

**STATE BOARD OF EQUALIZATION  
GOVERNANCE POLICY-DRAFT**

**STATE BOARD OF EQUALIZATION**

**GOVERNANCE POLICY**

**STATE BOARD OF EQUALIZATION**



**BOARD APPROVED**

At the February 26, 2019 Board Meeting

  
Acting Chief, Board Proceedings Division

# **STATE BOARD OF EQUALIZATION GOVERNANCE POLICY-DRAFT**

## **STATE BOARD OF EQUALIZATION**

### **GOVERNANCE POLICY**

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# STATE BOARD OF EQUALIZATION GOVERNANCE POLICY-DRAFT

## I. PURPOSE

This Governance Policy is established to:

- A. Set forth the policies that govern the State Board of Equalization (the “Board”) consistent with its constitutional and statutory responsibilities.
- B. Guide the Board in managing the effectiveness and integrity of the Board's processes, including oversight, accountability, transparency, efficiency, and decision-making.
- C. Identify and distinguish between the roles of the Board, Board Chair and Vice Chair, Board Members, and Executive Director.

This Governance Policy applies to both Board Members and their staff.

## II. MISSION STATEMENT

The mission of the Board is to serve the public through fair, effective, and efficient tax administration.

## III. THE BOARD

Established in 1879 by a constitutional amendment, the Board was initially charged with responsibility for ensuring that county property tax assessment practices were equal and uniform throughout the state. Over the years, the California Legislature expanded the Board’s subject matter to include many taxes and fees. In 2017 and 2018, the Legislature created two new tax administration and appeals agencies, reassigning some of the Board’s tax functions. As a result, the Board has rededicated itself to focusing on its historical responsibility of property tax oversight and its constitutional responsibilities.

As the nation's only elected tax commission, the Board’s five elected members serve concurrent four-year terms. Their popular election ensures that the Board's tax program administration remains directly accountable to the people. Four members are elected by district. The fifth member, the State Controller, is elected at large and serves in an ex officio capacity.

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## IV. TAX PROGRAMS

The California Constitution and the Revenue and Taxation Code vests in the Board a role in the administration of three tax programs; (1) Alcoholic Beverage Tax, (2) Tax on Insurers, and (3) Property Tax.

The Board also hears various appeals:

- State Assessed Property Appeals
- Appeals of Denials of Organizational Clearance Certificates/Supplemental Clearance Certificates
- Tax on Insurers Appeals
- Alcoholic Beverage Tax Appeals
- Appeals relating to Section 11 Property (Lands owned by local governments that are outside their boundaries.)
- Appeals filed by county assessors of appraisals made by the Property Tax Sampling Program

In addition to administering these programs, the Board plays a critical role with regard to California property taxes. The Board acts in an oversight capacity to ensure compliance by county assessors with property tax laws, regulations, and assessment issues. To perform the oversight functions, the Board's Property Tax Department conducts periodic compliance audits (surveys) of the 58 county assessors' programs and develops property tax assessment policies and informational materials to guide county assessors and local assessment appeals boards.

## V. GOVERNANCE PRINCIPLES

The following governance principles will guide the conduct, decision-making, and behavior of the Board and provide a framework for the development of policies and practices that will drive the achievement of the Board's goals:

### A. Ethical Leaders

Together, the Board Members and the Executive Director set the tone that permeates the organization. The Board Members and the Executive Director shall share values, communicate about what is important, and work together with mutual respect in a constructive partnership. The Executive Team, which is selected and directed by the Executive Director, will embrace the same values of respect and partnership.

### B. Open and Accountable

The Board Members and Executive Director are accountable to the Legislature and taxpayers for assessing and collecting the proper amount of taxes due. The Board Members

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and the Executive Director shall be appropriately open in the way key decisions are made and publicly disclosed.

## **VI. CONFORMITY WITH STATE LAW AND AVOIDANCE OF CONFLICTS OF INTERESTS**

Board Members will, at all times, act in the best interest of the State of California and its taxpayers. As such, Board Members shall adhere to state laws, including the following:

### **A. Bagley-Keene Open Meeting Act**

(Government Code section 11120 et seq.)

Board Members are subject to the requirements of the Bagley-Keene Open Meeting Act. A meeting includes any congregation of a majority of the members at the same time and place to hear, discuss, and deliberate upon any item within the subject matter jurisdiction of the state body.

A majority of the Board Members will not, outside an authorized meeting, use a series of communications of any kind, either directly or through intermediaries, to discuss, deliberate, or take action on any item of business within the Board's jurisdiction.

Board Members will avoid what is commonly referred to as a "serial meeting." This is the situation where instead of the Board Members meeting at one time, there is a series of meetings or phone calls, or emails (directly or through intermediaries) that collectively involve a quorum of Board Members.

### **B. Conflicts of Interest**

It is the policy of the Board of Equalization (BOE) to be committed to service and accountable to the public. The public's confidence can be maintained only to the extent that the BOE's official activities and contacts with the public reflect the highest ethical and moral standards.

Board Members will not act where there may be a conflict of interest or appearance of a conflict of interest, unless legally required to do so. A conflict of interest is understood to be a situation where a relationship exists that could reasonably be expected to diminish independence of judgment in performance of official responsibilities as a Board Member.

Board Members will not seek nor accept any compensation or political contributions that would violate California law, including without limitation: the Quentin L. Kopp Conflict of Interest Act of 1990 (Government Code section 15626), the Political Reform Act of 1974 (Government Code sections 81000, et seq.), and the Code of Ethics (Government Code sections 8920 et seq.). Conflict of interest shall include receipt of compensation or gifts

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from private persons or firms for advice or other services relating to the taxation or assessment of property.

