

ASSEMBLY BILL

No. 2073

Introduced by Assembly Member Canciamilla

February 19, 2002

An act to add Section 721.5 to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2073, as introduced, Canciamilla. Property taxation: state-assessed property.

The California Constitution requires the State Board of Equalization to assess the property, other than franchises, of companies transmitting or selling gas or electricity. Existing regulations require the board to assess an electric generation facility, for purposes of this constitutional provision, only if (1) the facility was constructed pursuant to a certificate of public convenience and necessity issued by the California Public Utilities Commission to the company that presently owns the facility or (2) the company owning the facility is a state assessee for reasons other than its ownership of the generation facility or its ownership of pipelines, flumes, canals, ditches, or aqueducts lying within 2 or more counties.

This bill would codify this board regulation, and invalidate any other regulations that are in conflict with the bill's provisions. This bill would also make legislative findings and declarations regarding the bill's purpose.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 721.5 is added to the Revenue and
2 Taxation Code, to read:

3 721.5. (a) An electric generation facility shall be assessed by
4 the board for purposes of Section 19 of Article XIII of the
5 California Constitution only if one of the following conditions is
6 met:

7 (1) The electric generation facility was constructed pursuant to
8 a certificate of public convenience and necessity issued by the
9 California Public Utilities Commission to the company that
10 presently owns the facility.

11 (2) The company that owns the electric generation facility is a
12 state assessee for reasons other than its ownership of the generation
13 facility or its ownership of pipelines, flumes, canals, ditches, or
14 aqueducts lying within two or more counties.

15 (b) This section shall be construed to supersede any regulation
16 that is contrary to this section.

17 (c) This section shall be effective for the assessment year
18 beginning on or after January 1, 2003, and each year thereafter.

19 SEC. 2. In enacting this act, the Legislature finds and declares
20 all of the following:

21 (a) Prior to the enactment of Chapter 854 of the Statutes of
22 1996, all electric generation facilities that were owned by public
23 utilities were assessed on a unitary basis by the State Board of
24 Equalization.

25 (b) This unitary assessment by the board was appropriate
26 because electric generation facilities were owned by public
27 utilities and, as such, were not treated as separate pieces of
28 property, but only as part of a utility's entire system of electric
29 production and distribution, including powerplants, high voltage
30 transmission lines, transformers, and local transmission lines.

31 (c) As part of the implementation of Chapter 854 of the Statutes
32 of 1996, new wholesale generators purchased existing electric
33 generation facilities from public utilities, and began construction
34 of new facilities.

35 (d) These wholesale generators are not regulated public
36 utilities under the Public Utilities Code.

37 (e) Electric generation facilities that are owned by wholesale
38 generators are not part of the retail electricity distribution system,



1 but rather are stand-alone facilities similar to an oil refinery,
2 cement plant, or other production facility.

3 (f) Consistent with Section 19 of Article XIII of the California
4 Constitution and longstanding board policy, in 1999, the board
5 enacted a regulation (18 Cal. Code Regs. 905) that required that
6 electric generation facilities not operated under a certificate of
7 public convenience and necessity be assessed by county assessors
8 on a nonunitary basis of valuation.

9 (g) County assessment of electric generation facilities owned
10 by wholesale generators will, in the long term, result in a higher,
11 more stable revenue source for local governments than state
12 assessment, and will lead to a distribution of property tax revenue
13 to local governments in a manner that is proportionate to the local
14 impacts of electric generation facilities.

15 (h) Local governments should retain control over the property
16 tax revenue generated by these facilities as a means of creating the
17 incentives for siting these plants within their jurisdictions.

18 (i) It is the intent of the Legislature in enacting this act to ensure
19 that county assessors continue to assess electric generation
20 facilities that are owned by wholesale generators, and that these
21 facilities be assessed on a nonunitary valuation basis.

