

## **EXECUTIVE BRIEF**

### **STATE BOARD OF EQUALIZATION**

**Fiscal Year 2009-10**

#### **Administrative Appeals**

##### **Background**

The Board of Equalization (BOE) Appeals Division of the Legal Department and the Board Proceedings Division (BPD) of the Executive Department process and prepare tax appeals for the Board's consideration and determination. Taxpayers need not pay a disputed tax liability in order to file an appeal with the Board, thus the disputed tax amounts (excepting claims for refunds) are amounts not yet paid into the General Fund. Only final tax liabilities (those for which the Board has made a final determination) are collectible by the State.

The purpose of this BCP is to accelerate the collection of tax, interest, and penalty revenue in the Appeals Division of the Legal Department and the Board Proceedings Division (BPD) of the Executive Department. This BCP seeks to achieve three critical outcomes:

- Accelerate additional appeals cases each year and move determined liabilities to a final, collectible state.
- Let taxpayers know as soon as possible whether they owe the disputed tax.
- Limit the interest that taxpayers accrue during the appeals process.

Approval of the requested positions will accelerate the final determination of additional disputed FIT and business tax liabilities and collection of approximately \$24.5 million annually starting in FY 2009-10, with increases thereafter to \$25.4 million in FY 2012-2013, and ongoing.

##### **Request**

This proposal requests \$1,608,000 (\$1,441,000 General Fund, \$53,000 Special Funds, and \$114,000 Reimbursements) in Fiscal Year (FY) 2009-10 and \$1,278,000 (\$1,145,000 General Fund, \$42,000 Special Funds, and \$91,000 Reimbursements) to establish 10.0 permanent positions and 1.0 three-year limited term position. This includes:

- 3.0 permanent positions and 1.0 limited term position for the Franchise and Income Tax (FIT) Section of the Appeals Division (2.0 Tax Counsel III, 1.0 permanent, 1.0 limited term, 1.0 Tax Counsel IV, and 1.0 Legal Secretary) to handle the overall 10% increase in Corporate Franchise and Personal Income tax appeals, and 90% increase in complex appeals.
- 2.0 positions for the Business Tax Section of the Appeals Division (2.0 Tax Counsel III positions) to handle property tax appeals and accelerate processing of the unassigned inventory of business tax appeals.
- 5.0 positions for the BPD (1.0 AGPA, 1.0 SSA; 2.0 MST; and 1.0 OT) to address increases in volume of appeals and increased duties under new statutory and regulatory requirements.

##### **Current Need**

There has been a 10% increase from Fiscal Year (FY) 2005-06 to FY 2007-08 in the overall number of FIT appeals, and a 90% increase in complex cases involving enterprise zone, tax shelter, and unitary cases. The additional time required in preparing complex cases for Board consideration has contributed to an increasing inventory of appeals cases that exceeds the workload of current staffing. Approval of these positions will:

## EXECUTIVE BRIEF

- Accelerate the final determination of 114 FIT appeals and retain an estimated \$21.2 million annually in finalized, collectible tax liabilities for FY 2009-10 through 2011-12.
- Accelerate the final determination of 63 FIT appeals and retain an estimated \$17.0 million in finalized, collectible tax liabilities for FY 2012-13 and thereafter.

In addition, increases in property tax appeals (a 41% increase since FY 2005-06) have diverted attorney hours away from business tax appeals, contributing to an increase in unassigned inventory (close to double the optimum inventory) of business tax appeals. Most business tax appeals are sales and use tax cases. Approval of these positions will:

- Accelerate the final determination of business tax appeals and collection of up to \$3.3 million in FY 2009-10, with the amount increasing thereafter to \$8.4 million in FY 2012-2013 and ongoing.

Finally, the BPD manages and processes appeals flowing into the Appeals Division and out of the Appeals Division to the Board (acting much as a "clerk of the court"). (See the exhibit attached to the Budget Change Proposal.) Despite steady increases in workload arising from increases in filed appeals and from additional duties arising from statutory and regulatory changes, BPD has not augmented its staff to address the increased workload in over nine years. Five new positions are needed in BPD to expeditiously move appeals through the Appeals Division and ultimately to the Board for consideration and timely determination of appeals. Approval of these positions will:

- Contribute to and facilitate the acceleration of the final determination of disputed FIT and business tax liabilities and collection of tax and related revenue of up to \$24.5 million starting in FY 2009-10, with increases thereafter to \$25.4 million in FY 2012-2013, and ongoing.