## **1. Conflicts of Interest (Political Reform Act of 1974)**

(Government Code section 87100 et seq.)

No Board Member shall make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision in which the Member knows or has reason to know he or she has a financial interest.

(Government Code section 87100.)

Prior to participating in any proceeding before the Board, the Board Member will consider whether it is reasonably foreseeable that the governmental decision will have a financial effect on the Member's financial interests. If the personal financial effect is material and distinguishable from any effect that would apply to the public generally, the Board Member will refrain from making, participating in making, or in any way attempting to use their position to influence the outcome of the decision.<sup>1</sup>

## **2. Quentin L. Kopp Conflict of Interest Act of 1990**

(Government Code section 15626)

Board Members may not participate in adjudicatory proceedings in which they have received a disqualifying contribution of \$250 or more.<sup>2</sup>

Prior to rendering any decision in any adjudicatory proceeding pending before the Board, each Member who knows or has reason to know that he or she received a contribution or contributions within the preceding 12 months in an aggregate amount of two hundred fifty dollars (\$250) or more from a party or his or her agent, or from any participant or his or her agent, shall disclose that fact on the record of the proceeding pursuant to Government Code section 15626.

No Board Member shall make, participate in making, or in any way attempt to use his or her official position to influence the decision in any adjudicatory proceeding pending before the Board if the Member knows or has reason to know that he or she received a contribution or contributions in an aggregate amount of two hundred fifty dollars (\$250) or more within the preceding 12 months from a party or his or her agent, or from any participant or his or her agent, and if the Member knows or has reason to know that the participant has a financial interest in the decision, as that term is used in Article 1 (commencing with Government Code section 87100) of Chapter 7 of Title 9. However, a Member may participate in making the decision in

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<sup>1</sup> Except if a Member's participation is legally required for Board Action. (Government Code section 87101.)

<sup>2</sup> Except if a Member's participation is legally required for Board Action. (Government Code section 15626(i)(5).)

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any adjudicatory proceeding provided the contribution has been returned in the manner provided in Government Code section 15626 (d).

Violation of this provision by any Member of the Board shall constitute malfeasance in office. (Government Code section 15625.)

### **3. Incompatible Activities and Ethical Guidelines for Professional Conduct** (Government Code sections 8920 and 19990)

Board Members shall comply with the Code of Ethics by not having any interest, financial or otherwise, direct or indirect, or engaging in any business or transaction or professional activity, or incurring any obligation of any nature, that is in substantial conflict with the proper discharge of his or her duties in the public interest and of his responsibilities as prescribed in the laws of this state.  
(Government Code section 8920.)

Board Members and staff shall not engage in any gainful profession, trade, business or occupation whatsoever for any person, firm or corporation, or be so engaged in their own behalf, which profession, trade, business or occupation is incompatible or involves a conflict of interest with their property tax duties as members and employees of the board. (Government Code section 19990.)

Board Members and staff will abide by the Board of Equalization's Incompatible Activities Policy and Ethical Guidelines for Professional Conduct.

### **C. Mass Mailing at Public Expense** (Government Code section 89001)

Pursuant to the Political Reform Act, a Board Member will not mail newsletters and mass mailings at public expense (Government Code sections 89001 and 89002). A mass mailing is defined as "over two hundred substantially similar pieces of mail" not including a "form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry" (Government Code section 82041.5). This prohibition focuses on those mailings featuring or including the name, office, photograph, or other reference to an elected official affiliated with the agency producing or sending the mailer (Government Code section 89002). Additionally, the prohibition applies to mailings that are campaign related, sent by governmental agencies and paid for with public moneys (See the Fair Political Practices Commission Regulations, Title 2, Division 6, section 18901.1). Pursuant to the pre-election

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mail policy adopted by the Board on November 17, 2016, Board Members are restricted from any mailing 60 days prior to a general or primary election.<sup>3</sup>

### **D. Behested Payments**

(Government Code sections 82004.5, 82041.3, and 82442)

Board Members will not seek nor accept any gifts (as defined in the California Political Reform Act), or reimbursement for travel or any other activity, that are prohibited pursuant to the Political Reform Act of 1974 (Government Code section 81000 et seq.), the Board's Statement of Activities That Are Inconsistent, Incompatible, or in Conflict with the Duties of a Board Member and/or any other applicable Board policies.

The Political Reform Act of 1974 provides that behested payments are permissible, so long as they are not made for personal or campaign purposes. Board Members receiving behested payments totaling \$5,000 or more from a single source in a calendar year are required to report the behested payment on California Form 803 within 30 days of the payments.

### **E. Gift and Travel Restrictions and Limitations**

(Government Code sections 86201-86206 and 89501-89506)

The Political Reform Act imposes limits and other restrictions on gifts and the receipt of travel payments by Board Members and employees who are designated in the agency's Conflict of Interest Code (COI Code). Board Members and staff designated in the COI Code cannot accept a gift or gifts totaling more than \$10 in a calendar month from any individual who is registered as a lobbyist under state law.

Board Members are prohibited from receiving a gift or gifts totaling more than \$470 (Effective January 1, 2017 – December 31, 2018; \$500 effective January 1, 2019—December 31, 2020) in a calendar year from any source.

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<sup>3</sup> November 17, 2015 Customer Service Committee Minutes, [Pre-Election Mail Policy](#).

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Board Members are prohibited from receiving honoraria payments. An honorarium is a payment received for making a speech, publishing an article, or attending any public or private conference, convention, meeting, social event, meal, or similar gathering.

