

DECEMBER 18, 2002

The Board met at its offices at 450 N Street, Sacramento, at 9:30 a.m., with Mr. Chiang, Chair, Mr. Klehs, Vice Chair, Mr. Andal and Mr. Parrish present, Ms. Mandel present on behalf of Dr. Connell in accordance with Government Code section 7.9.

### **2002 BOARD/ASSESSORS' MEETING**

Mr. Chiang opened the annual meeting of the Board and county assessors required under section 15607 of the Government Code to discuss administrative issues related to assessment and taxation laws and to promote uniformity and tax procedural matters throughout the state. Mr. Chiang welcomed the county assessors to the meeting.

Mr. Klehs thanked the county assessors for eight great years and stated he has enjoyed working with them.

Mr. Parrish stated that he was honored to be at the meeting and that he tried to visit as many county assessor's offices as possible and mentioned that he has the highest regard for the elected assessors.

Mr. Andal stated that he has always enjoyed the Board Assessors' meeting and that conversations may not have always been peaceful. Mr. Andal commented that he has enjoyed working with all of the county assessor and complimented Mr. Chiang on an excellent job he has done as Chair of the Board.

Mr. Chiang introduced Bill Leonard as the incoming Board Member. Mr. Leonard stated that he will be learning a lot from the current Board and applauded the outgoing Members in their future endeavors. He stated that he looks forward to starting his job in January.

Ms. Mandel commented that it has been great and fun representing the State Controller. She encouraged the county assessors and their association to keep working with taxpayers and the Board and to keep up the dialogue to advance the full and fair administration of property tax law in the state.

### **SPECIAL PRESENTATIONS**

Mr. Chiang presented resolutions to the following outgoing County Assessors: Dick Frank, San Luis Obispo County; Jim Maples, Kern County; Robert Lowrimore, Mariposa County; Joseph Pitta, Monterey County; Raymond Jerland, Humboldt County; Michael DeFerrari, Stanislaus County; William Greenwood, Fresno County; and, John Winner, El Dorado County.

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**AUTOMATED E-MAIL GROUP PILOT PROJECT**

Jerri Dale, Chief, Customer and Taxpayer Services Division, and Dean Seavers, Associate Governmental Program Analyst, Customer and Taxpayer Services Division, discussed the upcoming project to develop an automated e-mail mailing list to disseminate information about current assessment issues and public information notices.

**LEGAL ISSUES**

Kristine Cazadd, Assistant Chief Counsel, Property Taxes Section, Legal Division, discussed current legal issues and recent court cases affecting assessors and Board of Equalization. Anthony Epolite, Tax Counsel, discussed AB 81 and Rule 905.

**LEGISLATIVE UPDATE**

Margaret Shedd, Legislative Counsel, Legislative Division, discussed the recently enacted property tax legislation and gave a brief update of legislation for the past year. Rose Marie Kinnee, Legislative Analyst, Legislative Division, discussed AB 2065 and the Howard Jarvis Proposal, an initiative to increase the homeowners' exemption.

**STATE FISCAL SITUATION**

Marianne O'Malley, Principal Fiscal & Policy Analyst, Legislative Analyst's Office, presented a power point presentation regarding the State Budget.

**TAXPAYERS' RIGHTS ADVOCATE**

Jennifer Willis, Taxpayers' Rights Advocate, and Bob Reinhard, Technical Advisor, Taxpayers' Rights Advocate's Office, discussed the assessment issues covered in the Taxpayers' Rights Advocate's Annual Report. Ms. Willis provided some background information regarding the Taxpayers' Rights Advocate Office.

The Board recessed at 11:50 a.m. and reconvened at 1:35 p.m. with Mr. Chiang, Mr. Klehs, Mr. Andal and Mr. Parrish present.

**PROPERTY TAX HEARING****Petition for Reassessment of State Assessed Property**

Pacific Bell (279), 182116

2002, \$12,617,300,000.00 Unitary Value

For Petitioner:

No Appearance

For Property and Special Taxes Department:

Anthony Epolite, Tax Counsel

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Contribution Disclosures pursuant to Government Code section 15626: No contributions were disclosed.

