

Senate Bill No. 87

Passed the Senate August 21, 2007

Secretary of the Senate

Passed the Assembly July 20, 2007

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 441 and 452 of, to add Section 5368 to, to add Article 7 (commencing with Section 1160) to Chapter 5 of Part 2 of Division 1 of, and to repeal Section 17052.2 of, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 87, Committee on Budget and Fiscal Review. Taxation: fractionally owned aircraft: teacher retention credit.

Existing property tax law requires that aircraft, other than certificated aircraft, be valued and assessed only in the county in which it is habitually situated. Existing property tax law requires owners, as well as operators, of private and public airports, to provide the assessor of the county in which the airport is situated, with specified information regarding aircraft using the airport as a base, to be used by the assessor in the assessment of aircraft at market value.

This bill would instead provide a formula, based upon the number of landings in and departures from a county in proportion to landings and departures worldwide, to assess a fleet of fractionally owned aircraft, as defined, that would be taxed by the counties where the fleet lands. This bill would require that the fleet be assessed to the manager in control of the fleet, as specified. This bill would specify that this fleetwide assessment applies for the 2007–08 fiscal year and each fiscal year thereafter, and also to specified prior fiscal years. This bill would authorize the Aircraft Advisory Subcommittee of the California Assessors' Association to designate a lead county assessor's office for each manager of a fleet of fractionally owned aircraft in this state in an assessment year. If a lead county assessor's office is designated and that office accepts this designation, this bill would require this lead county assessor to calculate the value of a fleet of fractionally owned aircraft and to transmit these calculations to other county assessors, but would specify that each county assessor is responsible for assessing and enrolling the taxable value of the aircraft that has situs in his or her county, as provided. This bill would provide that

fractionally owned aircraft would be assessed under the provisions of the bill only if a designated lead county assessor's office accepts that designation. This bill would also authorize the lead county assessor's office to lead an audit team to audit each manager of a fleet of fractionally owned aircraft, and would require these managers to file a property statement solely with the lead county assessor's office, as provided. This bill would also require owners, as well as operators, of private and public airports to provide, upon the request of the assessor of the county in which the airport is situated, with specified information regarding aircraft utilizing the airport facilities.

Existing law requires taxpayers that meet certain criteria to file a property statement with the county assessor. Existing law requires the State Board of Equalization to prescribe the contents of this statement and to notify property tax assessors of these contents.

This bill would require the board to specify that these property statements contain information regarding the payment of California use tax and a notice to taxpayers that information provided on the statement may be shared with the board. This bill would require the board to implement this change in a manner that does not increase local costs.

The Personal Income Tax Law authorizes various credits against the taxes imposed by that law, including a credit, calculated on the basis of either years of service or a specified formula, to a credentialed teacher for each taxable year beginning on or after January 1, 2007.

This bill would repeal the provision that authorizes this credit.

This bill, by repealing an existing personal income tax credit, would result in a change in state taxes for the purpose of increasing revenue within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require, for passage, the approval of $\frac{2}{3}$ of each house of the Legislature.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. The Legislature finds and declares the following:

(a) A substantial portion of business aviation aircraft is now owned and operated under fractional ownership programs.

(b) Aircraft in fractional ownership programs have a significant presence in California.

(c) The size of some fractional ownership program fleets is quite large and the mix of ownership interests and unscheduled usage imposes a significant burden on both taxpayers and county assessors to assess and tax these fleets on an aircraft-by-aircraft basis; in order to reduce this burden, a simplified assessment approach is warranted.

(d) Section 1 of Article XIII of the California Constitution specifies that all nonexempt property is taxable. Therefore, fractionally owned aircraft are constitutionally required to be assessed.

(e) The purpose of Sections 2 and 4 of this act is to establish a simplified procedure for assessing fractionally owned aircraft that is appropriate and fair, that allocates assessed value among counties in a reasonable manner, and that reduces the administrative burden on taxpayers and county assessors.