## **F. Statement of Economic Interest**

(Government Code sections 87200 & 87500)

The Political Reform Act requires Board Members to make a full disclosure of all economic interests located within California. Investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during a covered period must be reported.

## **G. Use of State Resources**

(Government Code section 8314)

Pursuant to Government Code section 8314, it is unlawful for a Board Member to use or permit others to use state resources for a campaign activity, or personal or other purposes which are not authorized by law. A state resource means any property or asset owned by the state or any local agency, including, but not limited to, land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and state-compensated time (Government Code section 8314 subdivision (b)(3).) Staff time of Board employees, including those on a Board Member's staff, is considered a state resource.

The use of state resources is appropriate and consistent with state law when it has a meaningful connection to the Board's areas of responsibility, and the use of that resource is not for a personal or campaign purpose.

Board Members are not free to spend public funds for any public purpose they choose. Appropriated funds may only be utilized in accordance with the Board's constitutional or legislative purpose. (*Stanson v. Mott* (1976) 17 Cal. 3d 206, 213).

## **VII. ROLE AND POWERS OF THE BOARD**

### **A. The Board shall do all of the following:**

1. Prescribe rules for its own government and for the transaction of its business.
2. Hold meetings each month at times and places within the state as the Chair directs. At least one regular meeting shall be held in Sacramento each quarter.
3. Meet at least once annually with the county assessors to study or discuss property tax issues and to promote uniformity of procedure throughout the State of California.

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4. Keep a record of all its proceedings.
5. Review, equalize, or adjust property tax assessment pursuant to Section 11 of Article XIII of the California Constitution.
6. Measure the county assessment levels and adjustment of secured local assessment rolls pursuant to Section 18 of Article XIII of the California Constitution.
7. Provide for the assessment of pipelines, flumes, canals, ditches, and aqueducts lying within two or more counties and property, except franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the state, and companies transmitting or selling gas or electricity pursuant to Section 19 of Article XIII of the California Constitution, as well as the equalization of that assessment.
8. Provide for the assessment of taxes on insurers pursuant to Section 28 of Article XIII of the California Constitution.
9. Provide for the assessment and collection of excise taxes on the manufacture, importation, and sale of alcoholic beverages in this state pursuant to Section 22 of Article XX of the California Constitution.
10. Provide for the administration of the welfare exemption provided by section 214 of the Revenue and Taxation Code and the veterans' organization exemption provided by section 215.1 of the Revenue and Taxation Code, including issuing an organizational clearance certificate and reviewing assessors' administration of those exemptions as required pursuant to sections 254.5 and 254.6 of the Revenue and Taxation Code.
11. Provide for the administration of the Change in Ownership statement pursuant to sections 480.1 and 480.2, respectively, of the Revenue and Taxation Code.
12. Provide for the administration of Tax-Rate Area System pursuant to Government Code section 54900.
13. Prescribe rules and regulations to govern local boards of equalization when equalizing, and assessors when assessing, including uniform procedures for the consideration and adoption of written findings of fact by local boards of equalization as required by section 1611.5 of the Revenue and Taxation Code.

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14. Prescribe and enforce the use of all forms for the assessment of property for taxation, including forms to be used for the application for reduction in assessment.
  15. Prepare and issue instructions to assessors designed to promote uniformity throughout the state and its local taxing jurisdictions in the assessment of property for the purposes of taxation. It may adapt the instructions to varying local circumstances and to differences in the character and conditions of property subject to taxation as in its judgment is necessary to attain this uniformity.
  16. Issue rules, regulations, instructions, and forms relating to classifications of kinds of property and evaluation procedures.
  17. Prescribe rules and regulations to govern local boards of equalization when equalizing and assessors when assessing with respect to the assessment and equalization of possessory interests.
  18. Bring an action in a court of competent jurisdiction to compel an assessor or any city or county tax official to comply with any provision of law, or any rule or regulation of the board adopted governing the assessment or taxation of property. The Attorney General shall represent the board in the action.
  19. Conduct and decide tax appeals related to its constitutional function.
  20. Conduct the hiring, evaluation, and termination of the Executive Director.
  21. Approve the initiation or settlement of litigation involving material sums or having a substantial impact on the program operations of the Board.
  22. Conduct election of the Board Chair and Vice Chair in January of each year.
- B. Except for the Executive Director position, the Board does not have the authority to appoint, remove, discipline, assign, reassign, promote, demote, or issue orders to any employee of the agency, including, but not limited to, the career executive assignment positions and other non-civil service managers. The Executive Director is solely responsible for selecting persons for career executive assignment positions and other non-civil service managers for the Board.<sup>4</sup>
- C. Neither the Board nor a Board Member can modify or approve budget change proposals for the agency. The Executive Director shall modify or approve all budget change proposals for

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<sup>4</sup> Government Code section 15600(h).

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the agency.<sup>5</sup> However, all conceptual budget change proposals may be discussed in open session before the Board.

- D. Neither the Board nor a Board Member can interfere with or influence the process of the agency's legislative analyses, revenue analyses, or any other form of technical assistance requested by the Governor or the Legislature.<sup>6</sup>

- G. As the Board has the authority to prescribe rules for its own governance, the Board may implement public disciplinary action against a Board Member whose conduct fails to meet the standards outlined in or violates this Governance Policy, or whose conduct is otherwise inconsistent with Board policies. Discipline will be at the discretion of the Board, after considering the nature and number of violations, and may include, but need not be limited to, admonishment, censure, and/or the requirement of additional training. Any public discipline will be imposed in open session at a duly-noticed meeting of the Board, and only upon adoption of a motion by the Board.<sup>10</sup>

## VIII. ROLE OF THE BOARD CHAIR AND VICE-CHAIR

### A. Rotation of the Board Chair and Vice Chair

The Board Chair and Vice Chair shall serve a one-year term from January to December and each position will rotate on annual basis in order of equalization districts.<sup>11</sup>

### B. Role of the Board Chair

<sup>5</sup> Government Code section 15600(i).

