AMENDED IN SENATE JUNE 1, 2010

AMENDED IN SENATE APRIL 14, 2010

SENATE BILL No. 1398

Introduced by Senator DeSaulnier
(Coauthor: Assembly Member Buchanan)

February 19, 2010

An act to amend Section 100 of, and to add Section 100.96 to, the Revenue and Taxation Code, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1398, 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~~ *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 ~~first~~ allocated *first* to the county in which the qualified property is located and ~~the K-12 school district or districts that serve the parcel or parcels on which the qualified property is located~~ *to all of* *the school entities located in that county and 2nd to the East Contra Costa Fire Protection District*, with the balance allocated to the redevelopment agency governing the project area in which the qualified property is located. ~~This bill would require the revenues received by the redevelopment agency to be included in that redevelopment agency's tax increment for the year.~~ 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.*

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

(3) 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.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(4) This bill would change the pro rata shares in which ad valorem property tax revenues are allocated among local agencies in a county, within the meaning of paragraph (3) of subdivision (a) of Section 25.5 of Article XIII of the California Constitution, and thus would require for passage the approval of ⅔ of the membership of each house of the Legislature.

Vote: ⅔. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. Section 100 of the Revenue and Taxation Code is amended to read:

100. Notwithstanding any other provision of law, commencing with the 1988–89 fiscal year, property tax assessed value

attributable to unitary and operating nonunitary property, as defined in Sections 723 and 723.1, that is assessed by the State Board of Equalization, shall be allocated by county as provided in Section 756, and the assessed value and revenues attributable to that allocation shall be allocated within each county as follows:

(a) Each county shall establish one countywide tax rate area. The assessed value of all unitary and operating nonunitary property shall be assigned to this tax rate area. No other property shall be assigned to this tax rate area.

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

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

(2) A rate determined as follows:

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

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

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

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

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

(3) If the amount of property tax revenue available for allocation to all taxing jurisdictions in the current fiscal year from unitary and operating nonunitary property, exclusive of revenue attributable to qualified property under Sections 100.95 and 100.96 and levies for debt service, exceeds 102 percent of the property tax revenue received by all taxing jurisdictions from all unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to qualified property under Sections 100.95 and 100.96 and levies for debt service, the amount of revenue in excess of 102 percent shall be allocated to all taxing jurisdictions in the county by a ratio determined by dividing each taxing jurisdiction's share of the county's total ad valorem tax levies for the secured roll for the prior year, exclusive of levies for qualified property under Sections 100.95 and 100.96 and levies for debt service, by the county's total ad valorem tax levies for the secured roll for the prior year, exclusive of levies for qualified property under Sections 100.95 and 100.96 and levies for debt service.

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

(1) An amount shall be computed for each taxing jurisdiction and shall be determined by multiplying the amounts required in the current year pursuant to subdivisions (a) and (c) of Section 93 by that percentage that shall be determined by dividing the amount of property tax revenue the jurisdiction received in the prior year from unitary property and operating nonunitary property by the

total amount of property tax revenue the jurisdiction received in the prior year from all property.

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

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

(e) For purposes of this section:

(1) "The county's total ad valorem tax levies for the secured roll" means all ad valorem tax levies for the county's secured roll, including the general tax levy, levies for debt service (including land only and land and improvement rates), and levies for redevelopment agencies.

(2) "The county's total ad valorem secured roll" means the county's local roll, after all exemptions except the homeowner's exemption, and the county's utility roll.

(3) "Taxing jurisdiction" includes a redevelopment agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The county auditor shall annually allocate to a city, county, or city and county, that has adopted and transmitted a resolution pursuant to paragraph (1), the amount of property tax revenues derived with respect to the property described in paragraph (1) that would be allocated to that city, county, or city and county if that property were subject to assessment by the county assessor.

In order to provide the allocations required by this paragraph, the county auditor shall make any necessary pro rata reductions in allocations to local agencies other than that city, county, or city and county adopting and transmitting a resolution pursuant to paragraph (1), of property tax revenues derived with respect to the property described in paragraph (1).

(k) (1) For property subject to this section that is owned by a utility that serves no more than two counties and is located within a city, county, or city and county that adopts a resolution stating that the property is subject to a development plan or agreement for new construction and the city, county, or city and county transmits a copy of that resolution, including a legal description of the property, to the State Board of Equalization and the county auditor prior to January 1, 2006, the allocation of property tax revenues derived with respect to that property pursuant to Sections 96.1, 97.31, 98, 98.01, and 98.04, shall be subject to the requirements of paragraph (2).

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

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

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

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

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

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

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

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

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

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

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

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

(A) First, to the county in which the qualified property is located ~~and the K-12 school district or districts that serve the parcel or parcels on which the qualified property is located, the amount of~~ *and to all of the school entities located in that county, the amount of* property tax revenues that would have otherwise been allocated to ~~that county and K-12 school district~~ *the county and school entities* or districts had this section not been enacted.

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

~~(B) Second,~~

(C) (i) Third, to the redevelopment agency governing the project area in which the qualified property is located, the balance of the

property tax revenues, which shall be included in that redevelopment agency's tax increment for the year.

(ii) The property tax revenues allocated to the redevelopment agency pursuant to clause (i) shall not be construed as either of the following:

(I) Property tax revenues allocated to the redevelopment agency pursuant to Section 33670 of the Health and Safety Code.

(II) Property tax increment for purposes of Sections 33334.2, 33401, 33607, 33607.5, 33607.7, 33670, or 33676 of the Health and Safety Code, or any other law that provides for set asides, allocations, payments for special purposes, or pass-through payments to other agencies.

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

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

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

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

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

~~(c)~~

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

(1) "Qualified property" means both of the following:

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

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

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

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

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

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

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

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

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

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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