

Memorandum

To: Honorable Sally J. Lieber, Chair
Honorable Ted Gaines, Vice Chair
Honorable Antonio Vazquez, Third District
Honorable Mike Schaefer, Fourth District
Honorable Malia M. Cohen, State Controller

Date: December 4, 2024

From: Richard Moon
Chief Counsel
Legal Department

Subject: ***Governance Policy Update – December 2024***

At the November 2024 Board Meeting, Members requested that two proposed amendments to the California State Board of Equalization's Governance Policy¹ (Governance Policy) be made and presented to the Board Members at the December 2024 Board Meeting, for possible adoption. Those amendments, as well as two technical changes made necessary by changes in law, are explained below and shown in track changes in the attachments to this memorandum.

Board Member Requested Changes:

1. Opening and Closing Remarks

At the December 12, 2023 Board Meeting, Member Mike Schaefer presented changes he wished to incorporate into the Governance Policy (see memo dated, [November 29, 2023, from Member Schaefer](#)) regarding opening and closing remarks. Member Schaefer requested the following additions to the Governance Policy:

- Member opening remarks, if any, be limited to no more than three minutes each;
- Opening remarks by Members shall have some relation to the District of the Member;
- the State Controller or their Deputy may present suitable statewide-related issues for comment; and
- Members wishing to provide additional comments may do so as closing remarks, time permitting.

The Members came to a consensus to implement these policy changes and adopt the changes during the next revision of the Governance Policy (see [Board Meeting Minutes, December 12, 2023](#)). Amendments incorporating these additions would be made to Section VIII, Paragraph B of the Governance Policy, as shown in Attachment 1.

¹ Publication 471: <https://www.boe.ca.gov/pdf/pub471gov.pdf>

2. Board Resolution Policy

At the November 19, 2024, Board Meeting, Member Antonio Vazquez requested an amendment to the Governance Policy to establish a policy for the adoption and issuance of Board resolutions (see memo dated, [November 6, 2024, from Member Vazquez](#)).

Member Vazquez is proposing a new Paragraph I, under Section VII of the Governance Policy, as shown in Attachment 2.

Technical Changes:

In addition to the changes requested by the Board Members, the Legal Department is recommending the following changes be made to the Governance Policy to reflect current law:

1. Gift and Travel Restrictions and Limitations

The Political Reform Act imposed 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), limited to \$590 for the period January 1, 2023 through December 31, 2024, from any source.

The total limit has been raised to \$630 for the period beginning January 1, 2025 and ending December 31, 2026. This change would be made to Section VI, Paragraph E of the Governance Policy, as shown in Attachment 3.

2. Expiration of Senate Bill 840

Senate Bill (SB) 840 provided for four civil service positions for each Board Member Office. SB 840 was effective only for the 2018-19 fiscal year. Thus, the reference to it in the Governance Policy should be deleted. This change would be made to the introduction to Section IX of the Governance Policy, as shown in Attachment 4.

Conclusion:

The Board Members have chosen to review their Governance Policy annually and the proposed amendments reflect all of the requested changes received prior to publishing the December 2024 Public Agenda Notice.

RM:jah

cc: Mr. Douglas Winslow
Mr. Matt Cox
Ms. Deborah Bautista-Zavala
Mr. Cody Petterson
Mr. Hasib Emran

Ms. Yvette M. Stowers
Ms. Lisa M. Renati
Ms. Catherine Taylor

Recommended by:

Richard Moon

Richard Moon, Chief Counsel

Approved:

Yvette M Stowers

Yvette M. Stowers, Executive Director

BOARD APPROVED on: _____



VIII. BOARD CHAIR AND VICE CHAIR

A. Election of the Board Chair and Vice Chair on Agenda

The Board shall automatically place on the agenda an election to take place in December for the offices of Chair and Vice Chair of the Board. During a gubernatorial election year, the Board shall defer the election of the Chair and Vice Chair until after the duly elected Board Members are sworn into office. In such instances, the Board will place on the agenda an election to take place in January for the offices of Chair and Vice Chair of the Board. The Chair and Vice Chair shall serve a full one-year term which shall begin January 1 of the following year (except in the case of gubernatorial election years, where the term is effective after the election at the January Board meeting) and will end on December 31. There is no limit on serving consecutive terms. If there is a tied vote, the currently serving Chair or Vice Chair, as the case may be, shall continue to serve.

The Board's vote for a Work Group Chair and a Work Group Co-Chair shall authorize the Members selected to perform only those Work Group duties and to conduct only those Work Group meetings for the assigned purpose of the Work Group and does not connote any transfer of the role of the Board Chair or Board Vice Chair in this Governance Policy.

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.

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 may allow members the opportunity to make opening remarks, limited to three minutes each. Additional comments may be made as closing remarks, time permitting. Opening remarks by Members shall have some relation to the district of that Member. The State Controller or their Deputy may present suitable statewide-related issues for comment. 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.

of the Work Group, including the outcomes, report(s), and/or Board actions resulting from its efforts.

I. Board Resolution Policy

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

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.

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



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.¹⁵

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 article VIII, section 4 of the California Constitution and any other civil service positions approved by the Legislature through the budget.¹⁶

~~Senate Bill No. 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 Member was elected.¹⁷ However, upon a motion approved by the Board in open session, Board Members may individually or collectively inspect the work of any local officers whose duties relate to the assessment of property, as authorized by Government Code sections 15612, 15611, and 15613.

A. Governing Style

The Board and the Executive Director are 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:

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.

¹⁵ Gov. Code, section 15603.

¹⁶ Gov. Code, section 15600, subdivisions. (f) and (g).

¹⁷ Assembly Bill No. 102, "Taxpayer Transparency and Fairness Act of 2017," Chapter 16, Statutes of 2017.

E. Gift and Travel Restrictions and Limitations

(Gov. Code, sections 86203, 86204, 89502, 89503, and 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 ~~\$630590~~ (effective January 1, 2023~~5~~ - December 31, 2024~~6~~) 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.

F. Statement of Economic Interest

(Gov. Code, section 87200.)

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

(Gov. 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 for 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. (Gov. Code, section 8314, subdivision (b)(3).) Staff time of Board employees, including those on a Board Members' 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 those resources 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.)

H. Use of Public Funds to Support or Oppose a Ballot Measure

The Board and individual Board Members are subject to the prohibition against the use of public funds for any communications that advocate a particular result in an election on ballot measures, which the California courts have held is an interference with the free election of the people under article II, section 2 of the California Constitution. (*Vargas v. City of Salinas* (2009) 46 Cal. 4th 1.) However, since the courts have authorized public agencies to provide accurate, factual and impartial information about a ballot measure within their subject matter jurisdiction, the Board collectively may do so in a manner, style, tone, and specific timing that does not urge a particular vote.