<sup>6</sup> Government Code section 15600(j).

<sup>7</sup> Senate Bill 840 Chapter 29 (Budget Act of 2018), provision 1.

<sup>8</sup> Government Code section 15600(k).

<sup>9</sup> Senate Bill 840 Chapter 29 (Budget Act of 2018), provision 3.

<sup>10</sup> Government Code section 15606(a).

<sup>11</sup> Board Action on January 29, 2019.

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The Chair approves Board meeting agendas and may add additional meetings to the Board's meeting calendar. Prior to the Board meeting and once the item has been noticed to the public, the Chair may remove from the calendar an oral hearing on an adjudicatory matter in which the parties themselves have requested that the matter be removed.

The Chair convenes and adjourns Board meetings, and calls agenda items. The Chair conducts hearings on agenda items, including taxpayers' appeals, and conducts the subsequent Board vote. During an oral hearing on a taxpayer's appeal, the Chair may grant parties additional time to complete their presentations and the Chair may limit the time for a presentation that has no other purpose than to delay the Board's proceedings.

The Chair provides leadership to the Board in terms of collegiality, civility, and ethical conduct. The Chair may limit meeting discussion content to those issues that, according to Board policy, are within the Board's responsibility. The Chair ensures timely, fair, orderly, thorough, and efficient deliberations, including enforcement of Robert's Rules of Order.

The Chair serves as a member of the Franchise Tax Board along with the State Controller and the Director of Finance. Since the Franchise Tax Board was established by statute, the Chair may designate his or her Deputy to serve at meetings of the Franchise Tax Board.

### **C. Role of the Vice Chair**

In the absence or incapacity of the Chair, the Vice Chair will have the authority delegated and established by Board policy and in general conformance with the authority of the Chair.

## **IX. BOARD MEMBER ROLES, RESPONSIBILITIES AND CONDUCT**

Each Board Member representing an equalization district must devote his or her entire time to the services of the state in performing the duties imposed upon the Board and its Members by the California Constitution and statutes.<sup>12</sup>

Each Board Member elected by a district will have only one office in Sacramento and one district office, and a staff consisting of two staff persons who are exempt from civil service pursuant to Section 4 of Article VII of the California Constitution and any other civil service positions approved by the Legislature through the budget.<sup>13</sup> Senate Bill 840, the Budget Bill Act of 2018, Chapter 29, provides for four civil service positions.

With the repeal of Government Code section 15623, a Board Member can no longer investigate the administration, enforcement, and operation within the district from which the Board

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<sup>12</sup> Government Code section 15603.

<sup>13</sup> Government Code section 15600, subds.(f) and (g).

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Members was elected.<sup>14</sup> In order to be in compliance with this repeal, no individual Board Member is allowed to inspect the work of any local officers whose duties relate to the assessment of property, as provided by Government Code section 15612, without a motion approved by the Board in open session.

## **A. Governing Style**

The Board is responsible for creating and maintaining an atmosphere that encourages frank and collegial discussions at the BOE and between the Board and management. The Board strives to achieve a governing style that emphasizes:

1. Strategic leadership.
2. Civility and courtesy, to those with whom the Board Members interact and between Board Members.
3. Respect for diversity, recognizing the value of all input.
4. Governance by consensus.
5. Ethical conduct of Board business to avoid even the appearance of impropriety.

## **B. Board Member Competencies**

In order to be more effective Members of the Board, Board Members are expected to develop an understanding of the following:

Governance Competencies:

1. The role and responsibilities of Board Members;
2. The Board Governance Policy and other Board policies;
3. Conflicts of interest and ethics;
4. The Board of Equalization's organizational structure and the roles of executive staff;
5. The Open Meeting Act and the Public Records Act;
6. The role of the Board of Equalization as a state agency; and

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<sup>14</sup> AB 102 - Taxpayer Transparency and Fairness Act of 2017 (Chapter 16, Statutes of 2017).

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7. The proper conduct of Board Meetings in accordance with rules adopted by the Board.

## **C. Questions on Agenda Items**

Individual Board Members should direct questions regarding specific agenda items to the Executive Director.

## **D. Communications with Third Parties**

Pursuant to Government Code section 15609.5 any contacts and communications between individual Board Members and parties with an adjudicatory proceeding pending before the Board shall be treated as ex parte communications. These communications are restricted under Government Code section 11430.10, which provides that while an adjudicatory proceeding is pending there shall be no communication, direct or indirect, regarding any issue in the proceeding, to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and opportunity for all parties to participate in the communication. A proceeding is pending from the issuance of the agency's pleading, or from an application for an agency decision, whichever is earlier.

## **E. Participation in Operations, Staff Meetings, and Activities**

Individual Board Members are not to become involved in operational management and should not participate in routine staff meetings or other staff activities unless specifically requested by the Executive Director.

## **F. Assistance in Responding to Inquiries and Correspondence**

Inquiries or correspondence addressed to a Board Member, which the Board Member wishes to direct to staff for a response or assistance in the preparation of a response, should be forwarded directly to the Executive Director.

## **G. Civility and Courtesy**

Each Board Member should commit to conduct him/herself at all times with civility and courtesy, to both those with whom the Board interacts and to his/her colleagues.

## **H. Confidentiality**

Board Members will not reveal confidential matters and will not use confidential information for personal gain or for the benefit of outside interests.