Issues: Whether the RCNLD value indicator relied upon by the Board in adopting the petitioner's unitary value incorrectly estimated pole removal costs.

Whether the capitalized engineering costs included in the petitioner's unitary value relate to the construction of taxable property.

Whether the Board-adopted value improperly underestimates the amount of obsolescence present in the valuation of the petitioner's taxable property.

Action: Upon motion of Mr. Andal, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Klehs, Mr. Andal and Mr. Parrish voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board ordered that the petition be granted in accordance with the revised recommendation of the Legal Division.

### **BUSINESS TAXES APPEALS HEARINGS**

Employers Insurance Company of Wausau, 167703

Wausau Business Insurance Company, 167704

Wausau Underwriters Insurance Co., 167705

1-1-97 to 12-31-97, \$177,163.00 Tax

1-1-97 to 12-31-97, \$177,163.00 Tax

1-1-97 to 12-31-97, \$177,163.00 Tax

For Petitioner:

Eric Miethke, Representative

Richard Martland, Attorney

For Department of Insurance:

Larry C. White, Tax Counsel

For Property and Special Taxes Department:

Trecia M. Nienow, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: No contributions were disclosed.

Issue: Whether petitioners' gross premiums subject to tax under Revenue and Taxation Code sections 12201 and 12221 include deductible reimbursements received from employers for workers' compensation policies issued in California.

Action: Upon motion of Dr. Connell, seconded by Mr. Andal and unanimously carried, Mr. Chiang, Mr. Klehs, Mr. Andal, Mr. Parrish and Dr. Connell voting yes, the Board ordered that the petition be granted and ordered that Mr. Andal's memorandum of opinion dated December 11, 2002 be published.

### **PUBLIC COMMENT**

Barry Broad, Legal Counsel, California Teamsters Public Affairs Council

Mr. Broad made public comments regarding labors', as well as industries', understanding of workers' compensation policies.

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**SPECIAL PRESENTATION**

Mr. Chiang presented Dr. Connell with a Board resolution signed by all of the Board Members. Mr. Chiang thanked Dr. Connell for the extraordinary service she has extended to the state of California. He stated that Dr. Connell has been a very thoughtful independent voice in the State of California. Mr. Chiang commented that that type of independence was much sought after and much needed and Dr. Connell's voice has been a welcome voice at the Board.

Mr. Parrish expressed that he enjoyed very much working with Dr. Connell on the State Board of Equalization and with a true bipartisan spirit in so many issues. Mr. Parrish wished Dr. Connell great success.

Mr. Klehs offered his congratulations and stated that he had enjoyed the last eight years working with Dr. Connell. He also mentioned that Marcy Jo Mandel and Rex Halverson both did an excellent job in representing Dr. Connell at the Board meetings.

Mr. Andal commented that he and Dr. Connell came to the Board at the same time. He stated that Dr. Connell was responsible for a lot of the cost savings that went on here at the Board. Mr. Andal stated that Dr. Connell has been at the Board meetings for every constitutional vote required of her and that she has given her staff the guidance to fully participate as if she were here herself. He hopes that her successor will do the same.

Dr. Connell thanked each of the Board Members personally and stated that it's been very wonderfully warm and stimulating and challenging. Dr. Connell stated that this was not a Board she thought she would like when she first came on but that it has truly become one of her most favorite Boards. She thanked her deputies, Marcy Jo Mandel and Rex Halverson who have been extraordinary.

**PROPERTY TAX MATTERS, ADJUDICATORY****Petition for Reassessment of 2002 Unitary Value**

Yolo Shortline Railroad Company (898), 183735

2002, \$449,686.00 Unitary Value

Considered by the Board: Hearing Request Withdrawn

Contribution Disclosures pursuant to Government Code section 15626: No contributions were disclosed.

