



ANTONIO VAZQUEZ
MEMBER
CALIFORNIA STATE BOARD OF EQUALIZATION

MEMORANDUM

Date: November 6, 2024

To: Sally J. Lieber, Chair
Ted Gaines, Vice-Chair
Mike Schaefer, Board Member, Fourth District
Malia M. Cohen, State Controller

From: Antonio Vazquez, Board Member, Third District

Re: **November 19, 2024, Board Meet Board Member Matters: Policy on Board Resolutions; and Proposed Language Revising the Board’s Governance Policy**

EXECUTIVE SUMMARY

For your consideration is a formal policy and methodology for the proposal and adoption of resolutions by Members of the State Board of Equalization to be added to the Board’s Governance Policy by incorporating an additional subsection to Section VII. *Role and Powers of the Board*, following subsection H. *Work Group Policy and Charter*.

The Board’s Governance Policy is the appropriate place to memorialize the provisions regarding Board Resolutions, as its fundamental purpose is to serve as an authoritative guide for the Board to quickly find clear answers to questions regarding the powers, duties, and limitations for which we are collectively and individually accountable under the California Constitution and statutes. The proposed subsection for the Governance Policy would be titled as follows: I. *Board Resolution Policy*.

As set forth below, the proposed language for Subsection I of the Governance Policy establishes four parameters:

1. It defines the term “resolution” for the purposes of the Board as a constitutionally elected statewide body;
2. It outlines and clarifies the scope of the types of resolutions that the Board has in the past, or may in the future consider;
3. It provides examples of types of findings or circumstances that could, or have in the past been adopted to support resolutions; and
4. It formalizes the procedures necessary to propose and adopt a resolution.

POLICY ESTABLISHING THE BOARD RESOLUTION CRITERIA AND PROCESS.

I. BACKGROUND.

Definition.

It is important to first define the term “resolution” and to clarify the Board’s authority to propose and adopt a resolution. In common parlance, a resolution means a formal expression of the “sentiments” of a group of people, almost always an elected body, unless an elected body delegates such authority to appointed officials. While the term appears multiple times in the California State Constitution, it is not explicitly defined there. Black’s Law Dictionary defines a “resolution” as:

The determination or decision, in regard to its opinion or intention, of a deliberative or legislative body, public assembly, town council, board of directors or the like; also, a motion or formal proposition offered for adoption by such a body. In legislative practice, the term is usually employed to denote the adoption of a motion, the subject-matter of which would not properly constitute a statute; such as a mere expression of opinion; an alteration of the rules; a vote of thanks or of censure, etc.¹

From both the common understanding and this legal definition, it is apparent that the power to adopt resolutions is clearly vested in legislatures and other elected governing bodies like the Board of Equalization, and in fact can be, and is exercised by boards representing many different kinds of entities. Throughout California, local government entities and state agencies, as well as public and private corporations, adopt resolutions as part of their practices and procedures.

Examples.

California state agencies and boards have adopted many types of resolutions in the past and present. The members of the Franchise Tax Board (FTB), for example, have adopted many types of resolutions, both those that are non-operational – such as those recognizing the achievements, awards, and retirements of dedicated employees – and those that are operational and memorialize important FTB policies, such as certificates of mailing for Notices of Action, out-of-state travel approval, certain procurement contracts, and litigation settlements. Instead of using resolutions to announce assistance to disaster victims both in state and out of state, the FTB has moved to the use of public news flashes and notices through its “*News Room*” and the establishment of a dedicated email address exclusively for the victims – most recently, San Diego County taxpayers impacted by severe storms and flooding that began on January 21, 2024.

