

**BOARD OF EQUALIZATION  
LEGISLATIVE COMMITTEE MEETING  
HONORABLE JEROME HORTON, CHAIR  
450 N STREET, SACRAMENTO, ROOM 121  
JANUARY 27, 2011 9:30 AM**

---

**----- Committee Report and Action Summary -----**

**2011 LEGISLATIVE PROPOSALS**

**PROPERTY TAXES**

**2011 Legislative Proposals**

Set forth below are suggestions for Property Taxes legislation to be sponsored by the BOE in the first year of the 2011-12 Legislative Session (see attachments).

**Suggestion  
Number**

[1-1](#) Amend Revenue and Taxation Code Sections 830 and 862 of the Property Tax Law to expressly provide in statute that state assessee penalties for failure to timely provide information may be partially abated. (Housekeeping)

**Consent** Source: Honorable Betty T. Yee  
Revenue Impact: None.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

[1-2](#) Amend Revenue and Taxation Code Section 63.1 of the Property Tax Law to expressly allow the parent-child exclusion to transfers of interests in cooperative housing corporations. (Housekeeping)

**Consent** Source: Property and Special Taxes Department  
Revenue Impact: Negligible.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

**Suggestion  
Number**

[1-3](#) Amend Revenue and Taxation Code Section 69.5 of the Property Tax Law to clarify the definition of "substantially damaged or destroyed." (Housekeeping)

**Consent** Source: Property and Special Taxes Department  
Revenue Impact: None.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

[1-4](#) Amend Revenue and Taxation Code Section 74.5 of the Property Tax Law to update the citations to the building codes for purposes of the new construction exclusion for seismic safety. (Technical)

**Consent** Source: Property and Special Taxes Department  
Revenue Impact: None.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

[1-5](#) Amend Revenue and Taxation Code Section 74.6 of the Property Tax Law to correct the reference to the California Constitution as amended by Proposition 13 of 2010. (Technical)

**Consent** Source: Property and Special Taxes Department  
Revenue Impact: None.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

[1-6](#) Amend Revenue and Taxation Code Sections 205.5 and 279 of the Property Tax Law to ensure that an unmarried surviving spouse that is receiving the disabled veterans' exemption will continue to receive the exemption if he or she is confined to a hospital or care facility. (Technical)

**Consent** Source: Property and Special Taxes Department  
Revenue Impact: None.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

**Suggestion  
Number**

[1-7](#) Add Revenue and Taxation Code Section 271.5 to, repeal Section 75.23 of, and amend Section 531.1 of, the Property Tax Law to clarify that property tax exemptions cease as of the date of sale or transfer of the property. (Housekeeping)

**Consent** Source: Property and Special Taxes Department  
Revenue Impact: Minimal.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

[1-8](#) Amend Revenue and Taxation Code Section 276.2 of the Property Tax Law to extend the time a claimant may file for the disabled veterans' exemption upon a property's eligibility after the lien date. (Housekeeping)

**Consent** Source: Property and Special Taxes Department  
Revenue Impact: None.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

[1-9](#) Amend Revenue and Taxation Code Section 278 of the Property Tax Law to specify that the disabled veterans' exemption notice shall be mailed annually, prior to the lien date, to claimants who received the exemption in the immediately preceding year. (Housekeeping)

**Consent** Source: Property and Special Taxes Department  
Revenue Impact: None.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

[1-10](#) Amend Revenue and Taxation Code Section 279 of the Property Tax Law to include the events that qualify a claimant for the disabled veterans' exemption and make other minor technical corrections. (Housekeeping)

**Consent** Source: Property and Special Taxes Department  
Revenue Impact: None.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

**Suggestion  
No.**

[1-11](#) Amend Revenue and Taxation Code Section 483 of the Property Tax Law to clarify the local body through which an assessee must appeal a penalty for failure to timely file a change in ownership statement. (Housekeeping)