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## I. Attendance at Meetings

Each Board Member or authorized deputy should attend every meeting of the Board. Occasional absences for illness or other unavoidable personal and professional reasons are expected.

## J. Board Member Vacancy

If a Board Member leaves office before his or her term expires, the Board Member's Chief Deputy is authorized to discharge the constitutional and statutory duties of the office until a successor assumes office.<sup>15</sup>

## X. THE ROLE OF THE EXECUTIVE DIRECTOR

The Executive Director is appointed by the five-member Board. The Executive Director is responsible for implementing policies adopted by the Board and the day-to-day operations of the agency. Through a conferring powers resolution, the Executive Director performs all acts and duties required by law or by the Board. The Executive Director holds the office at the pleasure of the Board. If the Board is not satisfied with the performance of the Executive Director, the Board may discipline or replace him or her, but will not otherwise be involved in the day-to-day operations.<sup>16</sup>

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<sup>15</sup> Government Code section 1775 and Attorney General Opinion 96-1106, December 31, 1996

<sup>16</sup> Government Code sections 15604; 15605; and (Insert hyperlink to Resolution of Conferring Powers, February 26, 2019)

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- C. Identify and distinguish between the roles of the Board, Board Chair and Vice Chair, Board Members and Executive Director.

This Governance Policy applies to both Board Members and their staff.

## II. MISSION STATEMENT

The mission of the Board is to serve the public through fair, effective, and efficient tax administration.

## III. THE BOARD

Established in 1879 by a constitutional amendment, the Board was initially charged with responsibility for ensuring that county property tax assessment practices were equal and uniform throughout the state. Over the years, the legislature expanded the Board’s subject matter to include many taxes and fees. In 2017 and 2018, the legislature created two new tax administration and appeals agencies, reassigning some of the Board’s tax functions. As a result, the Board has rededicated itself to focusing on its historical responsibility of property tax oversight and its constitutional responsibilities.

As the nation's only elected tax commission, the Board’s five elected members serve concurrent four-year terms. Their popular election ensures that the Board's tax program administration remains directly accountable to the people. Four members are elected by district. The fifth member, the State Controller, is elected at large and serves in an ex officio capacity.

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The Board also hears various appeals:

- State Assessed Property Appeals
- Appeals of Denials of Organizational Clearance Certificates/Supplemental Clearance Certificates
- Tax on Insurers Appeals
- Alcoholic Beverage Tax Appeals
- Appeals relating to Section 11 Property

In addition to administering these programs, the Board plays a critical role with regard to California property taxes. The Board acts in an oversight capacity to ensure compliance by County assessors with property tax laws, regulations, and assessment issues. To perform the oversight functions, the Board's Property Tax department conducts periodic compliance audits (surveys) of the 58 county assessors' programs, and develops property tax assessment policies and informational materials to guide county assessors and local assessment appeals boards.

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### **B. Open and Accountable**

The Board Members and the Executive Director are appropriately open in the way key decisions are made and publicly disclosed. Governance rules are clear and disclosed. The Board Members and Executive Director are accountable to the legislature and taxpayers for assessing and collecting the proper amount of taxes due.

### **C. Public Disciplinary Action**

As the Board has the authority to prescribe rules for its own governance, the Board shall implement public disciplinary action against a Board Member whose conduct fails to meet the standards outlined in or violates this Governance Policy, or whose conduct is otherwise inconsistent with Board policies. Discipline will be at the discretion of the Board, after

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considering the nature and number of violations, and may include, but need not be limited to, admonishment, censure, and/or the requirement of additional training. Any public discipline will be imposed in open session at a duly-noticed meeting of the Board, and only upon adoption of a motion by the Board.<sup>1</sup>

## VI. AVOIDANCE OF CONFLICTS OF INTERESTS

Board Members will at all times act in the best interest of the State of California and its taxpayers. As such, Board Members shall adhere to state laws, including the following:

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(Government Code Section 11120 et seq.)

Board Members are subject to the requirements of the Bagley-Keene Open Meeting Act. A meeting includes any congregation of a majority of the members at the same time and place to hear, discuss, and deliberate upon any item within the subject matter jurisdiction of the state body.

A majority of the Board Members will not, outside an authorized meeting, use a series of communications of any kind, either directly or through intermediaries, to discuss, deliberate, or take action on any item of business within the Board's jurisdiction.

Board Members will avoid what is commonly referred to as a "serial meeting." This is the situation where instead of the Board Members meeting at one time, there is series of meetings or phone calls, or e-mails (directly or through intermediaries) that collectively involve a quorum of Board Members.

### B. Quentin L. Kopp Conflict of Interest Act of 1990

(Government Code Section 15626)

Board Members will never act where there may be a conflict of interest or appearance of a conflict of interest. A conflict of interest is understood to be a situation where a relationship exists that could reasonably be expected to diminish independence of judgment in performance of official responsibilities as a Board Member. Specifically, Board Members may not participate in decisions which might result in significant personal economic advantage.

Board Members will not seek nor accept any compensation or political contributions that would violate California law, including without limitation the Quentin L. Kopp Conflict of

<sup>1</sup> Government Code Section 15606(a)

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Interest Act of 1990 (Government Code Section 15626) and the Political Reform Act of 1974 (Government Code Sections 81000, et seq.).

Board Members shall not engage in any gainful profession, trade, business or occupation whatsoever for any person, firm or corporation, or be so engaged in their own behalf, which profession, trade, business or occupation is incompatible or involves a conflict of interest with their property tax duties as members and employees of the board. Conflict of interest shall include receipt of compensation or gifts from private persons or firms for advice or other services relating to the taxation or assessment of property. Violation of this provision by any Member of the Board shall constitute malfeasance in office (Government Code Section 15625).

