



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

DRAFT

Date Amended:	Chapter 67	Bill No:	SB 824
Tax:	Property Administration	Author:	Committee on Revenue and Taxation
Related Bills:		Position:	Support as Sponsor

BILL SUMMARY

This Board of Equalization (Board) sponsored bill contains Property Taxes provisions to:

- Amend Sections 69 and 69.3 of the Revenue and Taxation Code¹ to treat land and improvements as separate units in meeting the "substantially damaged or destroyed" threshold of 50% for purposes of qualifying for disaster relief via a base year value transfer.
- Amend Section 214.6 to clarify the filing procedures for obtaining a property tax exemption on property owned by a church or a nonprofit organization that is leased to a public school, community college, state college, or state university, including the University of California.
- Amend Section 276, related to the Disabled Veterans' Exemption, to delete obsolete references to prior exemption amounts that have since been increased, and to correct a transposition error within that section that intends a cross reference to Section 4985. (Housekeeping)
- Amend Sections 480.3 and 480.4 to remove the specific detail of the Preliminary Change in Ownership Report from statute and instead authorize the Board to prescribe the form after consultation with the California Assessors' Association and interested parties.
- Amend Section 15641 of the Government Code to clarify that a cross reference to "Section 408" refers to that section of code in the Revenue and Taxation Code rather than the Government Code. (Technical)

In addition, this bill amends Section 15609 of the Government Code to require the Members of the Board to meet monthly in the state but not exclusively in Sacramento so long as they hold at least one regular meeting in Sacramento each quarter.

BACKGROUND

This bill contains many provisions contained in last year's SB 1777 (SR&T) which was vetoed by the Governor, along with other measures, with the following veto message:

The historic delay in passing the 2008-2009 State Budget has forced me to prioritize the bills sent to my desk at the end of the year's legislative session. Given the delay, I am only signing bills that are the highest priority for California. This bill does not meet that standard and I cannot sign it at this time.

¹ All code section references are to the Revenue and Taxation Code unless otherwise specified.

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ANALYSIS**Base Year Value Transfers: Disaster Victims**
*Revenue and Taxation Code Sections 69 & 69.3***CURRENT LAW**

California property tax law provides for various situations in which the base year value of a property can be transferred to another property, notwithstanding that the property has changed ownership. These special situations are provided pursuant to various constitutional amendments and serve to avoid the otherwise required reassessment of a property to its current market value when it changes ownership. Related to this bill, base year value transfers are available to disaster victims that choose to relocate and purchase a new property rather than rebuild on the same site.

Permitting a person to “transfer” his or her base year value from one property to another property provides that person with tax relief by allowing the property owner to continue to pay taxes on the replacement property equivalent to that paid on the property from which they were displaced. Without a base year value transfer, the taxes on the new property would likely be significantly more because under the general change in ownership laws the taxes would be based on the new property’s current fair market value. The rationale for providing a base year value transfer is that the tax laws should not further afflict disaster victims by imposing upon them higher property taxes. If the disaster had not occurred, those individuals would not have been compelled to relocate and thereby forfeit their Proposition 13 protected base year values.

Specifically, Section 69 of the Revenue and Taxation Code provides that persons who own property substantially damaged or destroyed in a governor-declared disaster may transfer the base year value of that property to a property acquired or constructed as a replacement if it is acquired within five years after the disaster. “Substantially damaged” means physical damage amounting to more than 50 percent of its current market value immediately prior to the disaster.

Base year value transfers are available for all property types with the limitation that the original property and the replacement property must be of the same property *type*: residential, commercial, agricultural, or industrial. The replacement property is “comparable” if it is similar in size, utility, and function to the destroyed property, and if the market value of the acquired property does not exceed 120% of the fair market value of the replaced property in its pre-damaged condition. Property owners may still, nevertheless, receive the disaster relief in cases where the value of the replacement property exceeds the 120% limitation. In such cases, the amount over this threshold is assessed at full market value and added to the transferred base year value. (Proposition 50 of 1986 authorized this base year value transfer provision.)

Section 69.3 provides similar disaster base year value transfer provisions but, unlike Section 69 which applies to all property types, it is limited to principal places of residences purchased in another county and only applies to homes purchased in counties where the board of supervisors has adopted an ordinance making this benefit available. Currently, only nine counties extend this relief to displaced homeowners who previously lived in another county: Contra Costa, Los Angeles, Modoc, Orange, San Francisco, Santa Clara, Solano, Sutter and Ventura. (Proposition 171 in 1995 authorized this base year value transfer provision.)