Further examples of state agency resolutions indicate that the authority of state agencies to issue resolutions has never been disputed. Several years ago, the State Board of Food and Agriculture adopted a resolution opposing a particular Congressional action regarding a designation ascribed to the Tuolumne River. The resolution was sent to members of the California Congressional Delegation, and the validity of the resolution was subsequently the subject of an opinion from the California Attorney General at the request of a state

¹ *Resolution: Definition & Meaning*, BLACK’S LAW DICTIONARY, <https://thelawdictionary.org/resolution/>.

assemblymember. The specific question answered by the Attorney General related to whether the board failed to adequately notice the item pursuant to the Bagley-Keene Open Meeting Act prior to its adoption. The Attorney General issued an opinion addressing the question of notice but did not question the authority of that board to adopt resolutions.² The State Board of Food and Agriculture has subsequently adopted resolutions on other topics also,³ even though the statutory scheme establishing the agency does not explicitly grant the power to adopt resolutions.⁴ From these examples, it is clear that resolutions are a valid exercise of authority by a state agency or elected board and can concern a variety of topics.

As an example of local elected bodies' practices, the San Francisco Board of Supervisors passed hundreds of resolutions in 2024 alone for a variety of purposes, ranging from formally expressing their opinion or position on financial issues to expressing their sentiments regarding public holidays.⁵ Similarly to the State Board of Food and Agriculture, the power to adopt resolutions is recognized as an inherent power of the body, though it is not explicitly provided for in the recitation of the powers and duties of boards of supervisors per Government Code section 25000 *et seq.* It is important to note that despite the lack of a definition in the state constitution, the legal and statutory scheme provides examples of certain actions that may be taken "by resolution."⁶ This further supports the authority of elected bodies to adopt resolutions, and neither the Legislature nor the courts have at any time prohibited state or elected bodies or those appointed by the Governor from doing so.

Board Practice.

Like these other entities, the State Board of Equalization has adopted several types of resolutions over the years since its creation in the State Constitution. Some examples of adopted resolutions are:

- Delegating some of its powers to subordinate officers (e.g. Executive Director)
- Supporting contracts, interagency agreements, leases, and other types of commitments submitted by the Executive Director
- Honoring or commending other officials or employees upon the receipt of an award, or announcement of retirement, etc.
- Memorializing concerns or sympathy upon the passing of certain officials or employees
- Affirming Board sentiments, support, or assistance to officials, other agencies, local governments, or communities impacted by disasters.

Although most resolutions issued before 2018 were kept in the Board's External Affairs Department, a few have been adopted since that time. Several delegation of powers resolutions

² 67 Ops.Cal.Atty.Gen. 84, available at https://oag.ca.gov/system/files/opinions/pdfs/83-912_0.pdf.

³ *Resolution on Access to Safe, Healthy Food for All Californians*, CALIFORNIA STATE BOARD OF FOOD AND AGRICULTURE, May 25, 2011, available at https://www.cdffa.ca.gov/State_Board/pdfs/FoodAccessResolution.pdf

⁴ *Cal. Food & Agric. Code section 901 et seq.*

⁵ *Resolutions 2024*, SAN FRANCISCO BOARD OF SUPERVISORS, <https://sfbos.org/resolutions-2024>.

⁶ *Cal. Gov. Code section 25084* states: "Whenever the board of supervisors of any county is required by law to received proposals or bids after publication of a resolution or other public notice, the board may, **by resolution**, designate an officer or employee of the county to open, examine, and announce the proposals or bids at a public meeting at the time and place set forth in the resolution" (emphasis added).

have been adopted, and many retirement resolutions have been issued. In 2019, following the Camp Fire, the Board adopted a resolution to recognize and honor the professionalism and efficiency displayed by the Butte County Assessor’s Office in assisting victims and handling the myriad issues which arose in the aftermath of that Fire.⁷ Most recently, in September 2024, the Board adopted a resolution recognizing the Governor’s declaration of emergency regarding the ongoing landslide disaster in Rancho Palos Verdes and confirming our support to the Los Angeles County Assessor and the City of Rancho Palos Verdes.⁸

Legal Summary.

From the legal perspective, if the Board is vested with the greater authority (regulatory) to prescribe rules for its own governance and for the transaction of its business and all operations⁹ which have the power of law – then it certainly has the lesser authority to adopt resolutions which are merely an expression of its sentiments, opinions and affirmations that do not have the power of law. Although the California Constitution governing state agencies and the statutes governing the county boards of supervisors and local entities do not explicitly grant the power to adopt resolutions, resolutions are acts of bona fide governance by providing a clear expression of opinion, sentiment, or intent when regulatory acts are not required or useful.

