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BEFORE THE CALIFORNIA STATE BOARD OF EQUALIZATION

450 N STREET

SACRAMENTO, CALIFORNIA

REPORTER'S TRANSCRIPT

FEBRUARY 20, 2020

ITEM K1

EXECUTIVE DIRECTOR'S REPORT

REPORTED BY: Jillian M. Sumner

CSR NO. 13619

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P R E S E N T

For the Board of
Equalization:

Honorable Antonio Vazquez
Chair

Honorable Mike Schaefer
Vice Chair

Honorable Malia S. Cohen
Second District

Yvette Stowers
Appearing for Betty T.
Yee, State Controller
(per Government Code
Section 7.9)

For the Board of
Equalization Staff:

Brenda Fleming
Executive Director

Henry Nanjo
Chief Counsel
Legal Department

Toya Davis
Clerk
Board Proceedings

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450 N STREET
SACRAMENTO, CALIFORNIA
FEBRUARY 20, 2020

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MS. DAVIS: Our next item in the Administrative Session is Item K1, Executive Director's Report. There are four items under K1, Executive Director. The first item is the Organizational Update.

Ms. Fleming.

MS. FLEMING: Thank you.

Good discussion. Thank you to our public commenter.

Again, Members, Brenda Fleming, Executive Director.

Today's report will include updates on some of the operational priorities. Some of these priorities and updates, Members, will be presented by the deputies.

The two remaining Statewide Informational Hearings, I'll give you a quick update on that. And just an update on the spring finance letter, and then some updates this month for progress on recruitments and restored delegation activities.

Members, drawing your attention to Item No. 1, which is the BOE strategic plan. The strategic plan for 2020-2025 was provided to you at the November meeting. The agency's strategic plan

1 focuses on rebuilding, revitalizing and modernizing
2 our agency to position us for the ongoing and future
3 property tax needs.

4 Staff's working with the Forms and
5 Publication Services to publish the final pamphlet,
6 and will also create the Web-ready file to post to
7 your Web site.

8 The next step is, of course, the
9 implementation portions. And those initial
10 discussions, preliminary planning discussions have
11 begun.

12 Item 2, Members, is the BOE annual report
13 for 2018/2019. The final draft is being formatted
14 into the publication layout. That will be provided
15 to you for your review, along with staff. Our target
16 for releasing that publication is actually this
17 quarter.

18 Drawing your attention to No. 3, the
19 Taxpayers' Rights Advocate. The Taxpayer Rights
20 Advocate's annual report for '18/'19 has been
21 completed and will be presented by Ms. Lisa Thompson
22 in a subsequent item today.

23 The annual Taxpayers Bill of Rights Hearing
24 is proposed for our August Board Meeting. Just a
25 couple of comments there, one of the things that we
26 owe you, Members, is still outstanding from the
27 August 2019 Bill of Rights Hearing is really there
28 was a lot of good discussion, and a lot of items were

1 identified in that.

2 So Ms. Thompson will be coming back to one
3 of our future meetings here pretty soon to kind of
4 report out on that material, so we know what the
5 actions were or any outstanding items there. So that
6 will happen in the next couple of months.

7 MR. SCHAEFER: Ms. Fleming, you know, I
8 continually grumble that it takes nine months at the
9 end of the fiscal year, where most of corporate
10 America gets a report out within four or five months.
11 And any time that we can be bureaucrat or whatever
12 the word is --

13 MR. VAZQUEZ: Streamline it, I guess.

14 MS. FLEMING: Streamline it.

15 MR. SCHAEFER: -- streamline, I'm for that.

16 MS. FLEMING: Yes, I am too. Thank you,
17 sir.

18 The -- just one other comment, if I may.
19 Like we're doing on a number of our other programs,
20 one of the things that Ms. Thompson and I are working
21 on is just looking for always ways to improve our
22 processes. And one of them is also in our Bill of
23 Rights Hearing. There's a lot of it that's defined
24 in statute, but we recognize that, you know, our
25 focus on taxpayers or property tax issues and our tax
26 issues. It's important.

27 So we'll continue to look for ways to make
28 some improvements and try to address some of those

1 improvements and offer those to you before the August
2 Bill of Rights Hearing.

