

Memorandum

To: Honorable Diane L. Harkey, Chair
State Board of Equalization

Date: February 9, 2018

Honorable George Runner, Vice Chair
State Board of Equalization

Honorable Fiona Ma, CPA, Member,
State Board of Equalization

Honorable Betty T Yee, State Controller

From: Jerome E. Horton, Member,
State Board of Equalization

Re: Proposed Board Meeting Standing Agenda Item – Key Constitutional and Statutory Matters and/or Requests from Stakeholders

Dear Colleagues:

I propose that the Board Members consider, at the February 27, 2018 Board meeting, establishing a standing agenda item for the Board’s monthly meetings related to key constitutional and statutory matters, including requests for public discussion from external parties. The impetus for this proposal is to publicly address concerns expressed by California assessors, California Alliance of Taxpayer Advocates, and CalTax to ensure uniformity and continuity of local property tax administration. Making this a standing item will increase transparency and create efficiencies by permitting stakeholders to share their expertise on significant issues and enable all Board Members to publicly engage in discussions without violating Bagley-Keene, giving them the full opportunity to analyze the issues presented to effectively carry out their responsibilities pursuant to Gov. Code sections 15606, 15607, and 15608. The increased efficiencies created would include the provision of notice to all parties (as an existing requirement for the agenda) and the minimized necessity for stakeholders to meet with individual members to discuss these matters.

Establishing the standing agenda item as a component of the Board meetings will also streamline the Board’s evaluation of the potential need for various rulemaking changes, consideration of regulations. Letters to Assessors, Assessors Handbooks or other items that ultimately require Board discussion and decision. The goal is to provide an unrestricted process for taxpayers and assessors to bring items to the attention of the full Board and to facilitate open discussion and, ultimately, guidance and uniformity for all counties. Some issues that the Board should consider for future agendas are:

STATE BOARD OF EQUALIZATION



BOARD APPROVED

At the February 27, 2018 Board Meeting

Joann Richmond
Joann Richmond, Chief
Board Proceedings Division

Item M.1
02/27/18


- Property Tax:
 - Representative period for certificated aircraft
 - *Discussion of issues by interested parties and recommendations for changing the value allocation from a BOE-determined period to a 365-day period*
 - Propositions on the ballot
 - *Briefings from interested parties on the issues; opposition and support*
 - Uniform local assessment and appeals processes
 - *Discussion of issues by interested parties and recommendations for guidance on Section 441(d) discovery procedures*
 - Roll corrections
 - *Discussion of issues by interested parties and recommendations for guidance on methods for interpreting/applying the “clerical error” requirement*
 - Low ordinance exemption
 - *Discussion of issues by interested parties and recommendations for means of increasing uniformity in determining the costs of assessment and collection, and increasing exemption above \$10,000*
 - Homeowners’ exemption
 - *Discussion of issues by interested parties and options for streamlining processing and increasing exemption amount above \$7,000*
 - Disabled veterans’ exemption
 - *Discussion of issues by interested parties and options for streamlining processing*
 - Misfortunes, calamities, disaster relief
 - *Discussion of issues by interested parties on challenges with current time limits and recommendations for guidance and clarity*
 - Property tax forms management and online services
 - *Discussion by interested parties and options on integrating electronic services in BOE’s administration of property assessment forms*
 - All other property tax exemptions
 - *Discussion by interested parties on effectiveness and/or options for streamlining processing of exemptions*
 - BOE and local staff training needs
 - *Discussion by interested parties on effectiveness of existing training programs and recommendations for new program concepts*

- Alcoholic Beverage Tax
 - “Craft Beverage Modernization” provision of the Federal Tax Cuts and Jobs Act of 2017
 - *Briefing and discussion by interested parties on the impact of changes on California’s administration of the alcoholic beverage tax*
 - Most common compliance and tax issues
 - *Discussion by interested parties on significant issues observed via audits and recommended strategies to improve compliance (i.e., records, production and inventory, reporting and tax payment, basic permit/registration/bond, and application/equipment/security)*

- Tax on Insurers:
 - Most common assessment of insurance deficiencies and appeal issues
 - *Discussion by interested parties on significant issues requiring BOE assessment of insurance deficiencies (billings), impact of appeal decisions, and proposed solutions for the Department of Insurance (CDI).*

Thank you for your consideration.

