

AMENDED IN SENATE APRIL 12, 2011

SENATE BILL

No. 536

Introduced by Senator DeSaulnier
(Coauthor: Assembly Member Buchanan)

February 17, 2011

An act to amend Section 100 of, and to add Section 100.96 to, the Revenue and Taxation Code, relating to local government finance, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 536, as amended, DeSaulnier. Property tax revenue allocations: public utilities: qualified property.

(1) 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 property tax law provides for the valuation, as a unit, of properties of a state assessee that are operated as a unit as a primary function of that assessee, and for the allocation of the assessed value of the unit among various counties in which the state assessee's unitary property is located. Existing law also provides, pursuant to specified formulas, for the application in each county of specified tax rates to unitary assessed value, and for the allocation among jurisdictions in that county of the resulting revenues.

This bill would, for the 2011–12 fiscal year and for each fiscal year thereafter, require that a specified amount of property tax revenues derived from applying a specified tax rate to qualified property, as defined, be allocated first to the county in which the qualified property is located and to all of the school entities located in that county, 2nd to the East Contra Costa Fire Protection District, and 3rd to specified

special districts, with the balance allocated to the redevelopment agency governing the project area in which the qualified property is located. This bill would also require that a specified amount of property tax revenues derived from applying another specified tax rate to the qualified property be first allocated to taxing jurisdictions in those tax rate areas in the county in which the qualified property is located, with the balance allocated to taxing jurisdictions pursuant to a specified formula. The bill would require the Oakley Redevelopment Agency to reimburse the county auditor for the actual and reasonable costs incurred by the county auditor in administering these allocations. The bill would also require the Oakley Redevelopment Agency to develop one new housing unit for each 40 jobs created on real property within the project area, as prescribed. By establishing new duties with respect to the annual allocation of property tax revenues derived from state-assessed property, this bill would create a state-mandated local program.

(2) This bill would make legislative findings and declarations as to the necessity of a special statute.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

- 1 SECTION 1. Section 100 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 100. Notwithstanding any other provision of law, commencing
- 4 with the 1988–89 fiscal year, property tax assessed value
- 5 attributable to unitary and operating nonunitary property, as defined
- 6 in Sections 723 and 723.1, that is assessed by the State Board of
- 7 Equalization shall be allocated by county as provided in Section
- 8 756, and the assessed value and revenues attributable to that
- 9 allocation shall be allocated within each county as follows:
- 10 (a) Each county shall establish one countywide tax rate area.
- 11 The assessed value of all unitary and operating nonunitary property

1 shall be assigned to this tax rate area. No other property shall be
2 assigned to this tax rate area.

3 (b) Property assigned to the tax rate area created by subdivision
4 (a) shall be taxed at a rate equal to the sum of the following two
5 rates:

6 (1) A rate determined by dividing the county's total ad valorem
7 tax levies for the secured roll, including levies made pursuant to
8 Section 96.8, for the prior year, exclusive of levies for debt service,
9 by the county's total ad valorem secured roll assessed value for
10 the prior year.

11 (2) A rate determined as follows:

12 (A) By dividing the county's total ad valorem tax levies for
13 unitary and operating nonunitary property for the prior year debt
14 service only by the county's total unitary and operating nonunitary
15 assessed value for the prior year.

16 (B) Beginning with the 1989–90 fiscal year, adjusting the rate
17 determined pursuant to subparagraph (A) by the percentage change
18 between the two preceding fiscal years in the county's ad valorem
19 debt service levy for the secured roll, not including unitary and
20 operating nonunitary debt service.

21 (c) The property tax revenue derived from the assessed value
22 assigned to the countywide tax rate area pursuant to subdivision
23 (a) and pursuant to paragraph (2) of subdivision (a) of Section
24 100.1 by the use of the tax rate determined in paragraph (1) of
25 subdivision (b) shall be allocated as follows:

26 (1) For the 1988–89 fiscal year and each fiscal year thereafter,
27 each taxing jurisdiction shall be allocated an amount of property
28 tax revenue equal to 102 percent of the amount of the aggregate
29 property tax revenue it received from all unitary and operating
30 nonunitary property in the prior fiscal year, exclusive of revenue
31 attributable to qualified property under Sections 100.95 and 100.96
32 and levies for debt service.