Prior to rendering any decision in any adjudicatory proceeding pending before the Board, each Member who knows or has reason to know that he or she received a contribution or contributions within the preceding 12 months in an aggregate amount of two hundred fifty dollars (\$250) or more from a party or his or her agent, or from any participant or his or her agent, shall disclose that fact on the record of the proceeding pursuant to Government Code Section 15626.

No Board Member shall make, participate in making, or in any way attempt to use his or her official position to influence, the decision in any adjudicatory proceeding pending before the Board if the Member knows or has reason to know that he or she received a contribution or contributions in an aggregate amount of two hundred fifty dollars (\$250) or more within the preceding 12 months from a party or his or her agent, or from any participant or his or her agent, and if the Member knows or has reason to know that the participant has a financial interest in the decision, as that term is used in Article 1 (commencing with Section 87100) of Chapter 7 of Title 9. However, a member may participate in making the decision in any adjudicatory proceeding provided the contribution has been returned in the manner provided in Government Code Section 15626 (d).

### **C. Mass Mailing at Public Expense** (Government Code Section 89001)

Pursuant to the Political Reform Act, Board Members will not mail newsletters and mass mailings at public expense (Government Code Section 89001). A mass mailing is defined as "over two hundred substantially similar pieces of mail" not including a "form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry" (Government Code Section 82041.5). The Fair Political Practices Commission (FPPC) Regulations, Title 2, Division 6, Sections 18901 and 18901.1 narrow this prohibition to those mailings featuring or including the name, office, photograph, or other reference to an elected official affiliated with the agency producing or sending the mailer. Additionally, the prohibition applies to mailings that are campaign related, sent by governmental agencies

# STATE BOARD OF EQUALIZATION

## GOVERNANCE POLICY

and paid for with public moneys. In addition, Board Members are restricted from any mailing 60 days prior to a general or primary election.<sup>2</sup>

### **D. Behested Payments**

(Government Code Section 82015)

Board Members will not seek nor accept any gifts (as defined in the California Political Reform Act), or reimbursement for travel or any other activity, that are prohibited pursuant to the Political Reform Act of 1974 (Government Code Sections 81000 et seq.), the Board's Statement of Activities That Are Inconsistent, Incompatible, or in Conflict with the Duties of a Board Member and/or any other applicable Board policies.

The Political Reform Act of 1974 provides that behested payments are permissible, so long as they are not made for personal or campaign purposes. Board Members receiving behested payments totaling \$5,000 or more from a single source in a calendar year are required to report the behested payment on California Form 803 within 30 days of the payments. Behested payments are payments made principally for legislative, governmental, or charitable purposes under Government Code Section 82004.5. These payments are not for personal or campaign purposes. Generally, a donation is made at the behest if it is requested, solicited, or suggested by the official, or otherwise made to a person in cooperation, consultation, coordination with, or at the consent of, the elected officer or CPUC member. This also includes payments behested by the official's agent or employee on the official's behalf.

### **E. Gift and Travel Restrictions and Limitations**

(Government Code Sections 86203, 86204, 89502, 89503, 89506)

The Political Reform Act imposes limits and other restrictions on gifts and the receipt of travel payments by Board Members and employees who are designated in the agency's Conflict of Interest Code (COI Code). Board Members and employees designated in the COI Code cannot accept a gift or gifts totaling more than \$10 in a calendar month from any individual who is registered as a lobbyist under state law.

Board Members are prohibited from receiving a gift of gifts totaling more than \$470 (Effective January 1, 2017 – December 31, 2018) in a calendar year from any source.

Board Members are prohibited from receiving honoraria payments. An honorarium is a payment received for making a speech, publishing an article or attending any public or private conference, convention, meeting, social event, meal or similar gathering.

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<sup>2</sup> November 17, 2015 Customer Service Committee Minutes, [Pre-Election Mail Policy](#)

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## **F. Statement of Economic Interest**

(Government Code Section 87200)

The Political Reform Act requires Board Members to make a full disclosure of all economic interests located within California. Board Members must disclose gifts from any single source totaling more than \$470 (Effective January 1, 2017 – December 31, 2018) in a single year.

## **G. Use of State Resources**

(Government Code Section 8314)

Pursuant to Government Code Section 8314, it is unlawful for a Board Member to use or permit others to use state resources for a campaign activity, or personal or other purposes which are not authorized by law. A state resource means any property or asset owned by the state or any local agency, including, but not limited to, land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and state-compensated time (Government Code Section 8314 subdivision (b)(3).) This mean that staff time of Board employees is also considered a state resource.

The use of state resources is appropriate and consistent state law when it has a meaningful connection to the Board's areas of responsibility, and the use of that resources is not for a personal or campaign purpose.

Board Members are not free to spend public funds for any public purpose they chose. Appropriated funds may only be utilize in accordance with the Board's constitutional or legislative purpose. (*Stanson v. Mott* (1976) 17 Cal. 3d 206, 213).

## **VII. ROLE AND POWERS OF THE BOARD**

A. The Board shall do all of the following:

1. Prescribe rules for its own government and for the transaction of its business.
2. Hold meetings each month at times and places within the state as the Chair directs. At least one regular meeting shall be held in Sacramento each quarter.
3. Keep a record of all its proceedings.
4. Review, equalize, or adjust property tax assessment pursuant to Section 11 of Article XIII of the California Constitution.

