



**STATE BOARD OF EQUALIZATION  
STAFF LEGISLATIVE BILL ANALYSIS**

DRAFT

Date:	<b>08/05/14</b>	Bill No:	<a href="#"><u>Assembly Bill 1656</u></a>
Tax Program:	<b>Administration</b>	Author:	<b>Dickinson</b>
Sponsor:	<b>BOE</b>	Code Sections:	<b>GC 14669.16</b>
Related Bills:		Effective Date:	<b>01/01/15</b>

**BILL SUMMARY**

This bill authorizes the Department of General Services (DGS), in consultation with the Board of Equalization (BOE), to enter into agreements to acquire, construct, purchase, lease-purchase, or lease-with an option to purchase, a facility in the Sacramento area for purposes of consolidating and relocating the BOE Headquarters operations into one central location.

**Summary of Amendments**

Since the previous analysis, this bill was amended to (1) require DGS to determine whether it is in the state’s best interest to sell or lease the 450 N Street property, (2) after making the determination, repay the total outstanding bonds on the property, (3) authorize DGS and the State Public Works Board (SPWB) to borrow an amount from the General Fund sufficient to pay the total outstanding bonds, and (4) require any amounts loaned to be repaid from proceeds of the sale.

**ANALYSIS**

**CURRENT LAW**

**BOE Responsibilities.** Under existing law, the BOE administers the following tax and fee programs: sales and use tax, Bradley-Burns uniform local sales and use tax, transactions and use tax, alcoholic beverage tax, cigarette and tobacco products tax, motor vehicle fuel tax, diesel fuel tax, interstate user tax, emergency telephone users surcharge, energy resources surcharge, insurance tax (in part), integrated waste management fee, natural gas surcharge, childhood lead poisoning prevention fee, oil spill response and prevention fee, underground storage tank maintenance fee, use fuel tax, hazardous substances tax, California tire fee, occupational lead poisoning prevention fee, marine invasive species fee, electronic waste recycling fee, timber yield tax and private railroad car tax. The BOE also assesses the property of public utilities and common carriers, and provides certain administrative and oversight functions with respect to the local property tax.

In fiscal year (FY) 2012-13, BOE-administered taxes and fees produced \$56 billion for California, an increase of 6.8% from \$52.5 billion in FY 2011-12. In addition, BOE administered programs provided approximately 35% of California’s annual revenue and \$10.8 billion in essential funding for counties, cities, and special districts.

The BOE is comprised of four elected members, one from each equalization district, and the State Controller. The Board itself is responsible for setting the values for state-assessed properties on the BOE roll and hearing appeals of those values. It also hears appeals related to all of the taxes and fees it administers, as well as Franchise Tax Board administered taxes.

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**DGS Responsibilities.** Existing law<sup>1</sup> authorizes the DGS to perform various functions with regard to state property and provides for the sale, lease, or transfer of state property, if authorized or contemplated by law.

Existing law authorizes the DGS to acquire, construct, lease, or transfer state property, as specified, when specifically authorized by the Legislature.

Under Government Code Section 14660, DGS can acquire title to real property in the name of the State whenever the acquisition of real property is authorized or contemplated by law, if no other state agency is specifically authorized and directed to acquire it.

Government Code Section 14669 authorizes DGS to hire, lease, lease-purchase, or lease with an option to purchase any real or personal property for the use of any state agency if DGS deems the hiring or leasing is in the State's best interest and is specifically authorized to do so by the Legislature.

Government Code Section 14682 requires state agencies located in existing state-owned or state-leased facilities that vacate their premises to continue paying rent for the facilities unless and until a new tenant can be assigned or until the DGS can negotiate a mutual termination of the lease.