PROPOSED LAW

This bill amends Sections 69 and 69.3 to treat land and improvements as separate units in meeting the "substantially damaged or destroyed" threshold of 50% for purposes of qualifying for disaster relief via a base year value transfer.

COMMENT

Specifically related to the issue, this bill addresses cases in which the scarcity of land in some locations has driven up land values to the point that land comprised more than 50% of a property's total value. For example, assume a home that is worth \$800,000 is completely destroyed in a wildfire. If the now empty lot is worth \$450,000 – i.e., more than 50% of the total value, the homeowner would not be eligible for a base year value transfer even though the home itself (the improvement) was 100% destroyed and the homeowner purchases a replacement dwelling that is no more than \$800,000. In this scenario, if the home's Proposition 13 protected base year value was \$350,000 and a replacement home is purchased at \$800,000 then without a base year value transfer, property taxes would increase from \$3,500 ($\$350,000 \times 1\%$) to \$8,000 ($\$800,000 \times 1\%$). The issue of land values comprising more than 50% of a property's total value is an emerging issue that recently came to light as a result of the 2007 fires in San Diego County.

Sections 51(b) and 170(b) and Property Tax Rule 461(e) treat land and improvements as separate appraisal units for calamity purposes. Using these provisions of law as a guide, Sections 69 and 69.3 should be similarly amended to provide that for purposes of measuring the 50 percent loss in value, land and improvements should be considered as separate appraisal units. For purposes of comparing values of the original and replacement properties' values, within the 120% value limitation, land and improvements would continue to be considered as one appraisal unit.

This bill would ensure that for those disaster victims that ultimately decide to relocate rather than rebuild a base year value transfer will be available to them in those locations where land values comprised more than 50% of the property's value.

Property Leased To Schools: Filing Requirements*Revenue and Taxation Code Section 214.6***CURRENT LAW**

Existing law provides property tax exemptions for public schools and colleges directly owned by the school (public schools exemption) and privately owned property when it is leased to public schools and colleges, but only if the property is exclusively used for school purposes (lessor's exemption). The law also provides property tax exemptions for property owned and used by qualifying nonprofit organizations (the welfare exemption) and for property owned by churches (the church and religious exemptions).

Revenue and Taxation Code Section 214.6 expressly provides that property owned by nonprofit organizations and churches and leased to public schools, including those of collegiate grade, are exempt from property tax under the welfare exemption provided the rents charged do not exceed the ordinary and usual expenses in maintaining and operating the property.

An emerging trend to maximize the use of facilities is for nonprofit organizations and churches to lease their properties to public schools and colleges in a shared or joint use

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arrangement. Sharing and joint use of facilities can reduce costs and maximize the usage of existing or new physical facilities, and provide better services to the community. Existing law allows an exemption in the case where the facilities are shared by both parties.

However, because of the numerous types of exemptions available, on occasion, both the public school and the nonprofit, or both the church and public school, file different types of exemption claims on the same property. This leads to confusion due to the various exemptions possible (i.e., the welfare exemption, the religious exemption, and the lessor's exemption) and the differing requirements for each exemption.

PROPOSED LAW

The bill amends Revenue and Taxation Code Section 214.6 to clarify the filing procedures for obtaining a property tax exemption on property owned by a church or a nonprofit organization that is leased to a public school.

COMMENTS

This bill updates the filing procedures and requirements to claim the welfare exemption in these shared use scenarios which has led to confusion for both property tax administrators and claimants.

- **Nonprofits Leasing to Schools - Filing Requirements.** This bill specifies the annual filing procedure when a welfare exemption claimant leases property to public schools. The claimant would attach a copy of the lease agreement with the annual welfare exemption claim otherwise required to be filed. Current law is silent as to the administrative filing requirements under this situation.
- **Churches Leasing to Schools – Filing Requirements.** This bill clarifies that the exemption granted in the situation where a church leases property to a school is the welfare exemption. It provides that the filing procedure for a church receiving the religious exemption (which requires a one time filing with simplified postcard return filings thereafter) would be to annually file a church lessor's exemption. With this bill, the Board would prescribe a customized claim form for churches to file – the “church lessor's exemption claim.” Existing law specifies that churches are to file the “lessor's exemption claim.” However, that particular claim does not work well in joint use situations because it refers to “exclusive” use of the property which has added to the confusion and uncertainty for claimants and tax practitioners.
- **Public Schools and the UC System - Technical.** This bill adds language to include "public school district" and "the University of California" to be consistent with Section 202.2. Case law (*Regents of the University of California v. State Board of Equalization* (1977), 73 Cal App.3d 660; 140 Cal.Rptr. 857) resulted in an amendment to Section 202.2 to include the UC system as a qualifying college for the exemption; however, corresponding changes to Section 214.6 at that time was overlooked.

