent a codified methodology, the values determined by each individual county assessor may be the same, higher, or lower than they would be without this bill.
13. **What has been the historical representative period since the lien date changed to January 1?** Since 1997, the BOE has designated the first week of January nine times, the second week five times, the third week three times, and the fourth week twice. In 1998, a week was selected that started on December 28, and included the lien date.
14. **Why change the representative period?** Proponents of changing from a one-week period to the full prior year state that it is now technologically feasible to use actual data. The CAA Aircraft Subcommittee analyzed actual flight activity for selected counties for 2012 and concluded that it was impossible to designate a month or a week that uniformly reflected actual flight activity within the state. Because no one week or month appears to be "representative" for each county, the CAA believes presence would be more accurately reflected by using actual prior year's data.
15. **Representative Period.** In 2013, the CAA requested that the BOE consider changing the representative period for certificated air carriers and scheduled air taxi operators. At that time, two periods were suggested: (1) the second or third week of December or (2) the second week of March. Air carriers were opposed to any change. BOE staff commenced the interested parties process and ultimately concluded that the representative period should not change from a week in January. Only two individual counties responded with different recommendations, and the CAA did not submit a position at that time. In recent years the CAA Aircraft Subcommittee has been urging a change to the prior calendar year.
16. **Designating January/July equal weeks represents a committee-suggested compromise until stakeholders can resolve issues surrounding 365 day data.** The Assembly Appropriations Committee on May 18, 2016 suggested the January and July week or group of weeks amendments. The Committee analysis states: "When the concept of the representative period was established in 1968, technological limitations provided that utilizing an entire year's past flight activity would be too burdensome. However, the FAA now provides records of all flight data on its public Web site

that may be used to derive a more accurate representative period, and thus, more accurate assessment of aircraft. However, questions about this data set, such as how it could be used by assessors and the industry and how FAA can guarantee its availability into the future, remain unanswered. As these issues get worked out between stakeholders, the Committee recommends that this bill be amended to require BOE to choose a representative period that incorporates a week, or group of weeks in January, as is currently common practice, in addition to a week, or group of weeks, in July."

17. **Related Legislation.** SB 1329 (Hertzberg), as amended April 26, 2016, also proposes to extend the commercial air carrier provisions, but for five years rather than three years as this bill proposes. SB 1329 adds a new section of law extending the valuation provisions, rather than extending the preexisting law as this bill proposes, and eliminates the 10% reduction provided when wholesale APG values are used. SB 1329 also allows trial *de novo* for commercial air carriers in a refund lawsuit.

Costs:

If the representative period is changed, the BOE would incur minor absorbable costs to revise Rule 202 and update various publications and the BOE's website.

Revenue Impact:

Background, Methodology, and Assumptions. The law requires the assessor to value certificated aircraft annually at fair market value. Absent a codified methodology, the values determined by each individual county assessor may be the same, higher, or lower than they would be without this bill.

The revenue impact of changing the representative period is pending. However, revenues would likely increase.

Revenue Summary. This bill maintains the status quo. The revenue consequence of extending the sunset date versus allowing these laws to expire is unknown. The revenue realized under the existing valuation methodology might be different from the revenue derived from the methodology used prior to 1998 or some other methodology. Extending the existing valuation methodology, which includes a rebuttable presumption of correctness, may be a reasonable method to determine fair market value of certificated aircraft given the uncertainty that would otherwise exist.

This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.