Action: Upon motion of Mr. Andal, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Klehs, Mr. Andal, Mr. Parrish and Dr. Connell voting yes, the Board ordered that the petitioner's request for cancellation of the possessory interest assessment at McClellan Park in Sacramento County be denied but the 2002 unitary value be reduced as recommended by staff.

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**SPECIAL TAXES MATTERS, RELIEF OF PENALTIES AND DENIAL OF CLAIMS FOR REFUND, CONSENT**

With respect to the Special Taxes Matters, Relief of Penalties and Denial of Claims for Refund, Consent Agenda, upon a single motion of Mr. Klehs, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Klehs, Mr. Andal, Mr. Parrish and Dr. Connell voting yes, the Board made the following orders:

**Nextel of California, Inc., 173509**

1-1-01 to 2-28-02, \$764,589.71

Action: Approve the relief of penalty as recommended by staff.

**CSE Safeguard Insurance Company, 195727**

1-1-01 to 12-31-01, \$58,985.90

Action: Approve the relief of penalty as recommended by staff.

**California Capital Insurance Co., 197247**

7-1-02 to 9-30-02, \$74,935.50

Action: Approve the relief of penalty as recommended by staff.

**Universal Underwriters Ins. Co., 196676**

7-1-02 to 9-30-02, \$59,812.90

Action: Approve the relief of penalty as recommended by staff.

**Sam's West, Inc., 165811**

7-1-01 to 9-9-01, \$63,347.55

Action: Approve the denial of claim for Refund as recommended by staff.

**SPECIAL TAXES MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT**

With respect to the Special Taxes Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Mr. Andal, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Klehs, Mr. Andal, Mr. Parrish and Dr. Connell voting yes, the Board made the following orders:

**Maria Chavez, 89000005040**

1-1-92 to 3-8-95, \$11,045,660.31

Action: Approve the credit and cancellation as recommended by staff.

**Union Oil Company of California, 89000950660**

12-1-91 to 7-31-94, \$1,586,580.27

Action: Approve the refund as recommended by staff.

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**Thrifty Payless, Inc., 196043**

10-26-02 to 12-25-02, \$156,399.44

Action: Approve the refund as recommended by staff.

**Thrifty Payless, Inc., 196992**

10-26-02 to 12-25-02, \$88,277.70

Action: Approve the refund as recommended by staff.

**Thrifty Payless, Inc., 196995**

10-26-02 to 12-25-02, \$50,745.48

Action: Approve the refund as recommended by staff.

**American Procurement & Lgstcs Co., 196049**

9-26-02 to 12-25-02, \$84,663.20

Action: Approve the refund as recommended by staff.

**Grocers Specialty Company, 196052**

9-26-02 to 12-25-02, \$75,586.58

Action: Approve the refund as recommended by staff.

**The Vons Companies, Inc., 196051**

10-26-02 to 12-25-02, \$50,838.32

Action: Approve the refund as recommended by staff.

**Tosco Corporation, 186398**

1-1-00 to 12-31-00, \$85,385.96

Action: Approve the refund as recommended by staff.

**IDS Life Insurance Company, 196675**

1-1-01 to 12-31-01, \$442,656.51

Action: Approve the refund as recommended by staff.

**PROPERTY TAX MATTERS, CONSENT**

With respect to the Property Tax Matters Consent Agenda, upon a single motion of Mr. Klehs, seconded by Mr. Andal and unanimously carried, Mr. Chiang, Mr. Klehs, Mr. Andal, Mr. Parrish and Dr. Connell voting yes, Mr. Chiang not participating on *McLeodUSA Telecommunications Services, Inc. (7785), 183717*, and *McLeodUSA Network Services, Inc. (7914), 183713*, the Board made the following orders:

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***Petitions for Reassessment of 2002 Unitary Value***

Global Crossing Telecommunications, Inc., (2207), 183960

2002, \$97,700,000.00 Unitary Value

Action: Approve the reassessment of 2002 unitary value as recommended by staff.