## **STATE BOARD OF EQUALIZATION GOVERNANCE POLICY**

5. Measure the county assessment levels and adjustment of secured local assessment rolls pursuant to Section 18 of Article XIII of the California Constitution.
6. Provide for the assessment of pipelines, flumes, canals, ditches, and aqueducts lying within two or more counties and property, except franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the state, and companies transmitting or selling gas or electricity pursuant to Section 19 of Article XIII of the California Constitution, as well as the equalization of that assessment.
7. Provide for the assessment of taxes on insurers pursuant to Section 28 of Article XIII of the California Constitution.
8. Provide for the assessment and collection of excise taxes on the manufacture, importation, and sale of alcoholic beverages in this state pursuant to Section 22 of Article XX of the California Constitution.
9. Provide for the administration of the welfare exemption provided by Section 214 of the Revenue and Taxation Code and the veterans' organization exemption provided by Section 215.1 of the Revenue and Taxation Code, including issuing an organizational clearance certificate and reviewing assessors' administration of those exemptions as required pursuant to Sections 254.5 and 254.6 of the Revenue and Taxation Code.
10. Provide for the administration of the Change in Ownership statement pursuant to Sections 480.1 and 480.2, respectively, of the Revenue and Taxation Code.
11. Provide for the administration of Tax-Rate Area System pursuant to Government Code Section 54900.
12. Prescribe rules and regulations to govern local boards of equalization when equalizing, and assessors when assessing, including uniform procedures for the consideration and adoption of written findings of fact by local boards of equalization as required by Section 1611.5 of the Revenue and Taxation Code.
13. Prescribe and enforce the use of all forms for the assessment of property for taxation, including forms to be used for the application for reduction in assessment.
14. Prepare and issue instructions to assessors designed to promote uniformity throughout the state and its local taxing jurisdictions in the assessment of property for the purposes of taxation. It may adapt the instructions to varying local circumstances and to

## STATE BOARD OF EQUALIZATION GOVERNANCE POLICY

differences in the character and conditions of property subject to taxation as in its judgment is necessary to attain this uniformity.

15. Issue rules, regulations, instructions, and forms relating to classifications of kinds of property and evaluation procedures.
  16. Prescribe rules and regulations to govern local boards of equalization when equalizing and assessors when assessing with respect to the assessment and equalization of possessory interests.
  17. Bring an action in a court of competent jurisdiction to compel an assessor or any city or county tax official to comply with any provision of law, or any rule or regulation of the board adopted governing the assessment or taxation of property. The Attorney General shall represent the board in the action.
  18. Conduct and decide tax appeals.
  19. Conduct the hiring, evaluation, and termination of the Executive Director.
  20. Approve the initiation or settlement of litigation involving material sums or having a substantial impact on the program operations of the Board.
  21. Conduct election of the Board Chair and Vice Chair in January of each year.
- B. Except for the Executive Director position, the Board does not have the authority to appoint, remove, discipline, assign, reassign, promote, demote, or issue orders to any employee of the agency, including, but not limited to, the career executive assignment positions and other non-civil service managers. The Executive Director is solely responsible for selecting persons for career executive assignment positions and other non-civil service managers for the Board.<sup>3</sup>
- C. Board Members cannot not modify or approve budget change proposals for the agency. The Executive Director shall modify or approve all budget change proposals for the agency.<sup>4</sup> However, all conceptual budget change proposals may be discussed in open session before the Board.

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<sup>3</sup> Government Code Section 15600(h)

<sup>4</sup> Government Code Section 15600(i)

# STATE BOARD OF EQUALIZATION GOVERNANCE POLICY

- D. Neither the Board or a Board Member have the authority to reduce expenditures or redirect funding or personnel resources away from direct auditing or collection activities without prior approval of the Department of Finance.<sup>5</sup>
- E. No Board Member has acquisition or procurement authority. All acquisition and procurement, including the leasing of office space, shall be processed by the Executive Director through the Department of General Services. The Department of General Services has the final decision making authority for all acquisition or procurements made by or on behalf of Board Members or Board Members' staff.<sup>6</sup>
- F. As the Board has the authority to prescribe rules for its own governance, the Board shall implement public disciplinary action against a Board Member whose conduct fails to meet the standards outlined in or violates this Governance Policy, or whose conduct is otherwise inconsistent with Board policies. Discipline will be at the discretion of the Board, after considering the nature and number of violations, and may include, but need not be limited to, admonishment, censure, and/or the requirement of additional training. Any public discipline will be imposed in open session at a duly-noticed meeting of the Board, and only upon adoption of a motion by the Board.<sup>7</sup>

## VIII. ROLE OF THE BOARD CHAIR AND VICE-CHAIR

### A. Election of the Board Chair and Vice-Chair

The Board Chair and Vice-Chair will be elected annually by members of the Board in open session at the January meeting of the Board for the term of one calendar year. A majority vote of a quorum is required to elect the Chair and the Vice Chair.

### B. Role of the Board Chair

The Chair approves Board meeting agendas and may add additional meetings to the Board's meeting calendar. Prior to the Board meeting and once the item has been noticed to the public, the Chair may remove from the calendar an oral hearing on an adjudicatory matter in which the parties themselves have requested that the matter be removed.

The Chair convenes and adjourns Board meetings, and calls agenda items. The Chair conducts hearings on agenda items, including taxpayers' appeals, and conducts the subsequent Board vote. During an oral hearing on a taxpayer's appeal, the Chair may grant parties additional time to complete their presentations and the Chair may limit the time for a presentation that has no other purpose than to delay the Board's proceedings.