#### PROPOSED LAW

This bill adds Government Code Section 14669.16 to authorize the DGS, in consultation with the BOE, to enter into one or more agreements to acquire, construct, purchase, lease-purchase, or lease with an option to purchase, to provide usable office and related space in order to consolidate the BOE headquarters operations into one single location. Specifically, this bill:

- Authorizes DGS to enter into agreements for the planning, design, construction, and acquisition of facilities in the Sacramento region.
- Requires DGS to develop the terms and conditions of the agreements no later than December 31, 2015.
- Authorizes DGS to solicit proposals for the sale, exchange, lease, or rehabilitation of the 450 N Street property. The acquisition of a new facility and sale of the existing 450 N Street property may be handled separately or combined into one proposal.
- Requires DGS to notify the Legislature of the terms and conditions of the proposed agreements at least 45 days prior to executing the agreements.
- Requires that DGS be reimbursed for its costs associated with entering into the agreement in an amount not to exceed \$3 million from a loan of funds that are deposited in the Architecture Revolving Fund (ARF) for repairs to the BOE's Headquarters building. Any amounts loaned shall be repaid from the BOE's operating funds within five years from the date those funds were borrowed.
- Requires DGS to determine whether it is in the best interest of the state to sell or lease the 450 N Street property and report its findings to the Legislature.
- After making the determination to sell, exchange, or lease the 450 N Street property, requires DGS to make an early payoff of the total outstanding bonds on the property.

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<sup>1</sup> Article 2 (commencing with Section 14660) of Chapter 2 of Part 5.5 of Division 3 of Title 2 of the Government Code.

In order to facilitate the sale of the 450 N Street property, DGS and the SPWB may borrow from the General Fund an amount necessary to satisfy the total outstanding bonds. Any amounts loaned shall be repaid from the sale proceeds of the property.

The bill authorizes the SPWB to issue revenue bonds, negotiable notes, or negotiable bond anticipation notes to finance the acquisition of the land and facility for a new consolidated headquarters. The bill authorizes the SPWB and DGS to borrow funds for project costs from the Pooled Money Investment Account (PMIA). In the event the bonds authorized are not sold, the DGS is required to commit a sufficient amount of its support appropriation to repay any loans made for the project from the PMIA. It is the intent of the Legislature that this commitment be included in future Budget Acts until outstanding loans from the PMIA are repaid either through the proceeds from the sale of bonds or from an appropriation.

The bill authorizes the BOE to relocate its offices from existing state-owned or state-leased facilities that no longer meets its needs without any obligation to pay rent after vacating the premises.

This bill contains intent language stating:

- The current BOE headquarters building lacks sufficient space to meet the BOE's existing and future consolidated space needs.
- The State has expended approximately \$65 million over the last decade to repair the BOE headquarters building. The State is scheduled to spend another \$30 million or more to make numerous additional repairs to the building.
- Consolidating the various BOE headquarters and annexes into one location will greatly facilitate and improve the efficiency of the administrative operations of the agency.
- Allowing the BOE to move out of the 450 N Street property and to consolidate its operations into one location will accommodate any future growth as part of its revenue-administrative mission.

If enacted, the bill takes effect on January 1, 2015.

#### **BACKGROUND**

The BOE Headquarters building located at 450 N Street is owned by the State of California and has property management services provided by the DGS. The BOE is the primary tenant and pays monthly rent as identified annually by the DGS to occupy the building, as well as any additional costs to maintain, upgrade, operate, or fund other special repairs to the building.

Construction of the BOE Headquarters building began in 1991 and was completed in January 1993. The Headquarters building is a twenty-four story office facility, which includes a four-level parking garage, ground floor cafeteria and a children's daycare center. The BOE moved its headquarters operations into the building in February 1993.

Since 2008, BOE has worked intermittently with the DGS to determine BOE's space needs, including the headquarters building, by identifying adequate office space for additional employees. The Space Optimization Study of 1997 prepared by Dreyfuss and Blackford, and two additional reviews prepared by the DGS (2006 and 2008), indicated that the building is designed to house 2,200 employees. The BOE headquarters' operations currently requires space for approximately 3,150 employees.

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The staffing increases are largely related to legislative mandates for revenue collection and enforcement efforts. With this growth, BOE needed to move approximately one-fourth of the Headquarters operations to four different annex locations in the greater Sacramento area.

