



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE ENROLLED BILL ANALYSIS

Date Amended:	Enrolled	Bill No:	AB 1752
Subject:	Open Meetings	Author:	Migden
Board Position:	Neutral	Related Bills:	SB 445 (2000)

BILL SUMMARY

This bill would require the Board of Equalization to distribute public writings, except those involving a named tax or fee payer, that pertain to a topic under consideration at a public meeting to all persons who request copies, as well as post that information on the Internet, and make the writings available for public inspection at the meeting, prior to the Board taking final action on that item.

ANALYSIS

Current Law

Under current law, the Bagley-Keene Open Meeting Act (commencing with Government Code Section 11120) requires that meetings of state bodies be conducted openly, and that public writings pertaining to a matter subject to discussion or consideration at a public meeting be made available for public inspection. All disclosable public writings that are distributed to Board Members prior to Board meetings are made available upon request, but are not mailed to all persons who have requested notice of the hearing in writing and not all are currently placed on the Internet.

Section 11125.1 of the Government Code requires the Franchise Tax Board, prior to taking final action on any item, to 1) make available for public inspection, 2) distribute to all persons who request notice in writing, and 3) make available on the Internet, all items that are public records and distributed to its members by Franchise Tax Board staff or individual members prior to or during a meeting.

Proposed Law

This bill would amend Government Code Section 11125.1 to require that prior to the Board taking final actions on any item that does not involve named tax or fee payers, writings pertaining to that item that are public records prepared and distributed by Board staff or individual members to Board Members prior to or during a meeting, be:

- Made available for public inspection at that meeting.
- Distributed to all persons who request or have requested copies of these writings.
- Made available on the Internet.

This bill also makes conforming changes to the current information posting requirements placed on the Franchise Tax Board.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

Background

Section 11125.1 was amended last year by Senate Bill 445 (Ch. 670, 2000, Burton) to specifically require the Franchise Tax Board to distribute certain written public records prior to or during a Franchise Tax Board meeting. The Board of Equalization had also been included in the provisions of the bill until the Board staff gave assurances to Senator Burton's office that the information needed would be made available without the costly requirement of posting a lot of extraneous information on the Internet. Since the passage of SB 445, the Board has made the following changes to its web site:

- Added more information on the Public Agenda Notice, including links to the different Committee pages.
- Added coordinated links between regulations under Board consideration and the associated issues paper prepared by Board staff, accessible through the Committee meeting icon.
- Added the names of cases to be heard.
- Added rulemaking information, including type of action (e.g. 15-day file) and regulation titles. The site includes a link to each regulation.
- Added a list by case name of non-appearance items, including the reference number used by the Board Members in order for the audience to more easily follow along with Board Member discussions.
- Added an email link and a telephone number to allow interested parties to request additional information and receive it either electronically, by fax, or by mail.
- Added a new icon on the Board Internet home page to aid in finding hearing information.

COMMENTS

- 1. Sponsor and purpose.** This bill is sponsored by the author with the intent to ensure that the Board of Equalization handles public writings that pertain to matters that are subject to discussion or consideration at a public meeting in the same manner as the Franchise Tax Board, as required by SB 445 of last year.
- 2. Amendments addressed the major concerns of the Board.** The analysis of the January 7, 2002 version of the bill raised the Board's concerns about making available on the Internet the briefs prepared for Franchise Tax Board cases heard by the Members of the Board of Equalization, which are disclosable public records. These briefs may contain detailed and often very personal information about taxpayers, including their social security number, credit card bills, expense reports and all sorts of other information that they submit as evidence to support their tax appeal. The **April 9, 2002 amendments** excluded any information that involves a named tax or fee payer and therefore removed the requirement that this information be made available at the hearings, automatically distributed to requesting parties, or posted on the Internet.

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The amendments also limited the information to be made available, distributed, and posted on the Internet to writings prepared by Board staff or individual members. The bill no longer requires that the Board be responsible for information submitted by outside parties.

3. **The Open Meeting Act currently requires that *disclosable public records be made available upon request*.** However, many documents that are distributed to Board Members prior to Board meetings are exempt from public disclosure because they contain confidential taxpayer information or are protected by the attorney-client privilege. While this bill would provide another avenue in which to obtain records, it would not require that additional information, such as documents that are currently *not disclosable*, be distributed as specified and placed on the Internet.
4. **This bill would require public information to be posted on the Internet.** The information would include budget change proposals and baseline budget numbers which is currently approved by the Board prior to advancing to the Department of Finance and Legislative Budget Committees, as well as certain contract information. This information is currently available to the public upon request. Requiring the information to be posted on the Internet should not be problematic to administer.

COST ESTIMATE

Based on input from interested parties, as explained in the Background section of this analysis, the Board has already implemented many of the requirements of this bill. Therefore, any costs associated with this measure would be absorbable.

REVENUE ESTIMATE

This bill would not impact the state’s revenues.

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