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<sup>5</sup> Senate Bill 840 Chapter 29 (Budget Act of 2018)

<sup>6</sup> Ibid

<sup>7</sup> Government Code Section 15606(a)

# STATE BOARD OF EQUALIZATION GOVERNANCE POLICY

The Chair provides leadership to the Board in terms of collegiality, civility and ethical conduct. The Chair limit meeting discussion content to those issues that, according to Board policy, are within the Board's responsibility. The Chair ensure timely, fair, orderly, thorough and efficient deliberations, including enforcement of Robert's Rules of Order.

The Chair serves as a member of the Franchise Tax Board along with the State Controller and the Director of Finance. The Chair may designate his or her Deputy to serve at meetings of the Franchise Tax Board. In contrast with the Board of Equalization's constitutional origins, the Franchise Tax Board was established by statute.

## **C. Role of the Vice-Chair**

In the absence or incapacity of the Chair, the Vice-Chair will have the authority delegated and established by Board policy and in general conformance with the authority of the Chair.

## **IX. BOARD MEMBER ROLES, RESPONSIBILITIES AND CONDUCT**

Each Board Member representing an equalization district must devote his or her entire time to the services of the state in performing the duties imposed upon the Board and its Members by the California Constitution and statutes.<sup>8</sup>

Each Board Member elected by a district will have only one office in Sacramento, and a staff consisting of two staff persons who are exempt from civil service pursuant to Section 4 of Article VII of the California Constitution and any other civil service positions approved by the Legislature through the budget. The current budget provides for four civil service positions.<sup>9</sup>

With the repeal of Government Code Section 15623, a Board Member can no longer investigate the administration, enforcement, and operation within the district from which the Board Members was elected.<sup>10</sup> In order to be in compliance with this repeal, no individual Board Member is allowed to inspect the work of any local officers, as provided by Government Code Section 15612, without an adoption of a motion by the Board.

## **A. Governing Style**

The Board is responsible for creating and maintaining an atmosphere that encourages frank and collegial discussions both at the Board and as between the Board and management. The Board strives to achieve a governing style that emphasizes:

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<sup>8</sup> Government Code Section 15603

<sup>9</sup> Government Code Sections 15600(f) and (g)

<sup>10</sup> AB 102 - Taxpayer Transparency and Fairness Act of 2017 (Chapter 16, Statutes of 2017)

# STATE BOARD OF EQUALIZATION GOVERNANCE POLICY

1. Strategic leadership.
2. Civility and courtesy, to both those with whom the Board Members interact and between Board Members.
3. Respect for diversity, recognizing the value of all input.
4. Governance by consensus.
5. Ethical conduct of Board business to avoid even the appearance of impropriety.

## **B. Board Member Competencies**

In order to be more effective members of the Board, Board Members are expected to develop an understanding of the following:

Governance Competencies:

1. The role and responsibilities of Board Members;
2. The Board Governance Policy and other Board policies;
3. Conflicts of interest and ethics;
4. The Board of Equalization's organizational structure and the roles of executive staff.
5. The Open Meeting Act and the Public Records Act;
6. The role of the Board of Equalization as a state agency.
7. The proper conduct of Board and Committee Meetings in accordance with rules adopted by the Board.

## **C. Questions on Agenda Items**

Individual Board Members should direct questions regarding specific agenda items to the Executive Director.

## **D. Communications with Third Parties**

Pursuant to Government Code Sections 15609.6 any contacts and communications between individual Board Members and parties with a proceeding pending before the Board shall be treated as ex parte communications. These communications are restricted under Government Code Section 11430.10, which provides that while a proceeding is pending

# STATE BOARD OF EQUALIZATION GOVERNANCE POLICY

there shall be no communication, direct or indirect, regarding any issue in the proceeding, to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and opportunity for all parties to participate in the communication. A proceeding is pending from the issuance of the agency's pleading, or from an application for an agency decision, whichever is earlier.

## **E. Participation in Operations, Staff Meetings and Activities**

Individual Board Members are not to become involved in operational management and should not participate in routine staff meetings or other staff activities unless specifically requested by the Executive Director.

## **F. Assistance in Responding to Inquiries and Correspondence**

Inquiries or correspondence addressed to a Board Member, which the Board Member wishes to direct to staff for a response or assistance in the preparation of a response, should be forwarded to the Executive Director.

## **G. Civility and Courtesy**

Each Board Member should commit to conduct him/herself at all times with civility and courtesy, to both those with whom the Board interacts and to his/her colleagues.

## **H. Confidentiality**

Board Members will not reveal confidential matters and will not use confidential information for personal gain or for the benefit of outside interests.

## **I. Attendance at Meetings**

Each Board Member or authorized deputy should attend every meeting of the Board, and every meeting of a committee of which s/he is a member. Periodic absences for illness or other non-avoidable personal and professional reasons are expected.

## **J. Initiation or Supporting Litigation**

Before initiating or supporting litigation that is adverse to the Board, a Board Member who believes that the Board has acted in violation of its fiduciary responsibilities or applicable law should first strive to avoid the need for litigation. This includes the responsibility to proactively discuss the Board Member's concerns with his/her fellow Board Members and, where applicable, the Executive Director.

# STATE BOARD OF EQUALIZATION GOVERNANCE POLICY

## X. THE ROLE OF THE EXECUTIVE DIRECTOR

The Executive Director is appointed by the five-member Board. The Executive Director is responsible for implementing policies adopted by the Board and the day-to-day operations of the agency. Through a conferring power resolution, the Executive Director performs all acts and things enjoined by law or required by the Board. The Executive Director hold the office at the pleasure of the Board. If the Board is not satisfied with the performance of the Executive Director, the Board may discipline or replace him or her, but will not otherwise get involved in the day-to-day operations.<sup>11</sup>

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<sup>11</sup> Government Code Sections 15604; 15605; and [March 27, 2018 Conferring Power Resolution, Option B](#)