**Consent** Source: Property and Special Taxes Department

Revenue Impact: None.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

[1-12](#) Amend Revenue and Taxation Code Section 4831 of the Property Tax Law to allow floating homes and manufactured homes to receive a decline in value after the roll has closed. (Housekeeping)

**Consent** Source: Property and Special Taxes Department

Revenue Impact: Negligible.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

[1-13](#) Amend Revenue and Taxation Code Sections 11551 and 11596 of the Private Railroad Car Tax Law to raise the statutory threshold from more than \$15,000 to more than \$50,000 for requiring a public record of proposed determinations to grant refunds or cancellations of tax. (Housekeeping)

**Consent** Source: Property and Special Taxes Department

Revenue Impact: None.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

## BUSINESS TAXES

### 2011 Legislative Proposals

Set forth below are suggestions for Business Taxes legislation to be sponsored by the BOE in the first year of the 2011-12 Legislative Session (see attachments).

#### **Suggestion Number**

[2-1](#) Amend Section 6591.5 of the Revenue and Taxation Code to revise the interest calculation provisions in the tax and fee programs the BOE administers so that the rate of interest allowed on refunds of tax and fee overpayments is the same as that calculated on late payments.

Source: Honorable Michelle Steel

Revenue Impact: If provisions had been in effect in FY 2008-09, would have resulted in credit interest payments of approximately \$26 million for BOE administered tax and fee programs.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

[2-2](#) Amend Revenue and Taxation Code Section 6829 of the Sales and Use Tax Law to include imposition of personal liability on responsible persons of a closely held corporation or closely held limited liability company (LLC) for liabilities arising during a period of suspension of that closely held corporation or closely held LLC, but only if the corporation or LLC is not revived within 60 days of the imposition of the suspension. Further, add statutes comparable to Section 6829, as amended, to those BOE-administered special tax and fee programs where circumstances would warrant the imposition of personal liability on an officer, partner, member, manager, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of taxes or fees for a corporation, partnership, limited partnership, limited liability partnership, or LLC that has been terminated, dissolved or abandoned or on a responsible person of a closely held corporation or closely held LLC that has been suspended without being timely revived.

Source: Legal Department, Sales and Use Tax Department, and Property and Special Taxes Department.

Revenue Impact: An increase in collections of delinquent accounts receivables of approximately \$800,000, primarily in the Special Taxes and Fees programs.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

**Suggestion  
Number**

[2-4](#)

Add Sections 7157, 8407, 30483 and 60709 to, and amend Section 30474 of, the Revenue and Taxation Code to provide the Board of Equalization (BOE) and the State Controller's Office with express authority to collect orders of restitution awarded to the BOE in criminal proceedings in the same manner as tax liabilities.

Source: Legal Department, Sales and Use Tax Department, and Property and Special Taxes Department

Revenue Impact: Increased tax collections of over \$1 million annually.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

## **BUSINESS TAXES SALES AND USE TAXES**

### **2011 Legislative Proposals**

Set forth below are suggestions for Sales and Use Taxes legislation to be sponsored by the BOE in the first year of the 2011-12 Legislative Session (see attachments).

#### **Suggestion Number**

[3-2](#) Add Revenue and Taxation Code Section 6593.7 to the Sales and Use Tax Law to authorize the Members of the BOE, meeting as a public body, to relieve all or any part of interest imposed on a late payment if the Members find, in their discretion, that a person's late payment was due to extraordinary circumstances and that it is inequitable to compute interest as the law requires, under specified circumstances.

Source: Honorable Michelle Steel

Revenue Impact: Indeterminable.

**COMMITTEE RECOMMENDATION:** Staff directed to review Business Taxes appeals for the last 4 years to identify unreasonable delays and "extraordinary circumstances."