SEC. 2. Section 441 of the Revenue and Taxation Code is amended to read:

441. (a) Each person owning taxable personal property, other than a manufactured home subject to Part 13 (commencing with Section 5800), having an aggregate cost of one hundred thousand dollars (\$100,000) or more for any assessment year shall file a signed property statement with the assessor. Every person owning personal property that does not require the filing of a property statement or real property shall, upon request of the assessor, file a signed property statement. Failure of the assessor to request or secure the property statement does not render any assessment invalid.

(b) The property statement shall be declared to be true under the penalty of perjury and filed annually with the assessor between the lien date and 5 p.m. on April 1. The penalty provided by Section 463 applies for property statements not filed by May 7. If May 7 falls on a Saturday, Sunday, or legal holiday, a property statement that is mailed and postmarked on the next business day shall be deemed to have been filed between the lien date and 5 p.m. on May 7. If, on the dates specified in this subdivision, the county's offices are closed for the entire day, that day is considered a legal holiday for purposes of this section.

(c) The property statement may be filed with the assessor through the United States mail, properly addressed with postage prepaid. For purposes of determining the date upon which the property statement is deemed filed with the assessor, the date of postmark as affixed by the United States Postal Service, or the date certified by a bona fide private courier service on the envelope containing the application, shall control. This subdivision shall be applicable to every taxing agency, including, but not limited to, a chartered city and county, or chartered city.

(d) (1) At any time, as required by the assessor for assessment purposes, every person shall make available for examination information or records regarding his or her property or any other personal property located on premises he or she owns or controls. In this connection details of property acquisition transactions, construction and development costs, rental income, and other data relevant to the determination of an estimate of value are to be considered as information essential to the proper discharge of the assessor's duties.

(2) (A) This subdivision shall also apply to an owner-builder or an owner-developer of new construction that is sold to a third party, is constructed on behalf of a third party, or is constructed for the purpose of selling that property to a third party.

(B) The owner-builder or owner-developer of new construction described in subparagraph (A), shall, within 45 days of receipt of a written request by the assessor for information or records, provide the assessor with all information and records regarding that property. The information and records provided to the assessor shall include the total consideration provided either by the purchaser or on behalf of the purchaser that was paid or provided either, as part of or outside of the purchase agreement, including, but not limited to, consideration paid or provided for the purchase or acquisition of upgrades, additions, or for any other additional or supplemental work performed or arranged for by the owner-builder or owner-developer on behalf of the purchaser.

(e) In the case of a corporate owner of property, the property statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign the statements on behalf of the corporation.

(f) In the case of property owned by a bank or other financial institution and leased to an entity other than a bank or other financial institution, the property statement shall be submitted by the owner bank or other financial institution.

(g) The assessor may refuse to accept any property statement he or she determines to be in error.

(h) If a taxpayer fails to provide information to the assessor pursuant to subdivision (d) and introduces any requested materials or information at any assessment appeals board hearing, the assessor may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in subdivision (c) of Section 1604 for a period of time equal to the period of the continuance.

(i) Notwithstanding any other provision of law, every person required to file a property statement pursuant to this section shall be permitted to amend that property statement until May 31 of the year in which the property statement is due, for errors and omissions not the result of willful intent to erroneously report. The penalty authorized by Section 463 does not apply to an amended statement received prior to May 31, provided the original statement is not subject to penalty pursuant to subdivision (b). The amended property statement shall otherwise conform to the requirements of a property statement as provided in this article.

(j) This subdivision shall apply to the oil, gas, and mineral extraction industry only. Any information that is necessary to file a true, correct, and complete statement shall be made available by the assessor, upon request, to the taxpayer by mail or at the office of the assessor by February 28. For each business day beyond February 28 that the information is unavailable, the filing deadline in subdivision (b) shall be extended in that county by one business day, for those statements affected by the delay. In no case shall the filing deadline be extended beyond June 1 or the first business day thereafter.