3 If I could draw your attention to Item No.
4 4, which is the Statewide Informational Hearings.
5 The BOE has successfully completed two of the four
6 planned Statewide Informational Hearings. The
7 remaining two are tentatively scheduled as follows:

8 Board Member Gaines' hearing is scheduled
9 for April 29th in Sacramento here at 450 N Street.
10 This informational hearing will provide the
11 opportunity for additional discussion and input on
12 the new version of the split roll property tax
13 initiative. We are working with Board Member Gaines'
14 office to prepare the public agenda.

15 Secondly, Chairman Vazquez' hearing is
16 tentatively planned for the second quarter in the
17 Santa Monica area. We're still working through some
18 of those details, and we'll provide that information
19 for you as soon as it is known.

20 And, again, we'll continue to work with the
21 Board Members to make some of the detailed
22 arrangements logistically.

23 MR. SCHAEFER: Do you have a date for
24 Member -- Chairman --

25 MS. FLEMING: For Chairman Vazquez? Not at
26 this time, but we tentatively have it for probably
27 the May or June timeframe.

28 MR. SCHAEFER: Thank you.

1 MS. FLEMING: Thank you.

2 Members, drawing your attention to Item
3 No. 5, Office Relocation Project, the BOE
4 headquarters Natomas office floor plans are being
5 finalized. We anticipate this move to occur later
6 this year. Of course we'll keep you informed.

7 And as I've noted in communication that I
8 just recently sent you, the Executive Office and the
9 Executive team located at 450 N Street on the 24th
10 floor are preparing to move to 621 -- little bit of
11 rearrangement there -- to 621 Capitol Mall next week.
12 So we'll continue to keep you informed.

13 Drawing your attention to AB 576, the
14 Nazarian Bill. As of January 31st AB 576 is
15 inactive. It, in fact, died in committee.

16 However, AB 2330 has been introduced as the
17 new companion bill to ACA 2. Mr. Durham has some
18 detail, and will provide that detail for you in his
19 management report.

20 Drawing your attention to Item No. 8, the HR
21 Delegation. As I reported last month, we are
22 actively working with CalHR to address their
23 concerns. They have, again, some personnel
24 processes, some training, and some of their criteria
25 that we need to meet.

26 We're meeting with them again next week to
27 start to get some additional detail from them. In
28 the interim, we're continuing to work on those things

1 that they've initially identified, which really
2 focuses on management training to ensure that our
3 knowledge is intact. And of course we'll continue to
4 give you the updates. But we continue to persevere
5 and push forward on that.

6 Item No. 9 on recruitments. As of this
7 month's report there are 53 vacancies; 44 vacancies
8 in the agency, and 9 in the Member offices.
9 Fifty-seven percent of the 44 vacancies are in active
10 recruitment.

11 Since last month, two recruitments with
12 identified start dates. So those staff will be on
13 board soon. One recruitment with a tentative offer.
14 Four recruitments have been advertised since last
15 month; 18 recruitments with applications that are
16 being reviewed, or interviews are in progress. The
17 remaining 19 recruitments are being prepared for the
18 advertising phase.

19 There are nine Board Member vacancies, and
20 three of those are in active recruitment.

21 MR. SCHAEFER: Question, Ms. Fleming, what
22 is metrics?

23 MS. FLEMING: Just the measures. It's our
24 way of counting how things are progressing.

25 MR. SCHAEFER: And you're doing advertising.
26 Are you on telemarketing, are you in the Sacramento
27 Bee, LA Times? Just what does that mean?

28 MS. FLEMING: And I can certainly circle

1 back with you in more detail, but in general, Vice
2 Chair Schaefer, when we're talking about advertising
3 and posting the jobs, the State has a state system
4 that we use that pushes the information out to public
5 Web sites. So that information is available. So any
6 candidate that's interested in applying for a
7 position with the State of California, any agency
8 within the State of California, would visit that Web
9 site.

10 Additionally, we push that information out
11 to some media sources, some social media platforms,
12 etc. So it really is just pushing it out to the
13 public to make the announcement that there's
14 vacancies available.

15 MR. SCHAEFER: My office has 2 of the 9
16 Board Member vacancies. Are either of those two in
17 your three that are in active recruitment?

18 MS. FLEMING: Let me circle back with that.
19 It's a personnel item, and we should probably take
20 that offline.

21 MR. SCHAEFER: Thank you.

22 MS. FLEMING: Thank you, Vice Chair.
23 Thank you, Members.

24 As shared previously, staff have prepared a
25 spring finance letter for fiscal year 2020/2021, and
26 that spring finance letter is requesting staff and
27 budget augmentations.