If the positions in this proposal are not approved, there will be a financial impact to the State. Collection or retention of \$21.2 million annually in finalized, collectible FIT liabilities for FY 2009-10 through 2011-12, and \$17.0 million annually for FY 2012-13 and thereafter, and collection of business tax liabilities up to \$3.3 million in FY 2009-10, and \$8.4 million annually in FY 2012-2013 and thereafter, will be deferred to later years.

In addition, taxpayers with unpaid liabilities will accrue additional interest on their contested tax. Taxpayers and low income senior citizens, disabled and blind individuals seeking assistance under the Senior Citizen Property Tax Assistance Law will be impacted by delays in processing their appeals. The process for appealing business taxes and fees, upon which several other state agencies rely, including the Department of Public Health, Department of Toxic Substances Control, and Department of Insurance, will remain sluggish and efforts to collect millions of dollars in revenue annually will be delayed for many years.

**STATE BOARD OF EQUALIZATION  
FISCAL YEAR 2009-10  
PROPOSAL No. XX**

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**TITLE OF PROPOSED CHANGE:**

**Administrative Appeals**

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**SUMMARY OF PROPOSED CHANGES:**

This proposal addresses the increased number of tax appeals representing disputed and uncollected tax liabilities arising from increases in tax disputes filed by taxpayers with the Franchise Tax Board and the Board of Equalization (BOE), and appealed to the BOE, that exceeds the current workload capacity of the Appeals and Board Proceedings Divisions. Accelerating the determination of these appeals by adding the requested positions would accelerate the determination of final tax liabilities for collection and deposit to the General Fund.

This proposal requests \$1,608,000 (\$1,441,000 General Fund, \$53,000 Special Funds, and \$114,000 Reimbursements) in FY 2009-10 and \$1,278,000 (\$1,145,000 General Fund, \$42,000 Special Funds, and \$91,000 Reimbursements) to establish 10.0 permanent positions and 1.0 three-year limited term position to accelerate the collection of tax, interest, and penalty revenue represented by increased workload and inventory of unassigned appeals in the Appeals Division of the Legal Department and the Board Proceedings Division of the Executive Department.

**STATE BOARD OF EQUALIZATION**

**Fiscal Year 2009-10**

**Administrative Appeals**

**A. Nature of Request**

This proposal requests \$1,608,000 (\$1,441,000 General Fund, \$53,000 Special Funds, and \$114,000 Reimbursements) in fiscal year (FY) 2009-10 and \$1,278,000 (\$1,145,000 General Fund, \$42,000 Special Funds, and \$91,000 Reimbursements) to establish 10.0 permanent positions and 1.0 three-year limited term position to accelerate the collection of tax, interest, and penalty revenue in the Appeals Division of the Legal Department and the Board Proceedings Division (BPD) of the Executive Department. This BCP seeks to achieve three critical outcomes:

- Accelerate additional appeals cases each year and move determined liabilities to a final, collectible state.
- Let taxpayers know as soon as possible whether they owe the disputed tax.
- Limit the interest that taxpayers accrue during the appeals process.

Specifically this proposal requests:

**1. Franchise and Income Tax Section**

\$718,000 to fund 3.0 permanent positions and 1.0 three-year limited term position to address the increased number of franchise and income tax (FIT) appeals filed for consideration by the Board. From FY 2005-06 to FY 2007-08, there has been a 10% increase in the overall number of FIT appeals, and a 90% increase in the number of complex appeals, among them enterprise zone, tax shelter, and unitary cases. Approval of these positions will:

- Accelerate the final determination of 114 appeals and retain an estimated \$21.2 million annually in finalized, collectible tax liabilities for FY 2009-10 through 2011-12.
- Accelerate the final determination of 63 appeals and retain an estimated \$17.0 million in finalized, collectible tax liabilities for FY 2012-13 and thereafter.

