



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

DRAFT

Date Introduced:	<b>02/26/09</b>	Bill No:	<a href="#"><b>AB 824</b></a>
Tax:	<b>Property</b>	Author:	<b>Harkey</b>
Related Bills:			

**BILL SUMMARY**

This bill would expressly allow an assessment appeals board from another county to hear and decide property tax appeals for a person that has an employment related conflict of interest with the assessment appeals board in the county where the property is located.

This bill would also extend certain conflict of interest provisions to county counsel employees that work with the assessment appeals board.

**ANALYSIS**

**CURRENT LAW**

Existing law provides various conflict of interest provisions and safeguards to ensure the integrity and impartiality of decisions rendered by a county assessment appeals board. For instance, Revenue and Taxation Code Section 1624.2 bars assessment appeal board members from knowingly participating in any appeal proceeding if they have an interest in the subject matter which could reasonably be expected to influence the impartiality of their judgment in the proceeding. The same applies if a member has an association with one of the parties to the proceeding.

In addition, the law prohibits certain persons with an employment association with the assessment appeals board from representing any person filing an appeal for compensation. Persons statutorily subject to these provisions include:

- Employees of the office of the clerk of the county board of equalization or county assessment appeals board. §§1612.5 and 1612.7
- Assessment appeals board members and alternate members. §§1624.3 and 1622.6
- Assessment hearing officers. §§1636.2 and 1636.5

Furthermore, if any of these persons file an appeal application on his or her own behalf, or decides to represent a spouse, parent, or child in an assessment appeal, then the law requires he or she immediately notify the clerk of the assessment appeals board. Such appeals may not be heard by the regular assessment appeals board for the county. Instead, Section 1622.6 requires these appeals be heard by a special assessment appeal board panel consisting of three special alternate members appointed by the presiding judge of the superior court in the county where the application is filed. The special alternates are not required to reside in the county.

**PROPOSED LAW**

**Substitute Appeals Board.** This bill would amend Revenue and Taxation Code Section 1622.6 to give the clerk of the assessment appeals board the option to set conflict of interest appeals hearings with an alternate board consisting of three special

*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*

alternate assessment appeals board members who are qualified and in good standing in *another* county in California. If this option is exercised, then the superior court would not need to appoint three persons to a special panel for the appeal.

**County Counsel Employees.** This bill would add Sections 1612.9 and 1612.10 to the Revenue and Taxation Code to extend existing conflict of interest provisions to county counsel employees who either advise the assessment appeals board or represent the assessor before the assessment appeals board. Specifically, these employees would be prohibited from representing any person in an assessment appeal hearing for compensation and would be required to notify the clerk of the appeals board when they file an appeal on property they own in the county or if they decide to represent a spouse, parent, or child in an assessment appeal hearing.

#### IN GENERAL

**Appeals Boards.** Local appeals boards are independent entities, separate from the assessor's office, established to decide disputes between county assessors and property owners. All 58 counties in California have assessment appeals proceedings. In 19 counties, the county board of supervisors hear the appeals, meeting as a county board of equalization. The remaining counties have separate assessment appeals boards composed of persons appointed to serve on the appeals board by the board of supervisors.

**Appointments.** In counties that have assessment appeals boards, the county board of supervisors follows a statutory procedure of appointing individuals to serve as board members. Members of assessment appeals boards are selected by one of two statutorily prescribed methods:

- Under Section 1622, the members of a county board of supervisors nominate individuals to the board and the presiding judge of the superior court of the county selects by lot three members from among those persons nominated; or,
- Under Section 1622.1, individuals are appointed directly to a board by the majority vote of the board of supervisors.

Every county that has an assessment appeals board has adopted the direct appointment method pursuant to Section 1622.1.

Appointments last for a term of three years and members may be reappointed an unlimited number of terms. The three-year terms are staggered to ensure a board will not be comprised of members with no prior experience. An assessment appeals board may be comprised of either three or five members, although individual appeals are only heard by a three-member panel.

**Eligibility.** Section 1624.05 provides that in counties with a population of 200,000 or more, a person is not eligible for nomination unless he or she meets one of the following criteria: has a minimum of five years professional experience in this state as a certified public accountant or public accountant, a licensed real estate broker, an attorney, or a property appraiser accredited by a nationally recognized professional organization, the Office of Real Estate Appraisers, or the Board of Equalization.

The eligibility requirements are less stringent in counties with a population of less than 200,000. Section 1624 expands the specific eligibility requirements noted previously to allow "a person who the nominating member of the board of supervisors has reason to

believe is possessed of competent knowledge of property appraisal and taxation." The population estimate to use for purposes of this section is the Department of Finance estimate prepared pursuant to Government Code Section 13073.5.

Section 1624.1 provides that individuals who worked in an assessor's office are not eligible for appointment to an assessment appeals board within three years of leaving that employment.

**Assessor Staff Conflict of Interest Provisions.** Section 1365 prohibits the county assessor and the employees of the assessor's office from engaging in any gainful profession, trade, business or occupation whatsoever for any person, firm, or corporation that is incompatible or involves a conflict of interest with their duties as officers and employees of the county. In addition, they may not engage on their own behalf in any such profession, trade, business, or occupation. Section 1365 expressly provides that conflict of interest includes the receiving of compensation or gifts from private persons or firms for advice or other services relating to the taxation or assessment of property.