[3-3](#) Amend Revenue and Taxation Code Sections 6055 and 6203.5 of the Sales and Use Tax Law to remove the requirement that retailers and lenders file an election form with the BOE prior to claiming a bad debt in the case of accounts held by a lender that have been found worthless and written off by the lender. (Housekeeping)

**Consent** Source: Sales and Use Tax Department

Revenue Impact: None.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

[3-4](#) Amend Civil Code Section 1793.25 to allow the BOE to reimburse a manufacturer of a new motor vehicle for the use tax the manufacturer refunds to a buyer or lessee when the new motor vehicle is reacquired by the manufacturer pursuant to California's "Lemon Law." (Technical)

**Consent** Source: Legal Department

Revenue Impact: None.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

**Suggestion  
Number**

[3-5](#) Amend Business and Professions Code Section 7145.5 to authorize the BOE to request the Contractor's State License Board for a denial or suspension of a contractor's license for failure to resolve any outstanding final tax or fee liabilities.

Source: Sales and Use Tax Department

Revenue Impact: Increases ability to collect on \$51 million in outstanding liabilities owed by construction contractors.

**COMMITTEE RECOMMENDATION:** Motion to Adopt –Passed (3-2)

[3-6](#) Amend Unemployment Insurance Code Section 1088.5 to allow the BOE to use the new employee registry information maintained by the Employment Development Department for tax enforcement purposes.

Source: Sales and Use Tax Department

Revenue Impact: Estimated \$500,000 annually.

**COMMITTEE RECOMMENDATION:** Motion to Adopt –Passed (3-2)

[3-7](#) Amend Revenue and Taxation Code Section 6363.3 of the Sales and Use Tax Law to extend the sunset date, from January 1, 2012 to January 1, 2017, of the sales and use tax exemption for thrift stores that benefit individuals with HIV or AIDS.

**Consent** Source: Honorable John Chiang and Honorable Betty T. Yee

Revenue Impact: State and local use tax revenue loss of approximately \$1 million annually.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

**Suggestion  
Number**

[3-8](#) ~~Add Revenue and Taxation Code Section 7059 to the Sales and Use Tax Law to require the BOE to conduct a study to evaluate the feasibility of employing a system in which sales tax reimbursement collected by retailers is segregated or identified at the time of sale and simultaneously transferred to the State.~~

**Put Over** ~~Source: Honorable Michelle Steel~~

~~Revenue Impact: None.~~

**COMMITTEE RECOMMENDATION:**

[3-9](#) ~~Add Revenue and Taxation Code Section 6012.4 to the Sales and Use Tax Law to specify that the “gross receipts” and “sales price” from the retail sale of a wireless communication device, as defined, is limited to the amount charged for the sale of that device when it is sold in a bundled transaction, as defined.~~

**Put Over** ~~Source: Honorable Michelle Steel~~

~~Revenue Impact: State and local tax revenue loss of over \$82 million annually.~~

**COMMITTEE RECOMMENDATION:**

[3-10](#) Amend Revenue and Taxation Code Section 6018.3 of the Sales and Use Tax Law to eliminate the sunset date and thereby extend indefinitely the provision that makes a United States disabled veteran, as specified, a consumer, rather than a retailer, of food products and nonalcoholic beverages that he or she sells, provided that, for purposes of selling these items, the veteran has no employees and no permanent place of business, as defined.

**Consent** Source: Legal Department, Sales and Use Tax Department, and Taxpayers’ Rights Advocate Office

Revenue Impact: Estimated annual state and local revenue loss of \$23,000.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

**Suggestion  
No.**

~~[3-11](#) Add Revenue and Taxation Code Section 6092.5 to the Sales and Use Tax Law to provide that every person selling a vehicle at auction may not accept a resale certificate from a purchaser who is not a licensed dealer or dismantler.~~

~~**Put Over** Source: Sales and Use Tax Department~~

~~Revenue Impact: Annual state and local revenue increase of over \$1 million annually.~~

[3-12](#) Amend Revenue and Taxation Code Section 6248 of the Sales and Use Tax Law to make a technical clarification to the repair, retrofit and modification exception related to the 12-month rebuttable presumption for vessels purchased outside this state. (Technical)

