

[Senate Bill 815](#) (Budget and Fiscal Review Committee)

[Assembly Bill 107](#) (Budget Committee)

Date: August 27, 2020

Program: Property Taxes

Sponsor: Author

Revenue and Taxation Code Sections 1604, 1616 and 1752.4

Effective: Upon chaptering

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***This analysis is limited to the property tax provisions.***

**Summary:** These budget trailer bills extend to March 31, 2021 the two-year deadline by which an assessment appeals board is required to render a final determination on a qualified application. They also provide that nothing in existing law shall be construed to prohibit an assessment appeals board or a multijurisdictional assessment appeals board from conducting hearings remotely.

**Fiscal Impact Summary:** Indeterminable.

**Existing Law:** Under article XIII, section [1](#), of the California Constitution, all property is taxable and assessed at fair market value, unless otherwise provided by the California Constitution or the laws of the United States. Under article XIII A (aka Proposition 13), real property is reassessed to current market value when real property undergoes a change in ownership or new construction is completed (called the base year value).<sup>1</sup> Annual inflationary increases in base year values are limited to 2 percent or the inflation rate, whichever is less (called the "adjusted base year value"). When the market value of real property drops below its adjusted base year value, the assessor can temporarily lower the property's assessed value to its current market value.<sup>2</sup>

Personal property is not subject to the Proposition 13 limits but is annually assessed at its current market value.<sup>3</sup>

When a property owner disagrees with a property's value, the property owner can appeal that value with the county appeals board.

In each county, the County Board of Supervisors either sits as a local board of equalization or appoints an assessment appeals board to hear property tax appeals.<sup>4</sup> Existing law also allows counties to enter into an agreement to form a multijurisdictional appeals board to hear property tax appeals.<sup>5</sup>

**Hearings.** Existing law<sup>6</sup> requires the Los Angeles County Assessment Appeals Board to meet annually on the fourth Monday in September and to continue to meet, as necessary, until property tax appeals are disposed of. Similarly, all other counties are required to annually meet on the third Monday in July and to continue to meet, as necessary, until property tax appeals are disposed of. Appeal hearings are open and

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<sup>1</sup> California Constitution, article XIII A, [section 2](#); Revenue and Taxation Code (RTC) section [110.1](#).

<sup>2</sup> RTC section [51](#)(a).

<sup>3</sup> California Constitution, article XIII, [section 2](#); RTC section [110](#)(a).

<sup>4</sup> California Constitution, article XIII, section [16](#).

<sup>5</sup> RTC sections [1750 – 1756](#).

<sup>6</sup> RTC section [1604](#)(a) and Property Tax Rule [309](#)(a).

*This staff analysis is provided to address various administrative, cost, revenue, and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.*

public, with certain exceptions.<sup>7</sup> Before making any reduction in value, existing law requires the appeals board<sup>8</sup> to examine, on oath, the person affected or agent making the application regarding the value of the property. Under certain circumstances, the appeals board may waive the examination of the person or agent.<sup>9</sup> Property Tax Rule [317](#) requires an applicant to appear personally at the hearing or be represented by an agent, unless the appearance has been waived by the appeals board.

**Decision.** If an appeals board fails to make a final determination on an application for reduction in assessment within two years of the timely filing of the application, the taxpayer's opinion of value as reflected on the application must be enrolled on the assessment roll for the tax year(s) covered by the application, until a final determination is made.<sup>10</sup> The taxpayer and the appeals board may mutually agree to extend this two-year period. When the appeals board makes a final determination on the application, the value determined by the appeals board is entered on the assessment roll for the fiscal year in which the value is determined.

### **Proposed Law:**

**Two-Year Period Decision Period.** These bills extend to March 31, 2021 the two-year deadline by which an appeals board is required to render a final determination on an application that was timely filed and has a two-year deadline occurring during the period beginning on March 4, 2020 and before March 31, 2021. (*RTC section 1604.*)

**Remote Hearings.** These bills provide that nothing in existing law shall be construed to prohibit an appeals board or a multijurisdictional assessment appeals board from conducting hearings remotely. Remotely conducted hearings include, but are not limited to:

- Use of video, audio, and telephonic means for remote appearances,
- Electronic exchange and authentication of documentary evidence,
- Use of remote interpreting, and
- Use of remote reporting and electronic recording to make the official record of an action or proceeding.

If an appeals board or multijurisdictional appeals board conducts a hearing remotely, these bills require that the hearings comply with the appeals provisions of the Revenue and Taxation Code<sup>11</sup> and any rules and procedures adopted by the county board of supervisors pursuant to article XIII, section 16, of the California Constitution. (*New RTC sections 1616 and 1752.4.*)

**In General:** Property owners can appeal the value of the property appearing on the regular assessment roll by filing an *Assessment Appeal Application*<sup>12</sup> for changed assessment during the regular assessment filing period with the Clerk of the County Board of Supervisors. The regular assessment filing period is

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<sup>7</sup> RTC section [1605.4](#).

<sup>8</sup> For purposes of this analysis, the term "assessment appeals board" or "appeals board" includes both a County Board of Supervisors sitting as a county board of equalization and an assessment appeals board appointed by the County Board of Supervisors, as well as a multijurisdictional assessment appeals board.

<sup>9</sup> RTC sections [1607](#) and [1608](#) and Property Tax Rule [316](#).

<sup>10</sup> RTC section 1604(c) and (d) and Property Tax Rule 309(b) and (c).