The amendments expressly state that the church lessor's exemption claim is to be filed annually. The purpose of adding the word “annually” is to be explicitly clear since some churches are accustomed to different filing requirements under the religious exemption. The amendment also adds the word “church” to describe the exemption. This creates a clear distinction between the traditional lessor's exemption, which requires exclusive use of the property as a school, and a lessor's exemption in the case of a church, which allows a dual use of the property as both a church/religious and a school. The Board will prescribe a customized claim form for the church lessor's exemption.

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Disabled Veterans' Exemption: Technical Amendment
Revenue and Taxation Code Section 276

CURRENT LAW

Existing law provides a “disabled veterans’ exemption” to reduce the property tax assessed value of the home of qualified veterans or their surviving unmarried spouse. The disabled veterans' exemption is also available to the surviving spouse of a person who has died as a result of a service connected injury or death while on active duty in military service.

The amount of the exemption depends upon the claimant’s income:

- The basic exemption amount is \$100,000 with annual increases for inflation. For 2009, the exemption is \$114,634.
- The low-income exemption is \$150,000 with annual increases for inflation. For 2009, the exemption is \$171,952 for those with a household income below \$51,478.

A claim must be filed with the local county assessor to receive the exemption. If filing for the basic exemption, a claim need only be applied for once. The low-income exemption requires a claim to be filed each year to verify income eligibility. The annual filing period is between January 1 and February 15. However if a claim is filed after the deadline, the exemption can still be received at a reduced level as outlined in Section 276.

In 1989, the exemption amounts were increased from \$40,000 and \$60,000 to \$100,000 and \$150,000, respectively, but with a sunset clause that would have automatically reduced the exemption amounts to the prior levels. However, the increased exemption amounts were made permanent through SB 320 (Stats. 1989, Ch. 1077) and SB 2195 (Ch. 1086, SB 2195).

PROPOSED LAW

This bill amends Section 276 to delete a reference to outdated exemption amount levels as a housekeeping measure.

This bill also corrects a transposition error in Section 276 intending a cross reference to Section 4985, rather than Section 4895, relating to the provisions of law for cancelling taxes due. In some cases, to grant a disabled veterans’ exemption for a late-filed claim, a cancellation of property taxes outstanding is necessary.

Preliminary Change in Ownership Form
Revenue and Taxation Code Sections 480.3 & 480.4

CURRENT LAW

Under existing property tax law (Article XIII A, Sec. 2; and Revenue and Taxation Code Sections 60 - 69.5), real property is reassessed to its current fair market value when there is a “change in ownership.” Revenue and Taxation Code Section 480 requires that whenever there is a change in ownership of real property, the property owner must file a “Change in Ownership Statement” (COS). There is no penalty for failing to file the statement unless the assessor prompts the property owner to file the statement by making a written request. If requested, then the taxpayer has 45 days to file the COS or

otherwise incur penalties as specified. The law specifies that the Board is to prescribe the form of the COS after consultation with the California Assessors' Association.

In actual practice, many taxpayers file a "Preliminary Change in Ownership Report" (PCOR) rather than a COS. The two forms are nearly identical. And, as noted below, if a PCOR is filed at the time a deed is recorded, an extra fee of \$20 is avoided. The COS and/or PCOR provide the assessor with information necessary to value the property for tax purposes, such as details about the purchase price and the terms of the sale. It also assists the assessor in determining whether the transfer of property might be eligible for one of the many change in ownership exclusions that would avoid the need to reassess the property. Both the COS and the PCOR are confidential documents pursuant to Section 481.

Section 480.3 requires the transferee of real property to complete and file a PCOR when any document effecting a change in ownership, such as a grant deed, is submitted to the county recorder for recordation. If a PCOR is not concurrently filed, the document may still be recorded, but an additional recording fee of \$20 may be charged.

Section 480.4 provides that the PCOR will be substantially in a particular form, as detailed, and provides that the Board may only revise the form as necessary for purposes of maintaining statewide uniformity. Any other changes require legislation.

The PCOR is signed by the property owner and a certification is in the form that reads: "I certify that the foregoing is true, correct, and complete to the best of my knowledge and belief."

If a taxpayer does not file a PCOR, or files an incomplete PCOR, the assessor may subsequently request that the taxpayer file a COS pursuant to Section 480.