In 2008, BOE permanently relocated 28 employees and over one million taxpayer records to an annex location in West Sacramento. In spring 2010, the BOE permanently moved 381 employees to two annex locations, one in West Sacramento and one in downtown Sacramento. In December 2010, the BOE moved an additional 315 revenue-generating employees to a fourth annex location in the North Natomas area of Sacramento. The annex facilities house approximately 700 employees and over one million taxpayer records. However, even these facilities are at maximum capacity, leaving no room for future growth.

The BOE's projected growth for its headquarters operations is estimated at 3% per year, which equates to approximately 125 positions. Approval of the FY 2013-14 budget change proposals will add approximately 267 positions to the BOE headquarters facility for FYs 2013-14 and 2014-15. Since all five headquarters locations are near capacity, any future legislative mandates will impact the BOE's ability to add staff, which could result in programmatic delays if unaddressed.

To operate a headquarters function from five locations creates inefficiencies and increases costs. The multiple locations require staff to travel from location to location to attend meetings. Additionally, BOE staff has seen an increase in costs to support additional information technology and telecommunications.

In addition, BOE has considered aligning certain processing functions in a manner that allows for more efficient workflow. The BOE's return processing functions (mailroom, cashiers/data entry, and return analysis) are currently spread between three floors. This requires the paper to be loaded onto an elevator to be delivered to the next step in the processing function. If these functions could be aligned together on a single floor plate, it would allow for cross-utilization of staff and decrease processing time. The Franchise Tax Board utilizes a horizontal-flow process with large floor plates that create a paper "pipeline" process.

**DGS August 2013 Report to the Legislature.** The Supplemental Report of the 2012-13 Budget Package required DGS to undertake a preliminary study of the possible relocation and consolidation of the BOE headquarters and annexes in the Sacramento region. As identified in the DGS' August 2013 [supplemental report](#) to the Legislature, there are several options to procure a new BOE facility, including capital outlay design-bid-build, design-build, and lease with a purchase option. Certain options include a request-for-proposal (RFP), which requires respondents to propose facility solutions to meet detailed performance and feature characteristics. The DGS will require legislative authorization to pursue any of these options.

In addition, the DGS noted that the ability to move forward with a replacement facility project is tied to the existing bond financing for BOE's current headquarters building. Under the current debt structure, the bonds are scheduled for final maturity December 1, 2021. Under the bond covenants, the facility must be occupied with a rent-paying tenant unless the Make-Whole Optional Redemption provision is exercised. If the state chooses to exercise that option and redeem the bonds early, it would then be possible to move BOE into an alternative facility at an earlier date.

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**DGS issues Request for Information (RFI).** On September 26, 2013, the DGS issued an RFI, with responses due back to DGS by October 31, 2013. They received 26 responses by the deadline. The RFI is to be utilized to provide additional and valuable insight toward the ultimate goal of addressing BOE's facility needs. The information provided through the RFI process will help shape the Administration's and the Legislature's deliberative process for developing the implementation strategy for the replacement facility.

In addition, the RFI requested information on potential sites for approximately 600,000 to 750,000 net usable square feet of office space for the BOE in the County of Sacramento, or City of West Sacramento. The RFI required respondents to provide information about certain state requirements such as:

- Compliance with all current building and accessibility codes.
- Attainment of high energy efficiency and sustainability goals.
- Consistency with statewide planning priorities.
- Proximity to public transit.
- Provision of child care facility space for state employees.

As noted in the RFI, the DGS will require subsequent legislative authority to pursue any facility consolidation project.

## COMMENTS

**1. Sponsor and Purpose.** The BOE is sponsoring this bill in order to begin the process of moving the 3,150 BOE employees out of the 450 N Street building and annex locations, which are at capacity, to a location that better meets its business needs. The staffing increases are due largely to growth resulting from legislative mandates for revenue administration and collection and enforcement efforts. The 450 N Street building was designed to house not more than 2,200 employees for its operations.