Sincerely,


JEROME E. HORTON, Member
Board of Equalization, 3rd District

Memorandum

To: Diane L. Harkey, Chairwoman
State Board of Equalization, 4th District

Date: February 26, 2018

George Runner, Vice Chair
State Board of Equalization, 1st District

Fiona Ma, CPA, Board Member
State Board of Equalization, 2nd District

Betty T. Yee, California State Controller

From: Jerome E. Horton, Board Member
State Board of Equalization

Re: **Further Clarification on Proposed Board Meeting Agenda Item –
Key Constitutional and Statutory Matters and/or Requests from Stakeholders,
February 27, 2018 Item M1**

Dear Colleagues:

The fundamental problem I seek to address is the lack of public interaction and transparency between the Board Members, the public, associations, and assessors, resulting from the passage of AB102 and companion legislation – including an evolving need to minimize the potential risks associated with ex parte communications or related constraints now applicable to the Board. Public access, transparency, and open communication have always been the core of the relationship between elected Board Members and the public, which is inherent in the election process and the rules of the Board.

However, in my opinion, recent changes in the law require the Board to establish a formalized process for the public to bring issues, concerns, and requests for changes in rules, laws, procedures or policies to the collective Board and are necessary and appropriate to enhance public representation and input in tax administration. While the current “interested parties process” is formally embedded in our rule making procedures, its public transparency and participation is limited, and the substantial functions of staff – together with Bagley Keene and ex parte restrictions – exclude the collective Board. Further, this process does not provide the public or the collective Board an opportunity to communicate new ideas, concepts, and concerns relative to the effectiveness, efficiency and responsiveness of the Board to its constitutional duties.

Accordingly, given the challenges created by the above mentioned legislation and resulting policies, I believe the public would benefit significantly from the establishment of a formal process that provides regular access on a monthly basis to engage the collective Board. Such a process will provide greater ability and a more transparent method for the public to bring

forward any matters under our jurisdiction – including issues or concerns unaddressed by our rules - before the full Board at an open meeting.

This would allow the discussion of relevant topics to be streamed to the public and vetted well before the interested parties meetings are scheduled. Such discussions will also provide the staff and collective Board insight into the potential solutions. Further, such a process could also serve as a way to educate the public on initiatives, policies, legislation and other matters under the Board’s authority, especially given the elimination or significant restrictions on education and outreach by AB 102. The discussion could be somewhat similar to the method used by the Legislature for Informational and/or Policy Hearings.

In summary, to address the problems delineated above and provide consistency, I suggest that the Board consider establishing as a monthly agenda item titled “Public Policy Hearings” (or Informational Hearings) to allow maximum flexibility and opportunity for those seeking the Board’s engagement. Noteworthy, I am not partial to any name – for the purpose is to increase public access and transparency, which I support.

From a practical and procedural perspective, having the “Public Policy Hearings” item on the agenda would provide a solution to the problem and would offer the following practical and procedural benefits:

1. As the hearings would be informational only, there is minimal preparation burden for staff.
2. Agenda items would be populated by concepts, ideas, and concerns submitted by assessors, associations, and/or the public regarding existing law, policy, or procedures; subject to approval of the Chair (and not otherwise located under Item M for Member generated issues); and would
 - (1) Create and memorialize an expectation by the public for a monthly opportunity to engage with the collective Board on BOE issues; and
 - (2) Achieve statewide notice of the issues under consideration and streaming of Board meetings with goal of providing the maximum transparency and engagement for the public.
3. This process will also keep the collective Board aware, informed, and engaged in all meritorious issues under consideration by the administration and other Board Members; and
 - (1) Should be designed to enhance the flow of information for all and assist the Board staff in refining the issues that need to move forward through interested parties meetings, public hearings, rule making, and other more formalized processes.

From a results standpoint, the discussions under the "Public Policy Hearings" item on the agenda could lead to expanded information needed by the Board and staff to determine future actions such as:

1. Needed updates to Assessors Handbooks and Letters to Assessors,
2. Changes to be considered or addressed for new rules, legislative amendments, or legal opinions, possible legislation, and
3. Necessary enhancements to current policies, procedures or forms.

The Board is the only elected body that provides the public with representation in the administration of taxation. Because of the increased restrictions on and reduction of such representation caused by AB102, we must assure the public that their voice is important and that they have guaranteed access to their elected representatives as a collective body. This is especially important given that the public voted for such representation and for the most part has limited knowledge that their elected representation in tax administration and adjudication matters at the Board of Equalization, Franchise Tax Board, Office of Tax Administration and CDTFA has been significantly restricted.

Thank you for your consideration of this suggestion for enhancing and improving the communication pathways with our public and providing a method to engage with them in an open forum in regard to their concerns.

Sincerely,



JEROME E. HORTON, Member
Board of Equalization, 3rd District

cc: Mr. Dean Kinnee, Executive Director, State Board of Equalization
Ms. Brenda Fleming, Chief Deputy Director, State Board of Equalization