MCI WorldCom Network Services, Inc. (2274), 183961

2002, \$1,217,700,000.00 Unitary Value

Action: Approve the reassessment of 2002 unitary value as recommended by staff.

Qwest Communications Corporation (2463), 183583

2002, \$876,300,000.00 Unitary Value

Action: Approve the reassessment of 2002 unitary value as recommended by staff.

West Coast P.C.S. (2745), 183769

2002, \$69,000,000.00 Unitary Value

Action: Approve the reassessment of 2002 unitary value as recommended by staff.

Time Warner Telecom of California, L.P. (7522), 183270

2002, \$408,500,000.00 Unitary Value

Action: Approve the reassessment of 2002 unitary value as recommended by staff.

Global Crossing North American Networks, Inc. (7536), 183958

2002, \$49,500,000.00 Unitary Value

Action: Approve the reassessment of 2002 unitary value as recommended by staff.

Level 3 Communications LLC (7761), 184140

2002, \$720,300,000.00 Unitary Value

Action: Approve the reassessment of 2002 unitary value as recommended by staff.

McLeodUSA Telecommunications Services, Inc. (7785), 183717

2002, \$108,000.00 Unitary Value

Action: Approve the reassessment of 2002 unitary value as recommended by staff.

Mr. Chiang not participating.

McLeodUSA Network Services, Inc. (7914), 183713

2002, \$55,300,000.00 Unitary Value

Action: Approve the reassessment of 2002 unitary value as recommended by staff.

Mr. Chiang not participating.

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***Petitions for reassessment and Penalty Abatement on 2002 Unitary Value***

Global Crossing Bandwidth, Inc. (2351), 183957

2002, \$6,850,000.00 Unitary Value

\$685,000.00 Penalty

Action: Approve reassessment and penalty abatement on 2002 unitary value as recommended by staff.

Metromedia Fiber Network Services, Inc. (7837), 183739

2002, \$232,300,000.00 Unitary Value

\$20,000,000.00 Penalty

Action: Approve reassessment and penalty abatement on 2002 unitary value as recommended by staff.

Universal Broadband Networks (7839), 183414

2002, \$8,760,000.00 Unitary Value

\$876,000.00 Penalty

Action: Approve reassessment and penalty abatement on 2002 unitary value as recommended by staff.

***Petition for Penalty Abatement on 2002 Unitary Value***

Western Integrated Networks of California, LLC (7930), 183770

2002, \$50,000,000.00 Unitary Value

\$5,000,000.00 Penalty

Action: Approve penalty abatement on 2002 unitary value as recommended by staff.

***Petition for Correction of Allocated Assessment***

Yolo Shortline Railroad Company (898), 185765

2002, \$449,686.00 Unitary Allocation

Action: Approve correction of allocated assessment as recommended by staff.

***Petition for Reassessment on 2002 Private Railroad Car Tax***

Joseph Leasing LTD. (6287), 193912

2002, \$93,299.00 Value

Action: Approve reassessment on 2002 Private Railroad Car Tax as recommended by staff.

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***Petition for Reassessment of Unitary Escape Assessments***

UNOCAP-Tosco Pipeline Company (480), 184067

2001, \$26,200,000.00 Escaped Assessment

\$2,620,000.00 Penalty

\$1,572,000.00 Interest

Action: Approve reassessment of unitary escape assessments as recommended by staff.

**PROPERTY TAX MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE**

With respect to the Property Taxes Matters Not Subject to Contributions Disclosure Statute Agenda, upon a single motion of Mr. Andal, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Klehs, Mr. Andal and Mr. Parrish voting yes, Dr. Connell absent, the Board made the following orders:

***Unitary Escaped Assessments***

GoBeam, Inc. (7893)

2002, \$1,510,000.00 Value

\$151,000.00 Penalty

Telecom House Inc. (7934)

2002, \$40,700.00 Value

\$4,070.00 Penalty

Action: Adopt unitary escaped assessment as recommended by staff.