In addition, this bill would accomplish the following:

- Support BOE's core mission of revenue-generating processing,
  - Protect the health and safety of employees,
  - Eliminate inefficiencies of managing operations across multiple annex locations, and
  - Accommodate future short-term and long-term growth.
- 2. The August 5, 2014 amendments** (1) require DGS to determine whether it is in the state's best interest to sell or lease the 450 N Street property, and report on the most cost-effective option to the Legislature, (2) define the 450 N Street property and refer to it as the "Sacramento property," (3) require DGS, after making the determination, to make an early payoff of the total outstanding bonds on the property, (4) authorize DGS and SPWB, in order to facilitate the sale of the property, to borrow from the General Fund an amount necessary to satisfy the total outstanding bonds, (5) stipulate that any amounts loaned shall be repaid from the sale proceeds of the 450 N Street property, and (6) authorize the SPWB to issue bonds, negotiable notes, or negotiable bond anticipation notes to finance the acquisition or construction of a new consolidated facility for the BOE. **The May 23, 2014 amendments** (1) limited DGS

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authorization to entering into a lease-purchase or a lease with an option to purchase to provide usable office and related space in order to consolidate the BOE Headquarters into a single location, (2) deleted provisions requiring DGS to determine if selling the current headquarters building or leasing it to other tenants is in the best interest of the state, and (3) required DGS to be reimbursed for its cost to enter into an agreement in an amount not to exceed \$3 million from a loan of funds that are deposited in the Architecture Revolving Fund for repairs to the 450 N Street building. Any amount loaned must be repaid from the BOE's operating funds within five years from the date those funds were borrowed.

- 3. The Joint Legislative Audit Committee (JLAC) approved an audit request on March 12, 2014, to evaluate BOE costs to house its employees and repair and maintain its headquarters office and satellite locations in the Sacramento area.** Assembly Member Dickinson requested an audit to analyze the overall state costs to house and repair the BOE at 450 N Street and its other Sacramento locations, and whether the state could increase efficiency, improve workers and public safety and decrease costs by consolidating the operation in a new facility.

State Auditor Elaine Howle testified that the audit work can be completed in approximately five months. The proposed audit scope and objectives will:

- Determine and assess, to the extent possible, any actions taken by the State Government Operations Agency (SGO), DGS, and BOE to address the following:
  - The total investment the State would have to make to repair failing components in the 450 N Street building necessary to maintain employee and public health and safety levels, and the time frame for those investments to be made.
  - The potential loss of worker productivity, which would result from temporarily relocating employees in the building at 450 N Street during the course of repairs.
  - The costs and benefits of maintaining the current spatial configuration of the building at 450 N Street and the BOE satellite facilities, compared to costs and benefits of housing all BOE employees in one consolidated facility.
  - The extent to which proposals for housing BOE employees involving public-private partnerships have been considered, and whether those proposed partnerships would result in cost savings to the State.
- To the extent possible, determine whether SGO, DGS, or BOE has assessed whether the repair process may impact the collection of state tax revenues.
- Determine whether the BOE has accurately projected its staffing level over the next 15 years. If not, use available data to estimate that projected growth in staffing levels.
- Review and assess any other issues that may be significant to the audit.

The report is expected to be released in September 2014.

**COST ESTIMATE**

The DGS estimates costs of \$3 million to develop and issue a request for proposal and develop terms and conditions of an agreement. The bill authorizes the use of up to \$3 million from a loan of funds deposited into the Architecture Revolving Fund reserved for repairs to the 450 N Street building. Any amounts loaned must be repaid from the BOE’s operating funds within five years from the date those funds were borrowed.

**REVENUE ESTIMATE**

Moving BOE Headquarters staff to a facility that meet its business needs would improve and facilitate the BOE’s core mission of administration of various tax and fee programs, and to that extent, would have a positive effect on future state and local revenues of an unknown amount.

Analysis prepared by:	Debra Waltz	916-324-1890	08/06/14
Contact:	Michele Pielsticker	916-322-2376	
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