PROPOSED LAW

This bill amends Sections 480.3 and 480.4 to delete the specific content of the PCOR from the statute and instead provide that the Board prescribe the form, after consultation with the California Assessors' Association and interested parties, consistent with the provisions for most other Board-prescribed forms. This provision is intended so that modifications and improvements to the PCOR can be made without the necessity of seeking a legislative change. This bill also moves the current signature certification currently embedded in the form in Section 480.4 to Section 480.3.

COMMENTS

In a recent Board survey on change in ownership issues, a variety of improvements were proposed to make the PCOR more user-friendly. However, keeping the PCOR contents in statute makes it difficult to implement the suggested change because of the two different approaches necessary to make the PCOR and the COS consistent. The contents of the PCOR are embedded in statute, while the content of the COS is prescribed by the Board. (See Section 480(c)).

Assessment Practice Surveys: Technical Correction
Government Code Section 15641

CURRENT LAW

The Board is required by law to review the practices and procedures of every county assessor's office at least once every five years. These reviews are called "surveys." As part of the survey, a statistically representative sample of properties is drawn from the county's assessment roll. For each property selected, Board staff independently audits and appraises the property.

In performing the independent appraisal, Government Code Section 15641 authorizes the Board to audit the original books of account of any person owning or controlling property selected when the property is of a kind for which accounting records are useful sources of appraisal data. The law specifies that the appraisal information in the Board's possession relating to these sample properties is not a public record, with the exception that a property owner may inspect any information and records relating to the appraisal of his or her property, including "market data" that the Board has obtained.

Government Code Section 15641 specifies that the definition of "market data" is that as defined in Section 408, but without reference to a body of code, and Section 408 of the Government Code does not exist. The section of law intended to be referenced is Section 408 of the Revenue and Taxation Code, which includes a definition of the phrase "market data."

PROPOSED LAW

This amendment would correct this code reference oversight by specifying that Section 408 is a reference to the Revenue and Taxation Code.

Board Meetings
Government Code Section 15609

CURRENT LAW

Under existing law, Section 15609 of the Government Code requires the Members of the Board to hold regular meetings in Sacramento each month and special meetings at such places and times as the chairperson directs. Under current practices, public meetings are held throughout the year, monthly in Sacramento as required by law and other times in the Los Angeles area. All meetings of the Board are open to the public and anyone is allowed to attend. These meetings offer taxpayers the opportunity to participate in the formulation of rules and regulations adopted by the Board to clarify the laws it administers, to present their cases to the appellate body that reviews and decides property, business and income tax determinations, and to observe the Board as it carries out its official duties. The Board's five members serve concurrent four-year terms as the nation's only elected tax commission. Their popular election ensures that the Board's tax program administration remains directly accountable to the people. Four members are elected by district. The fifth member, the State Controller, is elected at large and serves in an ex officio capacity.

PROPOSED LAW

This bill amends Government Code Section 15609 to require the Board to meet monthly at times and places within the state as the chairperson directs but at least quarterly in Sacramento.

COMMENTS

The purpose of this bill is to provide the Board with more flexibility in scheduling its public meetings to better serve taxpayer needs without compromising the public's access to Board meetings or jeopardizing the Board's responsibilities under the Constitution or statutes. Also, this bill would serve to balance the uneven distribution of workload for Board Members and staff for preparation of these meetings.

Historically, the Board, in addition to its monthly Sacramento meetings, has held meetings in the Los Angeles area to accommodate taxpayer needs. Usually, the Board has three meetings in the Los Angeles area each year (Culver City, specifically) – in addition to the twelve monthly meetings in Sacramento. However, although there are much fewer meetings in the Los Angeles area, the number of taxpayer appeals scheduled in the Los Angeles area significantly exceeds the number of cases heard in Sacramento. This not only causes a significant imbalance in workload, but more importantly, taxpayers that request that their matter be considered in the Culver City location are required to wait significantly longer for their hearings – generally up to a year. And, should a taxpayer that is scheduled for a Culver City meeting require a postponement, the taxpayer is generally required to wait up to an additional six months for a hearing.

Since the Board's workload fluctuates throughout the year, the statutes should allow the Board flexibility with regard to when, where, and even how the Members meet. The public's interest and resources are best served when elected bodies meet to discuss and decide matters when they are pertinent and not simply required by a law enacted in 1951.

This bill would therefore provide the Board with the ability to better serve taxpayers by allowing a more flexible schedule to accommodate taxpayer needs as well as to provide a more balanced workload for both staff and Board Members in preparing for these meetings.

COST ESTIMATE

The Board would incur some minor absorbable costs in informing and advising county assessors, the public, and staff of the law changes and addressing ongoing implementation issues and questions. These costs are estimated to be under \$10,000.

REVENUE ESTIMATE

This bill has no revenue impact.

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