***Audits***

Epoch Networks, Inc. (7698)

2002, (\$1,660,000.00) Escaped Assessment

2001, \$500,000.00 Escaped Assessment

\$50,000.00 Penalty

\$75,000.00 In Lieu of Interest

2000, (\$30,000.00) Escaped Assessment

1999, \$130,000.00 Escaped Assessment

\$13,000.00 Penalty

\$42,900.00 In Lieu of Interest

Action: Adopt the audit escaped assessments, plus penalties and assessment in lieu of interest as recommended by staff.

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**Williams Communications LLC (7819)**

2001, \$145,200,000.00 Escaped Assessment

\$13,586,114.00 Penalty

\$20,379,170.00 In Lieu of Interest

2000, \$131,800,000.00 Escaped Assessment

\$13,180,000.00 Penalty

\$31,632,000.00 In Lieu of Interest

Action: Adopt the audit escaped assessments, plus penalties and assessment in lieu of interest as recommended by staff.

**Concert Global Networks USA LLC (7881)**

2001, \$7,470,000.00 Escaped Assessment

\$747,000.00 Penalty

\$1,008,450.00 In Lieu of Interest

Action: Adopt the audit escaped assessments, plus penalties and assessment in lieu of interest as recommended by staff.

***Board Roll Changes*****2001 and 2002 State-Assessed Rolls**

Action: Adopt the 2001 and 2002 State-Assessed Rolls as recommended by staff (Exhibit 12.11).

Exhibits to these minutes are incorporated by reference.

**CHIEF COUNSEL MATTERS****PROPERTY TAX MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE****State Assessee Petitions for Reassessment of Unitary Value*****Consideration of Findings and Decisions***

ICG Telecom Group, Inc. (2462), 183702

2002, \$82,200,000.00 Value

\$8,220,000.00 Penalty

Action: Upon motion of Mr. Klehs, seconded by Mr. Andal and unanimously carried, Mr. Chiang, Mr. Klehs, Mr. Andal and Mr. Parrish voting yes, Dr. Connell absent, the Board approved the Finding and Decision as recommended by staff.

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**ICG Telecom of San Diego, Inc. (2433), 183704**

2002, \$16,500,000.00 Value

Action: Upon motion of Mr. Klehs, seconded by Mr. Andal and unanimously carried, Mr. Chiang, Mr. Klehs, Mr. Andal and Mr. Parrish voting yes, Dr. Connell absent, the Board approved the Finding and Decision as recommended by staff.

**Bay Area Teleport, Inc. (2131), 183706**

2002, \$49,400,000.00 Value

\$4,940,000.00 Penalty

Action: Upon motion of Mr. Klehs, seconded by Mr. Andal and unanimously carried, Mr. Chiang, Mr. Klehs, Mr. Andal and Mr. Parrish voting yes, Dr. Connell absent, the Board approved the Finding and Decision as recommended by staff.

**Cingular Wireless, LLC (2756), 183267**

2002, \$12,800,000.00 Value

Action: Upon motion of Mr. Klehs, seconded by Mr. Andal and unanimously carried, Mr. Chiang, Mr. Klehs, Mr. Andal and Mr. Parrish voting yes, Dr. Connell absent, the Board approved the Finding and Decision as recommended by staff.

**Pacific Bell Wireless, LLC (2748), 183269**

2002, \$905,300,000.00 Value

Action: Upon motion of Mr. Klehs, seconded by Mr. Andal and unanimously carried, Mr. Chiang, Mr. Klehs, Mr. Andal and Mr. Parrish voting yes, Dr. Connell absent, the Board approved the Finding and Decision as recommended by staff.

**Southwestern Bell Mobile Systems, LLC (2755), 183268**

2002, \$90,800,000.00 Value

Action: Upon motion of Mr. Klehs, seconded by Mr. Andal and unanimously carried, Mr. Chiang, Mr. Klehs, Mr. Andal and Mr. Parrish voting yes, Dr. Connell absent, the Board approved the Finding and Decision as recommended by staff.