33 (2) If the amount of property tax revenue available for allocation
34 in the current fiscal year is insufficient to make the allocations
35 required by paragraph (1), the amount of revenue to be allocated
36 to each taxing jurisdiction shall be prorated based on a factor
37 determined by dividing the total amount of property tax revenue
38 available to all taxing jurisdictions from unitary and operating
39 nonunitary property in the current year, exclusive of revenue
40 attributable to levies for debt service, by the total amount of

1 property tax revenue received by all taxing jurisdictions from
2 unitary and operating nonunitary property in the prior fiscal year,
3 exclusive of revenue attributable to levies for debt service.

4 (3) If the amount of property tax revenue available for allocation
5 to all taxing jurisdictions in the current fiscal year from unitary
6 and operating nonunitary property, exclusive of revenue attributable
7 to qualified property under Sections 100.95 and 100.96 and levies
8 for debt service, exceeds 102 percent of the property tax revenue
9 received by all taxing jurisdictions from all unitary and operating
10 nonunitary property in the prior fiscal year, exclusive of revenue
11 attributable to qualified property under Sections 100.95 and 100.96
12 and levies for debt service, the amount of revenue in excess of 102
13 percent shall be allocated to all taxing jurisdictions in the county
14 by a ratio determined by dividing each taxing jurisdiction's share
15 of the county's total ad valorem tax levies for the secured roll for
16 the prior year, exclusive of levies for qualified property under
17 Sections 100.95 and 100.96 and levies for debt service, by the
18 county's total ad valorem tax levies for the secured roll for the
19 prior year, exclusive of levies for qualified property under Sections
20 100.95 and 100.96 and levies for debt service.

21 (d) The property tax revenue derived from the assessed value
22 assigned to the countywide tax rate area pursuant to subdivision
23 (a) and pursuant to paragraph (2) of subdivision (a) of Section
24 100.1 by the use of the tax rate determined in paragraph (2) of
25 subdivision (b) shall be allocated as follows:

26 (1) An amount shall be computed for each taxing jurisdiction
27 and shall be determined by multiplying the amounts required in
28 the current year pursuant to subdivisions (a) and (c) of Section 93
29 by that percentage that shall be determined by dividing the amount
30 of property tax revenue the jurisdiction received in the prior year
31 from unitary property and operating nonunitary property by the
32 total amount of property tax revenue the jurisdiction received in
33 the prior year from all property.

34 (2) The amount of property tax revenue available for allocation
35 pursuant to this subdivision shall be allocated among taxing
36 jurisdictions in the proportion that the amount computed for each
37 taxing jurisdiction pursuant to paragraph (1) bears to the total
38 amount computed pursuant to paragraph (1) for all taxing
39 jurisdictions.

1 (3) If a taxing jurisdiction is levying a tax rate for debt service
2 for the first time in the current fiscal year, for purposes of
3 determining the percentage specified in paragraph (1), that
4 percentage shall be the percentage determined by dividing the
5 amount of property tax revenue received by that taxing jurisdiction
6 in the prior year pursuant to subdivision (c) from unitary and
7 operating nonunitary property by the total amount of property tax
8 revenue received by that taxing jurisdiction in the prior year from
9 all property within the taxing jurisdiction.

10 (e) For purposes of this section:

11 (1) “The county’s total ad valorem tax levies for the secured
12 roll” means all ad valorem tax levies for the county’s secured roll,
13 including the general tax levy, levies for debt service (including
14 land only and land and improvement rates), and levies for
15 redevelopment agencies.

16 (2) “The county’s total ad valorem secured roll” means the
17 county’s local roll, after all exemptions except the homeowner’s
18 exemption, and the county’s utility roll.

19 (3) “Taxing jurisdiction” includes a redevelopment agency.

20 (4) In a county of the second class, for the 1992–93 fiscal year
21 and each fiscal year thereafter, “taxing jurisdiction” includes that
22 fund that has been designated by the auditor as the “Unallocated
23 Residual Public Utility Tax Fund.” All revenues allocated to that
24 fund pursuant to this section shall be deposited in that fund and
25 shall be distributed as follows:

26 (A) For the 1992–93 fiscal year to the 1996–97 fiscal year,
27 inclusive, at the discretion of the county board of supervisors.