<sup>11</sup> Chapters [1](#) (sections 1601-1721) and [1.5](#) (sections 1750-1756) of Part 3 of the Revenue and Taxation Code.

<sup>12</sup> [BOE-305-AH](#).

July 2 through either September 15 or November 30. The earlier deadline applies in counties where the assessor has provided an assessment notice by August 1 to all taxpayers on the secured roll.<sup>13</sup>

Assessments made outside the regular assessment period (supplemental assessments and escape assessments) may be appealed within 60 days after the date the notice of change in assessment is mailed. An exception exists in Los Angeles County and in any other county where the County Board of Supervisors has adopted an alternative resolution. In these counties, such assessments may be appealed within 60 days of the date of mailing printed on the tax bill or the postmark date, whichever is later. For disaster relief assessment appeals, a claim must be filed within six months of the reassessment notice.

Once an assessment appeal application is timely filed, the appeals board has two years from the date of filing to make a final determination on that application. If an appeals board fails to make a final determination within two years of the timely filing of the application, the taxpayer's opinion of value as reflected on the application must be enrolled on the assessment roll until a final determination is made.

**Background:** At the BOE hearing on [August 18-19](#), 2020, a lengthy discussion was held regarding the impact of COVID-19 on appeals boards, specifically regarding the challenges, opportunities, and perspectives on the following three items:

- Current status of remote procedural and evidentiary hearings
- Examination of business continuity plans
- Remote hearings

Speakers represented the Judicial Council of California, Superior Court judges, administrative law judges, the Office of Tax Appeals, the California Association of Clerks and Election Officials, the California Assessors' Association, and the California Alliance of Taxpayer Advocates.

**Legislative History.** In 1994, SB 95 (Kopp) proposed the addition of section 1604.1 to the RTC to allow counties to adopt an ordinance to extend the two-year period to three years for appeal applications that were filed between January 1, 1995 and June 30, 1995. This bill was vetoed.

### Commentary:

1. **COVID-19.** Many county offices are temporarily closed because of the COVID-19 virus. As a result, assessment appeals boards have postponed and continued appeals that were pending and/or in process when offices closed. These closures have increased the backlog of appeals that will have to be scheduled, heard, and finalized on a timely basis when county buildings reopen.
2. **Governor's Executive Order N-72-20.** On July 31, 2020, Governor Newsom issued Executive Order [N-72-20](#) extending the two-year deadline within which an appeals board must make a decision. This executive order states:

Notwithstanding Revenue and Taxation Code section 1604 or any other law, for any pending assessment appeal filed with a County Assessment Appeals Board on or before March 4, 2020, the deadline within which the County Assessment Appeals Board must render a decision is hereby extended until January 31, 2021.

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<sup>13</sup> A listing of assessment appeal filing deadlines by county is posted on the State Board of Equalization's (BOE) website at [www.boe.ca.gov/proptaxes/pdf/filingperiods.pdf](http://www.boe.ca.gov/proptaxes/pdf/filingperiods.pdf).

As a result of this Executive Order, an appeals board has until January 31, 2021 to render a determination for any appeal application that was timely filed prior to March 4, 2020, and with a two-year deadline that falls between, and including, July 31, 2020 and January 31, 2021.<sup>14</sup> These bills codify and make retroactive the Governor's Executive Order, extending to March 31, 2021, the two-year deadline by which a county board is required to render a final determination on a qualified application.<sup>15</sup>

3. **Limited Applicability.** These bills extend the two-year decision period for qualified applications that were timely filed and have a two-year deadline occurring during the period beginning March 4, 2020 and before March 31, 2021. Effectively, this extension applies only to appeal applications that were timely filed beginning March 4, 2018 through March 30, 2019 and which are still pending. This measure will not impact those appeals filed before or after this period.
4. **Temporary Extension.** For timely filed appeals that have a two-year decision deadline occurring during the period beginning March 4, 2020 through March 30, 2021, the assessment appeals board would have until March 31, 2021 to make a decision on those applications that are still pending.
5. **Waiver to Extend Two-Year Decision Period.** Existing law<sup>16</sup> allows a taxpayer and an appeals board to mutually agree to an extension of time for hearing and determination past the two-year limitation.
6. **Remote Hearings.** These bills provide that nothing in existing law prohibits an appeals board or a multijurisdictional assessment appeals board from conducting hearings remotely, as long as hearings comply with the appeals provisions of the Revenue and Taxation Code and any rules and procedures adopted by the County Board of Supervisors. Issues surrounding remote hearings at various levels of government were discussed at the BOE's August 18-19 hearing.
7. **Related Legislation.** [Assembly Bill 3373](#) proposes to authorize a County Board of Supervisors to create as many assessment appeals boards as is necessary to timely process, hear, and dispose of property tax appeals.

**Costs:** The BOE would incur absorbable costs to update its website and notify county assessors and assessment appeals boards.

**Revenue Impact:** These bills do not have a direct revenue impact, but could have an undeterminable effect on property tax revenue to the degree that it impacts the timing of actions of appeals boards. Without this extension, the taxpayer's opinion of value will be placed on the assessment roll for the year(s) covered by the appeal if the appeals board is unable to make a determination within the two-year period (unless a waiver is signed), thus affecting revenue. However, this measure is limited to those applications whose two-year deadline expires during the period beginning March 4, 2020 through March 30, 2021.

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<sup>14</sup> See Letter To Assessors No. [2020/036](#).

<sup>15</sup> Assembly Budget Committee [Analysis](#).

<sup>16</sup> RTC section 1604(c)(1).