28 To keep you informed, Members, copies have

1 been shared with your office. I am definitely
2 looking forward to sharing more detail. I'll get
3 into more of that detail with you at one of our
4 upcoming one-on-one meetings.

5 But, again, it's just an opportunity for us
6 to address some of our immediate needs that's going
7 to give some significant relief to the existing staff
8 in order to continue to provide services to our
9 stakeholders, our taxpayers, and, of course, Members,
10 to your offices. And I'll be scheduling that time
11 with you soon.

12 Also, Members, provided for reference on the
13 last page of the report is the dashboard of the
14 upcoming meetings. And, again, no action for you.
15 It's just to make sure you're informed of any
16 upcoming meetings.

17 And then the deputies will provide a bit
18 more detail on the projects that are going on that
19 are part of our priorities.

20 If there are no questions, that concludes
21 this month's report.

22 MR. SCHAEFER: I have one final, closing
23 question. Member Gaines is not with us. Does he
24 have a chance to give you any input he has on this,
25 or --

26 MS. FLEMING: Yes, sir.

27 MR. SCHAEFER: -- will you be in contact
28 with his office?

1 MS. FLEMING: Absolutely. Absolutely.

2 MR. SCHAEFER: Thank you.

3 MS. FLEMING: Yes, sir. Thank you, Vice
4 Chair Schaefer.

5 MS. COHEN: Two things.

6 MR. VAZQUEZ: Ms. Cohen.

7 MS. COHEN: In the -- I think in the draft
8 PAN you provided a different operational priorities.
9 Different from what you presented here today.

10 MS. FLEMING: Yeah, the copy that you have
11 is just a copy of my talking points.

12 MS. COHEN: Right.

13 MS. FLEMING: The actual one is -- that was
14 attached to PAN.

15 MS. COHEN: Right.

16 MS. FLEMING: I'm not sure -- I thought --

17 MS. COHEN: I'm going to be speaking to the
18 one that's attached to the PAN.

19 MS. FLEMING: Okay. Gotcha.

20 MS. COHEN: It's just two really quick
21 things.

22 MS. FLEMING: Okay.

23 MS. COHEN: This is for -- on the item
24 that's agendized in the PAN for the Legal Department
25 section, this is regarding closed session, I just
26 want to understand fully the litigation activity of
27 the Board of Equalization, and ask that, if it's
28 possible, for the Executive Director to schedule the

1 following for an upcoming closed session and for
2 subsequent closed sessions. So first -- just two
3 requests here. First, at the next closed session a
4 baseline report of the status of all the status -- of
5 the status of all pending and anticipated litigation.

6 MS. FLEMING: Mm-hm.

7 MS. COHEN: Okay. And the second request is
8 for closed session to follow -- for closed session to
9 follow. And this is simply an update on litigation,
10 including a discussion of new litigation items.

11 MS. FLEMING: Okay.

12 MS. COHEN: Is that -- am I clear on that?
13 You guys are looking -- okay. You got it?

14 And so to implement this I want to ask
15 that -- this is mostly directed towards you,
16 Mr. Chair, ask that every Board Meeting have a closed
17 session, including the following items; personnel
18 matters and litigation matters, kind of as a standard
19 moving forward.

20 And if for some reason there are no matters
21 to discuss, fine. No problem. We can just inform --
22 you can just inform the Board Members, and we don't
23 have to put it on the -- we will not have anything to
24 discuss. But I'm just looking for something standard
25 that's on the agenda as we go forward.

26 MR. NANJO: So generally under Bagley-Keene
27 it's not appropriate to have a standing item for
28 personnel or litigation unless there's a matter

1 pending.

2 MS. COHEN: I'm asking for a standing closed
3 session though.

4 MR. NANJO: That's correct. In closed
5 session it's not appropriate for -- whether it's as
6 an open session or closed session, it's not
7 appropriate for there to be a standing item. It
8 would need to be -- it would need to be specifically
9 identified and only put on the agenda if it's
10 identified.

11 So I can't have a PAN that goes out that
12 just has "litigation," without specifying which cases
13 are going to be discussed, either in closed session
14 or open session.