**Consent** Source: Legislative Section

Revenue Impact: None

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

[3-13](#) Amend Revenue and Taxation Code Section 7096 of the Sales and Use Tax Law to allow a taxpayer to file a claim for reimbursement of bank charges and third party check charges incurred by the taxpayer as the direct result of an erroneous processing action or erroneous collection action by the Board of Equalization (BOE). (Housekeeping)

**Consent** Source: Taxpayers' Rights Advocate

Revenue Impact: Negligible.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

**Suggestion  
No.**

[3-14](#)

Add Revenue and Taxation Code Section 6070.5 to the Sales and Use Tax Law to provide that the Board of Equalization (BOE) may refuse to issue a seller's permit to any person who has an outstanding liability with the BOE and has not entered into an installment payment agreement.

Source: Honorable Betty T. Yee

Revenue Impact: Minor amount of additional revenue due to taxpayers entering into installment payment, with the potential to increase over time as more taxpayers enter into installment payment agreements. This revenue would be limited to collection of outstanding final liabilities and should help to decrease outstanding accounts receivables under specific limited circumstances.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

**BUSINESS TAXES  
SPECIAL TAXES AND FEES**

**2011 Legislative Proposals**

Set forth below are suggestions for Special Taxes and Fees legislation to be sponsored by the BOE in the first year of the 2011-12 Legislative Session (see attachments).

**Suggestion  
Number**

[4-1](#) Amend Revenue and Taxation Code Sections 41031 and 41032 of the Emergency Telephone Users Surcharge Law to remove the requirement for the BOE to publish in its meeting minutes the emergency telephone users surcharge rate set by the California Technology Agency (CTA).

Source: Special Taxes and Fees Division

Revenue Impact: None.

**COMMITTEE RECOMMENDATION:** No Action Taken – Staff directed to seek Board meeting scheduling solution.

[4-2](#) Amend Revenue and Taxation Code Section 50113.1 of the Underground Storage Tank Maintenance Fee Law to allow the Board of Equalization (BOE) to limit the period to three years for which a deficiency determination may be issued or adjusted with respect to a qualified absentee owner of an underground storage tank.

Source: Honorable Michelle Steel

Revenue Impact: Estimated annual revenue loss of \$50,000.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (3-2)

[4-3](#) ~~Add Sections 22974.6 and 22978.9 to the Business and Professions Code to authorize the Board of Equalization (BOE) to impose a civil penalty rather than seizing tobacco products with a retail value of less than one thousand dollars (\$1,000) in cases where the licensee is unable to document the payment of tax with a purchase invoice.~~

**Put Over** ~~Source: Honorable Michelle Steel~~

~~Revenue Impact: Indeterminable.~~

**COMMITTEE RECOMMENDATION:**

## **ADMINISTRATION**

### **2011 Legislative Proposals**

Set forth below are suggestions for legislation to be sponsored by the BOE in the first year of the 2011-12 Legislative Session (see attachments).

#### **Suggestion Number**

[5-1](#) Amend Government Code Sections 17280.1 and 17280.2 to specifically provide that the BOE shall accept registered warrants as payment for any tax, surcharge, or fee liability to the BOE if the registered warrant is issued specifically to that tax, fee, or surcharge payer.

Source: Honorable Betty T. Yee

Revenue Impact: None.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

[5-2](#) Add Section 14669.16 to the Government Code to authorize the Department of General Services, with the consent of the Board of Equalization (BOE), to enter into a lease, lease-purchase agreement, or lease with an option to purchase a build-to-suit facility in the Sacramento area for purposes of consolidating the BOE Headquarters operations into one central location.

Source: Administration Department

Revenue Impact: None.