**All American Pipeline, L.P. (465), 183744**

2002, \$99,500,000.00 Value

Action: Upon motion of Mr. Klehs, seconded by Mr. Andal and unanimously carried, Mr. Chiang, Mr. Klehs, Mr. Andal and Mr. Parrish voting yes, Dr. Connell absent, the Board approved the Finding and Decision as recommended by staff.

**PUBLIC HEARINGS****Timber Yield Tax Rate**

David Hayes, Manager, Research and Statistics Section, made introductory remarks regarding the Timber Yield Tax Rate.

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Speakers: Speakers were invited to address the Board, but there were none.

Action: Upon motion of Mr. Andal, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Klehs, Mr. Andal and Mr. Parrish voting yes, Dr. Connell absent, the Board adopted the 2003 Timber Yield Tax Rate as recommended by staff (Exhibit 12.12).

### **Timber Harvest Values**

Charles Knudsen, Chief, County Property Tax Division, Property Taxes Department, made introductory remarks regarding 2003 Timber Harvest Values.

Speakers: Speakers were invited to address the Board, but there were none.

Action: Upon motion of Mr. Andal, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Klehs, Mr. Andal and Mr. Parrish voting yes, Dr. Connell absent, the Board adopted the 2003 Timber Harvest Values as recommended by staff (Exhibit 12.13).

### **Proposed Amendment to Property Tax Rule 281, "Appraiser" Defined, Rule 282, Temporary Certification, Rule 283, Permanent Certification and the Adoption of Rule 284, Retention and Revocation of Appraiser Certificate**

Kristine Cazadd, Assistant Chief Counsel, Legal Division, stated for the record that Rules 281, 282, and 283 are amended and Rule 284 is proposed to make specific the requirements and criteria for the certification of appraisers and auditor-appraisers employed by counties and the state (i.e., the Board of Equalization) who value real and personal property for purposes of ad valorem property taxation.

Speakers: Tom Kidwell, Madera County Assessor

Action: Upon motion of Mr. Andal, seconded by Mr. Klehs and unanimously carried, Mr. Chiang, Mr. Klehs, Mr. Andal, Mr. Parrish and Dr. Connell voting yes, the Board approved the revised language to *Property Tax Rules 281, 282, 283 and 284* as recommended by staff. The rules were referred to the 15-day file (Exhibit 12.14).

### **PUBLIC COMMENT**

On behalf of the Board, Mr. Chiang, thanked Charles Knudsen, Chief, County Property Tax Division, Property Taxes Department, for his dedicated service to the State Board of Equalization and the State of California and wished him well on his retirement.

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**Proposed Amendment to Sales and Use Tax Regulation 1591, Medicines and Medical Devices**

Janice Thurston, Assistant Chief Counsel, Legal Division, stated for the record that Regulation 1591, Medicines and Medical Devices, is proposed to be amended to interpret, implement and make specific Revenue and Taxation Code section 6369. Amendments are proposed to (1) provide that prosthetic and orthotic devices qualify as medicines if they come into sustained physical contact with the body of the patient (and satisfy the other criteria in the statute; (2) sales of Continuous Passive Motion Devices are exempt from tax; (3) move the exemption for sales of certain enteral feeding devices from subdivision (b) to subdivision (e) for clarity; (4) provide that sales of tissue expanders are exempt from tax under defined conditions, and to correct clerical errors; and (5) specify that shoe inserts are excluded from the term "orthotic devices."

Speakers: Speakers were invited to address the Board, but there were none.

Action: Upon motion of Mr. Andal, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Klehs, Mr. Andal, Mr. Parrish and Dr. Connell voting yes, the Board adopted the amendment to *Sales and Use Tax Regulation 1591* as published (Exhibit 12.15).

**Proposed Adoption of Sales and Use Tax Regulation 1671.1, Rebates and Incentives**

Janice Thurston, Assistant Chief Counsel, Legal Division, stated for the record that proposed Regulation 1671.1, Rebates and Incentives, is proposed to be promulgated to interpret, implement and make specific Revenue and Taxation Code sections 6011 and 6012. The regulation is proposed to promulgate in regulatory form current Board policies regarding when rebates and buy-downs are included in gross receipts or sales price, with the new requirement that the customer must provide the retailer with a coupon in order for tax to apply to any amounts rebated to that retailer.