(k) The assessor may accept the filing of a property statement by the use of electronic media. In lieu of the signature required by subdivision (a) and the declaration under penalty of perjury required by subdivision (b), property statements filed using electronic media shall be authenticated pursuant to methods specified by the assessor and approved by the board. Electronic

media includes, but is not limited to, computer modem, magnetic media, optical disk, and facsimile machine.

(l) (1) After receiving the notice required by Section 1162, the manager in control of a fleet of fractionally owned aircraft shall file with the lead county assessor's office one signed property statement for all of its aircraft that have acquired situs in the state, as described in Section 1161.

(2) Flight data required to compute fractionally owned aircraft allocation under Section 1161 shall be segregated by airport.

(m) (1) After receiving the notice required by paragraph (5) of subdivision (b) of Section 1153.5, a commercial air carrier whose certificated aircraft is subject to Article 6 (commencing with Section 1150) of Chapter 5 shall file with the lead county assessor's office designated under Section 1153.5 one signed property statement for its personal property at all airport locations and fixtures at all airport locations.

(2) Each commercial air carrier may file one schedule for all of its certificated aircraft that have acquired situs in this state under Section 1151.

(3) Flight data required to compute certificated aircraft allocation under Section 1152 and subdivision (g) of Section 202 of Title 18 of the California Code of Regulations shall be segregated by airport location.

(4) Beginning with the 2006 assessment year, a commercial air carrier may file a statement described in this subdivision electronically by means of the California Assessor's Standard Data Record (SDR) network. If the SDR is not equipped to accept electronic filings for the 2006 assessment year, an air carrier may file a printed version of its property statement for that year with its lead county assessor's office.

(5) This subdivision shall remain in effect only until December 31, 2010, and as of that date is repealed.

SEC. 3. Section 452 of the Revenue and Taxation Code is amended to read:

452. (a) For the assessment year beginning in 1968 and each assessment year thereafter, the board shall prescribe in detail the content of property statements, including the specific wording, to be used by all assessors in the several counties, and cities and counties, and shall notify assessors of those specifications no later than the August 31 prior to the tax lien date on which they become

effective. Each assessor shall incorporate the specifications on the exact form he or she proposes to use and submit that form to the board for approval prior to use. The property statement shall not include any question that is not germane to the assessment function.

(b) (1) For property statements to be filed in the 2008 assessment year and each assessment year thereafter, the board shall prescribe that the property statement also include the following:

(A) A brief statement noting the obligation to pay use tax on taxable purchases for which sales tax was not applicable.

(B) Information regarding payment of use tax, which information may be limited to the board's phone number and a Web site address at which specific information and forms for use tax payment may be obtained.

(C) A statement advising the taxpayer that information provided on a property statement may be shared with the board.

(2) The board shall implement paragraph (1) in a manner that does not increase local costs.

SEC. 4. Article 7 (commencing with Section 1160) is added to Chapter 5 of Part 2 of Division 1 of the Revenue and Taxation Code, to read:

Article 7. Fractionally Owned Aircraft

1160. For purposes of this article, all of the following apply:

(a) The following terms have the following meanings:

(1) "Aircraft" has the same meaning as specified in Section 5303.

(2) "Fleet" means all aircraft operated by a manager of a fractional ownership program.

(3) "Fleet type" means aircraft classified by make, model, and series operated by a manager of a fractional ownership program.

(4) "Fractionally owned aircraft" or "aircraft operated in fractional ownership programs" means those aircraft registered with the Federal Aviation Administration as fractionally owned aircraft.

(5) "Landing" means physical contact involving the embarking or disembarking of crew, passengers, or freight, and that physical contact did not arise unintentionally as the result of an emergency.

(b) Revenues derived from the taxation of fractionally owned aircraft under this article shall be distributed in accordance with Chapter 6 (commencing with Section 5451) of Part 10 of this division.

(c) Fractionally owned aircraft shall be assessed under this article only if a lead county assessor accepts a designation as lead county assessor under Section 1162.

1161. (a) Notwithstanding any other law, fractionally owned aircraft that has situs in this state shall be assessed on a fleetwide basis to the manager in control of the fleet and a notice of that assessment shall be issued to that manager.