28 (B) For the 1997–98 fiscal year, 100 percent to the Orange
29 County Fire Authority.

30 (C) For the 1998–99 fiscal year and each fiscal year thereafter,
31 in accordance with the following schedule:

32 (i) Fifty-seven and forty-seven hundredths percent to the Orange
33 County Fire Authority.

34 (ii) Forty-one and forty-seven hundredths percent to the Orange
35 County Library District.

36 (iii) Forty-eight hundredths percent to the Buena Park Library
37 District.

38 (iv) Fifty-eight hundredths percent to the Placentia Library
39 District.

1 (f) The assessed value of the unitary and operating nonunitary
2 property shall be kept separate for each state assessee throughout
3 the allocation process.

4 (g) Each state assessee shall be issued only one tax bill for all
5 unitary and operating nonunitary property within the county.

6 (h) This section applies to the unitary property of regulated
7 railway companies only to the extent described in Section 100.1.

8 (i) This section does not apply to property that on July 1, 1987,
9 was undeveloped and owned by a utility and located within a city,
10 county, or city and county that adopts a resolution stating that the
11 property is subject to a development plan or agreement and that
12 this section shall not apply to that property, and the city, county,
13 or city and county transmits a copy of that resolution, including a
14 legal description of the property, to the State Board of Equalization
15 and the county's auditor-controller prior to January 1, 1988.

16 (j) (1) For property that on July 1, 1990, was undeveloped and
17 owned by a utility and that is located within a city, county, or city
18 and county that adopts a resolution stating that the property is
19 subject to a development plan or agreement and that this
20 subdivision applies to that property, and the city, county, or city
21 and county transmits a copy of that resolution, including a legal
22 description of the property, to the county auditor prior to August
23 1, 1991, the allocation of property tax revenues derived with respect
24 to that property pursuant to Sections 96.1, 96.2, 97.31, 98, 98.01,
25 and 98.04, shall be subject to the allocation required by paragraph
26 (2).

27 (2) The county auditor shall annually allocate to a city, county,
28 or city and county, that has adopted and transmitted a resolution
29 pursuant to paragraph (1), the amount of property tax revenues
30 derived with respect to the property described in paragraph (1)
31 that would be allocated to that city, county, or city and county if
32 that property were subject to assessment by the county assessor.
33 In order to provide the allocations required by this paragraph, the
34 county auditor shall make any necessary pro rata reductions in
35 allocations to local agencies other than that city, county, or city
36 and county adopting and transmitting a resolution pursuant to
37 paragraph (1), of property tax revenues derived with respect to the
38 property described in paragraph (1).

39 (k) (1) For property subject to this section that is owned by a
40 utility that serves no more than two counties and is located within

1 a city, county, or city and county that adopts a resolution stating
2 that the property is subject to a development plan or agreement
3 for new construction and the city, county, or city and county
4 transmits a copy of that resolution, including a legal description
5 of the property, to the State Board of Equalization and the county
6 auditor prior to January 1, 2006, the allocation of property tax
7 revenues derived with respect to that property pursuant to Sections
8 96.1, 97.31, 98, 98.01, and 98.04, shall be subject to the
9 requirements of paragraph (2).

10 (2) If the city, county, or city and county has adopted and
11 transmitted a resolution pursuant to paragraph (1), the county
12 auditor shall annually allocate the property tax revenue attributable
13 to the new construction described in the development plan or
14 agreement, as if that new construction were subject to assessment
15 by the county assessor, according to the following formula:

16 (A) An amount of property tax revenue to school entities, as
17 defined in subdivision (f) of Section 95, equivalent to the same
18 percentage the school entities received in the prior fiscal year of
19 the property tax revenues paid by the utility in the county in which
20 the property described in paragraph (1) is located.

21 (B) An amount of property tax revenue to the county in which
22 the property is located equivalent to the same percentage the county
23 received in the prior fiscal year of the property tax revenues paid
24 by the utility in the county in which the property described in
25 paragraph (1) is located. The county shall distribute those property
26 tax revenues to the county general fund, the county library district,
27 the county flood control district, the county sanitation districts,
28 and the county service areas.

29 (C) The property tax revenue remaining after the allocations
30 described in subparagraphs (A) and (B) are made shall be
31 distributed to the city in which the property described in paragraph
32 (1) is located.