Speakers: Lance Hastings, Vice President, California Grocers Association  
Greg Turner, General Counsel, California Taxpayers' Association  
Lenny Goldberg, Executive Director, California Taxpayers' Association  
Jennie R. Cook, Assistant Chairman, American Cancer Society  
Jean Korinke, Legislative Representative, League of California Cities  
Rodger Dillon, Principal Consultant, Senator John Burton's Office

Action: Mr. Klehs moved that the measure be tabled indefinitely. The motion failed for lack of a second.

Mr. Andal moved that the Board approve the regulation as published. The motion was seconded by Mr. Parrish but failed to carry, Mr. Andal and Mr. Parrish voting yes, Mr. Klehs and Dr. Connell voting no, Mr. Chiang not participating.

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Mr. Klehs moved that the measure be tabled indefinitely. The motion was seconded by Dr. Connell but failed to carry, Mr. Klehs and Dr. Connell voting yes, Mr. Andal and Mr. Parrish voting no, Mr. Chiang not participating.

The Board took no action on *Sales and Use Tax Regulation 1671.1* (Exhibit 12.16).

### **Proposed Amendment of Sales and Use Tax Regulation 1802, Place of Sale and Use for Purposes of Bradley Burns Uniform Local Sales and Use Taxes**

Janice Thurston, Assistant Chief Counsel, Legal Division, stated for the record that the regulation is proposed to be amended to interpret, implement and make specific Revenue and Taxation Code section 7205. Amendments are proposed to (1) clarify that to be a place of sale within the meaning of section 7205, a sales office must participate in the sale; (2) correct a clerical error in an operative date; and (3) state that when sales are negotiated out of state but the property is shipped from an in-state stock of tangible personal property belonging to the retailer the local sales tax revenues derived from such sales are to be allocated directly to the location of such in-state stock of goods under defined conditions, and subject to an operative date.

Speakers: Robert E. Cendejas, Attorney, representing the cities of Fremont, Long Beach and Signal Hill  
Al Koch, General Counsel, MBIA Muniservices/MRC

Action: Upon motion of Mr. Klehs, seconded by Mr. Andal and unanimously carried, Mr. Klehs, Mr. Andal, Mr. Parrish and Ms. Mandel voting yes, Mr. Chiang absent, the Board adopted the city's amendment to the published version of *Sales and Use Tax Regulation 1802, Place of Sale and Use for Purposes of Bradley Burns Uniform Local Sales and Use Taxes*.

Mr. Andal offered a substitute motion, to adopt the regulation with the city's amendment and submitted the regulation to the 15-day file. The motion was seconded by Mr. Klehs and unanimously carried, Mr. Klehs, Mr. Andal, Mr. Parrish and Dr. Connell voting yes, Mr. Chiang absent (Exhibit 12.17).

### **Proposed Amendments to Conflict of Interest Code, Regulation 6001, General Provision**

Jean Ogrod, Assistant Chief Counsel, Legal Division, Settlement and Administration Section, stated for the record there are no proposed changes to the Conflict of Interest Code itself. The proposed changes to Appendix A reflect the organization and classification changes that have taken place at the Board since the Conflict of Interest code was last amended.

Speakers: Kenneth N. Rumenapp, Business Tax Specialist I, Board of Equalization

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Action: Upon motion of Mr. Andal, seconded by Mr. Klehs and unanimously carried, Mr. Chiang, Mr. Klehs, Mr. Andal, Mr. Parrish and Ms. Mandel voting yes, the Board adopted amendments to *Conflict of Interest Code, Regulation 6001*(Exhibit 12.18).

The Board adjourned at 3:20 p.m.

*The foregoing minutes are adopted by the Board on February 6, 2003.*

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