15 And just informationally, I can let you know
16 that it is fairly infrequent that -- well, the
17 litigation that the Board of Equalization tends to
18 receive are usually misdirected litigation. In other
19 words, it's litigation that really involves CDTFA.
20 But there's a lot of the public that doesn't realize
21 the split occurred, so they still sue BOE.

22 As far as litigated matters that are active,
23 I do report on those matters, however the
24 litigation -- active litigation matters we have have
25 been in progress for at least -- I'm trying to think
26 the more recent ones -- but at least three years or
27 longer. So it's not that frequent that the Board
28 gets sued regularly, other than what I would consider

1 the nuisance ones that we just have to identify to
2 the court that -- not this BOE, it's the old BOE, so
3 therefore you have to sue CDTFA.

4 MS. COHEN: Thank you. I appreciate that
5 clarification.

6 Ms. Fleming, moving on to the upcoming
7 meeting section regarding a yearly calendar. I was
8 wondering if we could -- at the next meeting if you
9 could provide an annual calendar.

10 It looks like you provided something just
11 for the quarter -- first quarter of the year. Just
12 in terms of planning, planning trips --

13 MS. FLEMING: For the whole year?

14 MS. COHEN: Yeah. That would be --

15 MS. FLEMING: Yeah, that would be helpful.

16 MS. COHEN: And it just helps delineate the
17 upcoming meetings, which are recurring on a regular
18 and continual basis.

19 MS. FLEMING: Sure thing.

20 MS. COHEN: And if you don't have anything,
21 any notation of "to be determined" is also
22 acceptable.

23 MS. FLEMING: Things that are on the horizon
24 would be helpful.

25 MS. COHEN: Yeah, that's very helpful.

26 That's all I have. Thank you.

27 MR. VAZQUEZ: Anybody else?

28 The only -- oh, I'm sorry.

1 Ms. Stowers, go ahead.

2 MS. STOWERS: Actually goes back to Chief
3 Counsel. Do you -- I would check, but we don't have
4 Internet today. Do you publish the litigation roster
5 on the BOE Web site?

6 MR. NANJO: Yes, we do. Technically the one
7 that's on there right now needs to be updated, as you
8 remember, because we had to make things accessible,
9 items had to be taken down. So we're trying -- we're
10 in the process of updating that. I would anticipate
11 within the next 60 to 90 days we should have an
12 up-to-date litigation roster on the BOE Web site.

13 And thank you for bringing that -- reminding
14 of that, Deputy Controller Stowers.

15 Member Cohen, that would also be a good
16 place where you can kind of keep track of what kind
17 of thing we're currently handling.

18 MS. COHEN: Oh, okay.

19 MR. NANJO: And I'm more than happy to -- if
20 you ever have any questions on any of the litigation,
21 you can either contact me directly, or if it's
22 something the whole Board is interested in, I'm more
23 than happy to schedule a closed session to discuss
24 those things.

25 MS. STOWERS: Have there ever been any
26 consideration in addition to updating the roster on
27 the Web site, just to send us a copy of the roster?

28 MR. NANJO: Sure. I can do that.

1 MS. FLEMING: Yeah. I was going to say, we
2 can find additional ways to make it a little easier
3 for you to get access to.

4 So I'll work with Chief Counsel to identify
5 some ways that maintain the confidentiality, but
6 certainly to keep you informed and aware of what's
7 transpiring.

8 MR. NANJO: Absolutely. Thank you.

9 MS. FLEMING: Thank you, sir.

10 MS. COHEN: Henry, before you step away, I
11 just wanted to let you know I appreciate your
12 comments, but we haven't -- I haven't received any
13 updates to date. This is regarding litigation. So
14 I'm just attempting to be informed.

15 I was unaware that there was -- the
16 litigation you deal with is from, you know, three
17 years ago. Of course, obviously I wasn't here three
18 years ago. But -- so that's the kind of information
19 that I'm really looking to garner just so that I'm an
20 informed Member of this body.

21 MS. FLEMING: Yes.

22 MR. NANJO: Yeah. Absolutely. I have no
23 problems doing that.

24 And the reason you haven't gotten a lot of
25 updates is, unfortunately, the litigation that we're
26 involved in, as you will find out when I report on
27 them in closed session, is in situations where
28 there's not much action occurring. In other words,

1 we're kind of stuck in neutral.

