



## STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	<b>06/23/05</b>	Bill No:	<b>AB 1655</b>
Tax:	<b>Administration</b>	Author:	<b>J. Horton</b>
Related Bills:	<b>AB 1029</b>		

### **BILL SUMMARY**

This bill would do the following:

1. Substitute “executive officer” for “secretary” in one provision of the Government Code relating to the Board.
2. Prohibit Board Members from participating in the personnel process, except as specified.
3. Require the Board to make public and readily available on the Internet all Board decisions and determinations.
4. Allow the Board to sell copies of any decision or determination that is required to be made public.

### **Summary of Amendments**

The bill was gutted and amended to include all of the above changes. The previous version of this measure related to satellite wagering.

### **ANALYSIS**

#### **Current Law**

The Board administers the sales and use tax and various excise taxes; sets values for property for state-assessees; monitors the property tax assessment practices of county assessors; reviews, equalizes and adjusts assessments of certain land owned by local government; and hears appeals of income and bank and corporation taxes administered by the Franchise Tax Board. The California Constitution establishes that the Board consist of 5 voting members: The Controller and four members elected at gubernatorial elections from districts for 4-year terms.

Under Section 15606 of the Government Code, the Board is required to keep a record of all its proceedings. Consistent with that provision, the Board makes available the minutes of all Board hearings and publishes the minutes on the Board’s website.

#### **Proposed Law**

This bill would make the following changes to the Government Code:

- Amend Section 15604 to substitute “executive officer” for “secretary,” and prohibit a Board Member from participating in the personnel process, except for (1) hiring that

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is at or above the level of Career Executive Assistant or district administrator, or hiring immediate staff, (2) legal matters coming before the Board in connection with personnel, and (3) as otherwise necessary to carry out its Constitutional duties.

- Add Section 15622 to allow the Board to sell copies of any decision or determination that are required to be published pursuant to Section 15622.5, as added by this measure.
- Add Section 15622.5 to require the Board to make public and readily available on the Internet all Board decisions and determinations.

The bill would become operative January 1, 2006.

## COMMENTS

1. **Sponsor and Purpose.** According to the author's office, this bill is sponsored by the SEIU Local 1000. The purpose of the bill is to require the Board to publish all Board decisions and determinations in order to disclose to all interested parties the decisions of the Board and to prohibit the Board Members from generally participating in the personnel process.
2. **The June 23 amendments** delete the entire contents of the bill that related to satellite wagering, and incorporate, in part, provisions contained in AB 1029 (J. Horton) related to Board Members participation in the personnel process and the making public of all Board decisions and determinations.
3. **What does "participate in the personnel process" mean?** The bill would prohibit a Board Member from participating in the personnel process, except as specifically provided. It is unclear why, and to what extent, this prohibition would apply. A whole host of decisions the Board Members as a whole make in the course of running the agency it was elected to run can impact personnel. Should the Members of the Board be treated differently than any other agency head?

Regarding the extent to which this prohibition would apply, there are a variety of situations in which the Board Members, either independently, or as a whole, come in contact with "personnel process." For example, would a Member encouraging an employee known to the Member to apply for a particular opening be regarded as participating in the personnel process? How about a Member engaging in casual conversation speculating about who might apply for certain positions or who the Member might think would be good in a particular position? What if a Member receives letter praising a particular employee, and the Member sends the letter to the Executive Director with instructions to send a copy to be placed in the employee's personnel file? Would these situations be regarded as "participation in the personnel process"?

4. **The Board already publicizes its decisions.** The Board has for several years publicized on the Internet the minutes of every Board hearing it holds. This includes specifying the Board's action on each item for discussion on the agenda before it, including, among other things, all decisions the Board has made on taxpayer appeals, proposed regulatory action, and even non-appearance matters.

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Consequently, since the Board is already in compliance with proposed Section 15622.5, it appears this provision is unnecessary.

**COST ESTIMATE**

This bill would not appear to impact the Board's administrative costs.

**REVENUE ESTIMATE**

Enactment of this bill would not appear to impact revenues.

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