**COMMITTEE RECOMMENDATION:** Motion to Adopt – Passed (5-0)

**BOARD OF EQUALIZATION  
BOARD COMMITTEE ON LEGISLATION  
January 27, 2011**

**Attending: Honorable Jerome Horton, Chair - Honorable Betty T. Yee, Honorable George Runner, Honorable Michelle Steel,  
and Marcy Jo Mandel**

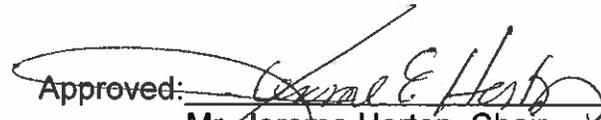
<u>Suggestion No.</u>	<u>Horton</u>	<u>Yee</u>	<u>Runner</u>	<u>Steel</u>	<u>Chiang/ Mandel</u>	<u>Committee Recommendation</u>
<b>PROPERTY TAXES</b>						
1-1			CONSENT			ADOPT (5-0)
1-2			CONSENT			ADOPT (5-0)
1-3			CONSENT			ADOPT (5-0)
1-4			CONSENT			ADOPT (5-0)
1-5			CONSENT			ADOPT (5-0)
1-6			CONSENT			ADOPT (5-0)
1-7			CONSENT			ADOPT (5-0)
1-8			CONSENT			ADOPT (5-0)
1-9			CONSENT			ADOPT (5-0)

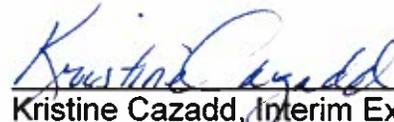
January 27, 2011

<u>Suggestion No.</u>	<u>Horton</u>	<u>Yee</u>	<u>Runner</u>	<u>Steel</u>	<u>Chiang/Mandel</u>	<u>Committee Recommendation</u>
1-10	CONSENT					ADOPT (5-0)
1-11	CONSENT					ADOPT (5-0)
1-12	CONSENT					ADOPT (5-0)
1-13	CONSENT					ADOPT (5-0)
<b>BUSINESS TAXES</b>						
2-1	Y	Y	Y	Y	Y	ADOPT (5-0)
2-2	Y	Y	Y	Y	Y	ADOPT (5-0)
2-4	Y	Y	Y	Y	Y	ADOPT (5-0)
<b>BUSINESS TAXES SALES AND USE TAXES</b>						
3-2	No Action Taken					Staff directed to review Business Taxes appeals for the last 4 years to identify unreasonable delays and "extraordinary circumstances."
3-3	CONSENT					ADOPT (5-0)
3-4	CONSENT					ADOPT (5-0)
3-5	Y	Y	N	N	Y	ADOPT (3-2)
3-6	Y	Y	N	N	Y	ADOPT (3-2)

<u>Suggestion No.</u>	<u>Horton</u>	<u>Yee</u>	<u>Runner</u>	<u>Steel</u>	<u>Chiang/Mandel</u>	<u>Committee Recommendation</u>
3-7	CONSENT					ADOPT (5-0)
3-8	PUT OVER					
3-9	PUT OVER					
3-10	CONSENT					ADOPT (5-0)
3-11	PUT OVER					
3-12	CONSENT					ADOPT (5-0)
3-13	CONSENT					ADOPT (5-0)
3-14	Y	Y	Y	Y	Y	ADOPT (5-0)
<b>BUSINESS TAXES</b>						
<b>SPECIAL TAXES AND FEES</b>						
4-1	No Action Taken					Staff directed to seek Board meeting scheduling solution.
4-2	N	N	Y	Y	Y	ADOPT (3-2)
4-3	PUT OVER					

<u>Suggestion No.</u>	<u>Horton</u>	<u>Yee</u>	<u>Runner</u>	<u>Steel</u>	<u>Chiang/Mandel</u>	<u>Committee Recommendation</u>
<b>ADMINISTRATION</b>						
5-1	Y	Y	Y	Y	Y	ADOPT (5-0)
5-2	Y	Y	Y	Y	Y	ADOPT (5-0)

Approved:   
Mr. Jerome Horton, Chair  
Board Member  
Board Legislative Committee

  
Kristine Cazadd, Interim Executive Director

BOARD APPROVED

2/23/2011  
at the February 23, 2011 Board Meeting

  
Diane Olson, Chief  
Board Proceedings Division