#### BACKGROUND

Basic conflict of interest provisions for assessors and appeal board members have been in place since the 1960's. In 1999, SB 1231 (Stats. 1999, Ch. 941; SR&T Committee) added the more specific compensation prohibitions, notification requirements as well as extending the conflict of interest provisions to clerks and hearing officers. With respect to the special appeals panel, SB 1231 also eliminated the requirement that alternate appeals board members reside in the county where the property is located. Sections amended or added by SB 1231 included §§1612.5, 1612.7, 1622.6, 1624, 1624.05, 1624.3, 1636.2, and 1636.5. These provisions were sponsored by the California Association of Clerks and Election Officials.

#### COMMENTS

1. **Sponsor and Purpose.** This bill is sponsored by the California Association of Clerks and Election Officials. The provisions related to assessment appeals boards are intended to allow the use of another county's already assembled operating Assessment Appeals Board rather than going through the administrative process of creating the special alternate board. The sponsors note that creating the special panel is time consuming. Further, while the members on the ad hoc panel meet the necessary qualifications, they may have little or no experience in hearing and deciding assessment appeals.

The provision to add county counsel employees is in an effort to establish additional conflict of interest provisions and safeguards with respect to certain specified persons who have a close employment association with the assessment appeals boards.

2. **The Los Angeles and Orange County clerks of the board have tried this approach on a piecemeal basis and have found it both practical and economical.** The 1999 legislation eliminated the requirement that persons hearing appeals must reside in the county where the property is located.

3. **Suggested revisions to consolidate and streamline existing statutes.** The current laws on compensation prohibitions and notification requirements are widely dispersed and the special hearing procedures are addressed via cross reference. Further, those provisions include specific compensation prohibitions and notification requirements for appeals board members as well as the special court appointed process. These various code sections are cumbersome and disjointed. Adding new stand alone provisions for county counsel employees further complicates the code. Consequently, to make these provisions of law more user-friendly and cohesive, the following suggestions are recommended.

- Consolidate compensation prohibitions into existing Section 1612.5 by making necessary amendments, repealing Sections 1624.3 and 1636.2, and adding a reference to Section 1365 for comprehensiveness.
- Consolidate notification requirements into existing Section 1612.7 by repealing 1636.5 and amending language out of Section 1622.6.
- Consolidate reference to conflict of interest appeals subject to a special appeals panel by cross reference to Section 1622.6.
- Streamline the provisions of Section 1622.6 to address only the hearing procedures.
- For clarity, use a different name to distinguish between the two options available in creating a special appeals panel to hear conflict of interest appeals: the judge appointed “special alternate assessment appeals panel” and the clerk optional “substitute assessment appeals board panel” from another county.

Statutory language to accomplish these suggestions would read as follows:

#### **Compensation Prohibitions**

**1612.5.** (a) The following persons may not represent an applicant for compensation on any application for equalization filed pursuant to Section 1603:

- (1) A current member of an assessment appeals board, or any alternate member, in the county in which the board member or alternate member serves.
- (2) A current hearing officer in the county in which the hearing officer serves.
- (3) A current employee of the office of the clerk of the county board of equalization or assessment appeals board in the county in which the person is employed.
- (4) A current employee of the county counsel county counsel who advises the assessment appeals board or represents the assessor before the assessment appeals board in the county in which the person is employed.
- (5) A current employee of the assessor’s office in the county in which the person is employed in accordance with the provisions of Section 1365.

**Notification Requirements & Appeals Subject to Special Hearing**

1612.7. (a) The following persons shall notify the clerk of the board immediately upon filing an application for equalization pursuant to Section 1603 on his or her own behalf, or upon his or her decision to represent his or her spouse, parent, or child in an assessment appeal:

(1) A current member of an assessment appeals board, or any alternate member, in the county in which the board member or alternate member serves.

(2) A current hearing officer in the county in which the hearing officer serves.

(3) A current employee of the office of the clerk of the county board of equalization or assessment appeals board in the county in which the person is employed.

(4) A current employee of the county counsel county counsel who advises the assessment appeals board or represents the assessor before the assessment appeals board in the county in which the person is employed.

(b) An application for equalization filed pursuant to Section 1603 by a person specified in subdivision (a) or an application in which a person specified in subdivision (a) represents his or her spouse, parent, or child, shall be heard in accordance with the provisions of Section 1622.6

**Special Appeals Panel**

1622.6. (a) An application for equalization filed pursuant to Section 1603 by a person specified in Section 1612.7, or an application in which a person specified in Section 1612.7 represents his or her spouse, parent, or child, shall be heard before an assessment appeals board panel consisting of three special alternate assessment appeals board members appointed by order of the presiding judge of the superior court in the county in which the application is filed.

(1) A special alternate assessment appeals board member may hear only the application or applications for equalization set forth in the superior court order appointing the member.

(2) Any person shall be eligible for appointment as a special alternate assessment appeals board member who meets the qualifications set forth in Section 1624. The prohibitions specified in Sections 1624.1 and 1624.2 shall be applicable to the appointment of a special alternate assessment appeals board member.

(b) Notwithstanding subdivision (a), at the discretion of the clerk of the board, the application may be heard before a substitute assessment appeals board panel consisting of three persons who currently serve as members of an assessment appeals board for another county in California.

(1) The substitute panel may hear only the application or applications for equalization set forth in the transmittal document prepared by the clerk of the board of the county in which the application is filed.

(2) Each appeals board member on the substitute panel must be in good standing in his or her county and must meet the eligibility qualifications for assessment appeal boards membership in the county in which the application was filed.

**COST ESTIMATE**

This measure would not impact the Board.

**REVENUE ESTIMATE**

This measure would not impact state revenues.

Analysis prepared by:	Rose Marie Kinnee	445-6777	04/09/09
Contact:	Margaret S. Shedd	322-2376	
ls			0824-1rk.doc

*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*