II. PROPOSED POLICY

Having determined that, as the Board is vested with the authority to adopt resolutions related to its governance and the transaction of its business as an expression of its sentiments, opinions, and affirmations that do not have the power of law,¹⁰ the following amendment to the Board’s Governance Policy accordingly establishes the policy for the adoption and issuance of Board resolutions.

The following language is proposed to define and clarify the scope of resolutions which may be adopted by the Board and would constitute a new subsection under SECTION VII. *Role and Powers of the Board*, following subsection H. *Work Group Policy and Charter*.

“I. BOARD RESOLUTION POLICY

Definition.

A resolution is an expression of the sentiments, opinions, or intentions of the Board as an elected body and is used to express the opinion of the Board or to reflect action taken or action intended to be taken. Such a resolution constitutes a formal position by the Members of the Board on a particular issue or in response to a specific concern or matter. Any Board Member, (or in matters concerning employees, the Executive Director), may propose a resolution for consideration by the Board at a noticed meeting. All resolutions must be consistent with the constitutional and statutory duties and powers of the Board and should include a recital of existing facts and

⁷ The full text of this resolution is available at <https://www.boe.ca.gov/meetings/pdf/2019/062519-L5-Reso-Butte-Co-Assr.pdf>

⁸ The full text of this resolution is available at <https://www.boe.ca.gov/meetings/pdf/2024/202409-MI-PalosVerdes-Relief.pdf>

⁹ [Cal. Gov. Code section 15606.](#)

¹⁰ [Cal. Gov. Code section 15606.](#)

circumstances setting forth the findings of the Board, by which the Resolution may be interpreted by the public.”

We recommend that the Board add the above italicized paragraph as a definition to the new subsection of the Governance Policy for the purpose of clarifying its power to propose and adopt resolutions.

Scope.

For further clarity, the following sentence is proposed to provide the scope of resolutions that the Board may wish to consider, though others not included in the list may also be proposed or considered at the Board’s discretion.

“A non-exclusive list of examples of resolution topics is:

- *The delegation of some of the Board’s powers to the Executive Director Honoring or commending officials, agency staff or other individuals upon the receipt of an award, or announcement of retirement, etc.*
- *Memorializing concerns or sympathy upon the passing of certain officials or employees*
- *Affirming the Board’s sentiments, support, or assistance to officials, other agencies, local governments, or communities impacted by disasters, loss or other unforeseen circumstances.”*

Procedure.

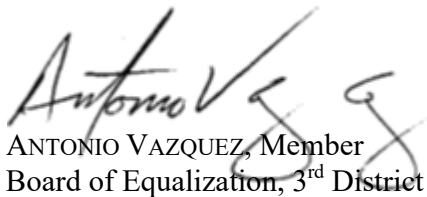
In addition to the foregoing paragraphs, the following italicized language is proposed regarding the proper procedure for submitting, adopting, and distributing resolutions:

“A draft of all proposed resolutions must be delivered to the Executive Director and the Chief of the Board Proceedings Division for placement on the meeting agenda, subject to the Chair’s approval of the agenda item.

The Board may vote to adopt, deny, or modify the proposed resolution, and final action is undertaken by a majority vote.

Rationale.

We recommend that the Board add the foregoing italicized language to the Governance Policy so as to avoid any confusion or uncertainty in the consideration of future resolutions.



ANTONIO VAZQUEZ, Member
Board of Equalization, 3rd District

Ms. Deborah Bautista-Zavala, Chief Deputy, Office of Member Antonio Vazquez
Mr. Douglas Winslow, Chief Deputy, Office of Chair Sally J. Lieber
Mr. Matt Cox, Chief Deputy, Office of Vice Chair Ted Gaines

Mr. Cody Petterson, Chief Deputy, Office of Member Mike Schaefer
Mr. Hasib Emran, Deputy State Controller
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