2 MS. COHEN: Well, I'm happy to hear that.
3 And I'm thinking maybe even more so now -- maybe even
4 more so that it should be -- we should establish a
5 closed session as a baseline so you can kind of
6 update us.

7 I mean, if it's been around three years and
8 it's in neutral, it sounds like it will be a quick
9 and easy update.

10 MR. NANJO: Sure. Absolutely.

11 MS. COHEN: But I believe that it's in the
12 best interest of the entire body, not necessarily
13 just me as an individual, but just everyone to check
14 in where we are, what's going on, what our exposure
15 is. Sounds like it's nominal. That's very good to
16 hear. But just so that we're informed.

17 MR. NANJO: Absolutely.

18 MS. COHEN: I'd appreciate that.

19 MR. NANJO: Good idea. Thank you very much.

20 MS. COHEN: Thank you.

21 MS. FLEMING: Members, that concludes this
22 month's report.

23 MR. VAZQUEZ: I just had one.

24 You kind of touched on it in the handout
25 basically as we were looking at split roll moving
26 forward. You know we're hearing obviously whether it
27 passes or doesn't pass there still seems to be a
28 concern or a demand, actually, for more assessors.

1 Excuse me, not assessors, but appraisers from the
2 assessors. And I was wondering, moving forward, have
3 we -- and I know you're in communication with the
4 assessors --

5 MS. FLEMING: The assessors. Mm-hm.

6 MR. VAZQUEZ: -- to find out where they're
7 at on that in terms of the demand and the need.

8 MS. FLEMING: Right. And, in fact, we were
9 having some just off the record, casual conversations
10 now, we'll continue to work with them to identify a
11 couple things, identify what the actual workload
12 looks for them.

13 We have been -- and I think I've shared this
14 in some prior reports, there is a significant focus
15 on the appraisers, but there's significant concentric
16 circles around that for other roles, administrative
17 support roles. So some of the staffing levels, and
18 some of the additional technical roles.

19 So just this morning, in fact, Mr. Gaekle
20 and Mr. Dronenburg and I were just chatting about,
21 you know, what that might look like. As we are going
22 forward, staff are starting to do the -- in the event
23 that it passes, we are hopeful that, you know, we get
24 more information soon.

25 But in the event that split roll passes, we
26 would want to ask for a budget change proposal to get
27 the adequate funding and resources. So we are
28 preparing that work now, so we can take this full

1 amount of time between now and the election period to
2 develop as much as possible. So should it pass, we
3 will then be prepared to quickly respond to the
4 Legislature and the budget areas to get what's
5 needed.

6 As we're building that BCP, we're really
7 identifying, you know, what are the roles, what's the
8 classification levels, what's the level of expertise,
9 etc. I want to make sure that we're covering -- on
10 our end, covering all the areas that the assessors'
11 offices would have a need, so we have something
12 that's compatible.

13 So one of the things Mr. Gaekle, Mr.
14 Dronenburg and I were just chatting about is really
15 partnering on, you know, really looking at that so we
16 have a more holistic view of what it's going to take
17 to implement this, you know, measure.

18 So we'll start to build that, and of course
19 we'll keep you informed. But that work we're
20 starting now. It's going to take a while to build
21 it, and there are a lot of dimensions of it.

22 But, again, just to note that it's more than
23 just the appraisers. I know that's been a primary
24 focus, but there's a lot more to it. So the
25 acceleration, etc., that's there. But then there's
26 that second and third level of staff that are also
27 needed.

28 MR. VAZQUEZ: I appreciate it.

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Seeing no other hands, I think we're done.

MS. FLEMING: Okay. Thank you.

And just as a footnote, that item, I think Mr. Yeung may be making a couple comments on that as part of his management report.

MR. VAZQUEZ: Okay.

MS. FLEMING: Thank you, Members.

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REPORTER'S CERTIFICATE

State of California)
) ss
County of Sacramento)

I, Jillian Sumner, Hearing Reporter for the California State Board of Equalization, certify that on February 20, 2020 I recorded verbatim, in shorthand, to the best of my ability, the proceedings in the above-entitled hearing; that I transcribed the shorthand writing into typewriting; and that the preceding pages 1 through 20 constitute a complete and accurate transcription of the shorthand writing.

Dated: February 26, 2020

Jillian Sumner

JILLIAN SUMNER, CSR #13619
Hearing Reporter