(1) Any fractionally owned aircraft that has been annually assessed for the fiscal years preceding the 2007–08 fiscal year shall be assessed under this article commencing with the 2007–08 fiscal year.

(2) For fractionally owned aircraft that have not been annually assessed for the fiscal years preceding the 2007–08 fiscal year, assessment under this article applies for the 2007–08 fiscal year and for each fiscal year thereafter, and for preceding fiscal years for which an assessment was not made, and for which a statute of limitations either does not apply or has been waived.

(b) A fleet of fractionally owned aircraft establishes situs in this state if an aircraft within the fleet makes a landing in the state.

(c) A fleet of fractionally owned aircraft shall be assessed on an allocated basis. An allocation factor shall be established in each county for each fleet type of fractionally owned aircraft for which situs in this state has been established as described in subdivision (b). This allocation factor is a fraction, the numerator of which is the total number of landings and departures made by the fleet type in the county during the previous calendar year and the denominator of which is the total number of landings and departures made by the fleet type worldwide during the previous calendar year.

1162. (a) On or before October 1, 2007, the Aircraft Advisory Subcommittee of the California Assessors' Association may designate a lead county assessor's office for each manager in control of a fleet of fractionally owned aircraft.

(b) If a lead county assessor's office is designated under subdivision (a), and that assessor's office accepts that designation,

the lead county assessor's office described in subdivision (a) shall do all of the following:

(1) Notify, in writing, each manager in control of a fleet of fractionally owned aircraft for which the lead county assessor has been designated of this designation on or before the first October 15 that follows that designation.

(2) Receive the property statement, as described in subdivision (l) of Section 441, of each manager in control of a fleet of fractionally owned aircraft for which the lead county assessor has been designated.

(3) Calculate, pursuant to Sections 5363 and 5364, an unallocated value of all fractionally owned aircraft for each manager in control of a fleet of fractionally owned aircraft for which the lead county assessor has been designated.

(4) Electronically transmit to the assessor of each county in which a fleet of fractionally owned aircraft has situs for the assessment year the value determined by the lead county assessor's office under paragraph (3) and the allocation factor described in subdivision (c) of Section 1161.

(5) Lead the audit team described in subdivision (d) when that team is conducting an audit of each manager in control of a fleet of fractionally owned aircraft for which the lead county assessor has been designated.

(c) (1) Notwithstanding subdivision (b), the county assessor of each county in which a fleet of fractionally owned aircraft has situs for an assessment year is solely responsible for assessing that property by multiplying the unallocated value of each fleet type by the allocation factor described in subdivision (c) of Section 1161, and enrolling the total allocated value for the fleet type. In appraising the unallocated value of the fleet type, the assessor may consult with the lead county assessor's office designated for that fleet.

(2) The lead county assessor's office is subject to Section 322 of Title 18 of the California Code of Regulations and Sections 408, 451, and 1606 to the same extent as the assessor described in paragraph (1).

(d) Notwithstanding Section 469, an audit of each manager in control of a fleet of fractionally owned aircraft may be conducted once every four years on a centralized basis by an audit team of auditor-appraisers from at least one, but not more than three,

counties, as determined by the Aircraft Advisory Subcommittee of the California Assessors' Association. An audit, so conducted, shall encompass all of the California personal property and fixtures of the manager of the fleet of fractionally owned aircraft and is deemed to be made on behalf of each county for which an audit would otherwise be required under Section 469.

SEC. 5. Section 5368 is added to the Revenue and Taxation Code, to read:

5368. Owners, as well as operators, of private and public airports shall provide, upon the request of the assessor of the county in which the airport is situated, a statement containing the make, model, aircraft registration number, and arrival and departure information of all aircraft utilizing the airport facilities.

SEC. 6. Section 17052.2 of the Revenue and Taxation Code is repealed.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to timely and properly implement the Budget Act of 2007.

Approved _____, 2007

Governor