33 (3) In order to provide the allocations required by paragraph
34 (2), the county auditor shall make any necessary pro rata reductions
35 in allocations of property taxes attributable to the property specified
36 in paragraph (1) to jurisdictions other than those receiving an
37 allocation under paragraph (2).

38 (l) (1) For property subject to this section that is owned by a
39 utility that was constructed by a wholly owned subsidiary of the
40 utility prior to January 1, 2007, and placed in service by the utility

1 on or after January 1, 2007, and the property is located within a
2 redevelopment project area of a joint powers authority comprised
3 of cities and a county that adopts a resolution stating that the
4 property is subject to a redevelopment plan and the joint powers
5 authority transmits a copy of that resolution, including a legal
6 description of the property, to the State Board of Equalization and
7 the county auditor prior to January 1, 2011, the allocation of
8 property tax revenues derived with respect to that property shall
9 be subject to the requirements of subdivision (a) of Section 100.9.

10 (2) Notwithstanding any other law, the State Board of
11 Equalization may amend the tax rolls for the 2010–11 fiscal year
12 in order to provide the allocations required by paragraph (1).

13 (m) The amendments made to this section by the act that added
14 this subdivision apply for the 2007–08 fiscal year and for each
15 fiscal year thereafter.

16 (n) The amendments made to this section by the act that added
17 this subdivision apply for the 2010–11 fiscal year and for each
18 fiscal year thereafter.

19 SEC. 2. Section 100.96 is added to the Revenue and Taxation
20 Code, to read:

21 100.96. (a) Notwithstanding any other law, for the 2011–12
22 fiscal year and each fiscal year thereafter, all of the following shall
23 apply:

24 (1) The revenue from the property tax assessed on qualified
25 property, which is owned by a public utility and assessed by the
26 State Board of Equalization, shall be allocated in accordance with
27 subdivision (b) entirely within the county in which the qualified
28 property is located.

29 (2) The tax rate applied to the assessed value of qualified
30 property shall be the rate calculated pursuant to subdivision (b) of
31 Section 100.

32 (b) The county auditor shall do both of the following with
33 respect to the property tax revenues derived from applying the tax
34 rate described in subdivision (b) of Section 100 to the qualified
35 property:

36 (1) Allocate the property tax revenues derived from applying
37 the tax rate described in paragraph (1) of subdivision (b) of Section
38 100 as follows:

39 (A) First, to the county in which the qualified property is located
40 and to all of the school entities located in that county, the amount

1 of property tax revenues that would have otherwise been allocated
2 to the county and school entities or districts had this section not
3 been enacted.

4 (B) Second, to the East Contra Costa Fire Protection District,
5 an amount equal to 2 percent of the property tax revenues.

6 (C) Third, to any special district formed pursuant to Article 3
7 (commencing with Section 5500) of Chapter 3 of Division 5 of
8 the Public Resources Code, an amount of property tax revenues
9 equal to the amount of property tax revenues allocated to that
10 special district in the 2010–11 fiscal year.

11 (D) Fourth, to the redevelopment agency governing the project
12 area in which the qualified property is located, the balance of the
13 property tax revenues.

14 (2) Allocate the property tax revenues derived from applying
15 the tax rate described in paragraph (2) of subdivision (b) of Section
16 100 as follows:

17 (A) First, to taxing jurisdictions in those tax rate areas in the
18 county in which the qualified property is located, an amount
19 equivalent to the State Board of Equalization’s assessed value of
20 the qualified property for the year multiplied by any override rate
21 adopted by the local agency for the year.

22 (B) Second, the balance to taxing jurisdictions in accordance
23 with subdivision (d) of Section 100.

24 (3) In order to make the allocations required by this subdivision,
25 the county auditor shall make any necessary pro rata reductions
26 in the allocations of property tax revenues attributable to the
27 qualified property to jurisdictions other than those receiving an
28 allocation under this subdivision.

29 (c) The Oakley Redevelopment Agency shall reimburse the
30 county auditor for the actual and reasonable costs incurred by the
31 county auditor to administer this section.

32 (d) For purposes of this section, all of the following shall apply:

33 (1) “Qualified property” means both of the following:

34 (A) All plant and associated equipment, including substation
35 facilities and fee-owned land and easements, placed in service by
36 a public utility in the Oakley Redevelopment Project Area on or
37 after January 1, 2011, and related to the following:

38 (i) Electrical substation facilities that meet either of the
39 following conditions:

1 (I) The high-side voltage of the facility’s transformer is 50,000
2 volts or more.

3 (II) The substation facilities are operated at 50,000 volts or
4 more.

5 (ii) Electric generation facilities that have a nameplate generating
6 capacity of 50 megawatts or more.

7 (iii) Electric transmission line facilities of 200,000 volts or more.

8 (B) Any additions, modifications, reconditioning, or equivalent
9 replacements to the plant and associated equipment made after the
10 plant and associated equipment are placed into service.

11 (2) A public utility shall provide to the State Board of
12 Equalization a description of the qualified property in the form
13 prescribed by the board so that separate valuation can be
14 determined. The State Board of Equalization shall transmit to the
15 auditor of Contra Costa County the information necessary to
16 identify the qualified property and the corresponding assessed
17 value data necessary to make the property tax revenue allocations
18 required by this section.

19 (e) (1) The Oakley Redevelopment Agency shall develop one
20 new housing unit for each 40 jobs created on real property within
21 the project area that was, on September 1, 2010, owned by the
22 Dupont Corporation, commonly and formerly known as the Dupont
23 Antioch plant, and consisting of approximately 378 acres. This
24 obligation shall commence upon placing the qualified property in
25 service.

26 (2) All units newly developed pursuant to this section:

27 (A) Shall be affordable to, and occupied by, extremely low
28 income persons, as defined in the Community Redevelopment
29 Law (Part 1 (commencing with Section 33000) of Division 24 of
30 the Health and Safety Code).

31 (B) Shall comply with the requirements of the Community
32 Redevelopment Law (Part 1 (commencing with Section 33000)
33 of Division 24 of the Health and Safety Code), except as otherwise
34 provided in this section.

35 (C) Shall be completed and occupied no later than 10 years after
36 any number of units required pursuant to paragraph (1) is
37 determined pursuant to paragraph (3).

38 (D) May be located anywhere within the City of Oakley. The
39 number of units required by this section shall not be affected by
40 whether the units are within a project area, notwithstanding such

1 a requirement in the Community Redevelopment Law (Part 1
2 (commencing with Section 33000) of Division 24 of the Health
3 and Safety Code).

4 (E) May be used to satisfy the City of Oakley’s regional housing
5 needs allocation.

6 (3) The number of jobs created in the area specified in paragraph
7 (1) shall be determined as follows:

8 (A) The agency shall determine the number of jobs, full and
9 part time, existing in the area described in paragraph (1) six months
10 prior to the approval of an agency’s five-year implementation plan.
11 The agency shall use data from a state or federal agency in making
12 the determination. The number of units required pursuant to this
13 section shall be 1/40th of the number of jobs calculated and shall
14 be included in the first applicable implementation plan.

15 (B) For each subsequent implementation plan, the number of
16 additional units shall be based on the increase, if any, in the number
17 of jobs since the prior calculation.

18 SEC. 3. The Legislature finds and declares that a special law
19 is necessary, and that a general law cannot be made applicable
20 within the meaning of Section 16 of Article IV of the California
21 Constitution, in order to ensure that the Oakley Redevelopment
22 Agency receives sufficient ~~tax increment~~ funding to repay loans,
23 or moneys advanced to, or indebtedness incurred by, the
24 redevelopment agency to finance or refinance redevelopment
25 projects.

26 SEC. 4. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 this act provides for reimbursement to a local agency in the form
29 of additional revenues that are sufficient in amount to fund the
30 new duties established by this act, within the meaning of Section
31 17556 of the Government Code.

32 SEC. 5. This act is an urgency statute necessary for the
33 immediate preservation of the public peace, health, or safety within
34 the meaning of Article IV of the Constitution and shall go into
35 immediate effect. The facts constituting the necessity are:

36 In order to ensure that the Oakley Redevelopment Agency
37 receives sufficient ~~tax increment~~ funding to repay loans, or moneys
38 advanced to, or indebtedness incurred by, the redevelopment

- 1 agency to finance or refinance redevelopment projects, it is
- 2 necessary that this act take effect immediately.

O