**2. Property and Business Tax Sections**

\$416,000 and 2.0 positions to address an increasing number of property tax appeals and the periodic accumulation of as many as 400 or more unassigned business tax appeals cases, which tend to slow the appeal process. Currently 2.0 positions are being borrowed from the Business Tax Section to staff the Property Tax Section during July – December. This is one of the factors contributing to the periodic accumulation of business tax appeals. These 2.0 positions will permanently staff the Property Tax Section from July – December each year and will work to reduce and eventually avoid the periodic accumulation of inventories of business tax appeals in the Business Tax Section from January – June each year. Approval of these positions will:

- Accelerate the collection of up to \$3.3 million in FY 2009-10, with the amount increasing thereafter to \$8.4 million in FY 2012-2013 and ongoing.

### **3. Board Proceedings Division**

\$474,000 and 5.0 positions to address new workload resulting from increased Homeowner and Renter Assistance (HRA) appeals, new legislation, new regulatory requirements, and any increased Appeals Division capacity to handle appeals that may result from approval of this proposal. Approval of these positions will:

- Contribute to and facilitate the acceleration of the final determination of disputed FIT and business tax liabilities and collection of tax and related revenue of up to \$24.5 million starting in FY 2009-10, with increases thereafter to \$25.4 million in FY 2012-2013, and ongoing.

## **B. Background/History**

The BPD processes incoming appeals for each of the three appeals programs from file creation to conference scheduling. BPD also acts as a “clerk of the court” for scheduling oral hearings for each of the appeals programs on the Board calendar. Thus, the BPD receives the inflow of appeals filed by taxpayers and also manages the outflow of decisions prepared by the Appeals Division for consideration by the Board. (See Chart, Exhibit I, p. 21)

The Appeals Division reviews and makes recommendations to the Board regarding appeals to be heard by the Board in three areas: (1) FIT; (2) property tax; and (3) business tax and fees, which area includes some licensing issues relating to tobacco products.

Accordingly, increases in the volume and complexity of appeals impact both the BPD and the Appeals Division in their combined effort to ensure that appeals are properly prepared for Board hearing. It should be noted that some FIT appeals that come into the BPD are withdrawn or otherwise drop out of the appeals process before they are referred to the Appeals Division.

### **1. Franchise and Income Tax Section**

The Board of Equalization (BOE) is charged with hearing and determining appeals from actions of the Franchise Tax Board (FTB) pursuant to Revenue and Taxation Code section 19047. Under the general direction of the Chief Counsel, the attorneys in the FIT Section of the Appeals Division provide legal advice to the elected Board.

The FIT Section currently has 7.5 attorney positions that are responsible for ensuring that appeals are ready for hearing by the Board. Of these positions, 5.5 are writing positions, one position is supervisory, and one position is review (Tax Counsel IV). FIT attorneys analyze the parties’ arguments, research legal issues, solicit additional briefing, conduct pre-hearing conferences as necessary, and issue formal documents including: (1) Hearing Summaries, which are summaries and analyses of the parties’ arguments and applicable law, with recommendations on how disputes might be decided, (2) proposed decisions containing legal conclusions, and (3) formal opinions setting forth the Board’s precedent setting opinions for the public.

From FY 2005-06 to FY 2007-08, there has been a 10% increase in the overall volume of FIT appeals (from 428 to 468 appeals),<sup>1</sup> which includes all appeals regardless of complexity. There has also been a 90% increase in the number of complex appeals. Complex appeals are factually intensive cases with legal issues that are complex and/or are issues of first impression. These include issues such as enterprise zone hiring credits, abusive tax shelter issues, and unitary issues. Complex cases can also involve issues such as residency or federal determinations, but the cases themselves may be so factually intensive as to be considered complex cases.

Complex cases require approximately three times more attorney time researching, drafting, and preparing multiple formal documents for the Board's consideration. For example, in complex cases the FIT attorney may be required to draft a hearing summary and a formal opinion for the Board's consideration. These cases may involve further briefing and two oral hearings. The increased factual and legal complexity of appeals coming to the Board since FY 2006-07 was reported to the Board by the FTB in its Chief Counsel report to the Board on February 1, 2007, particularly in appeals involving enterprise zone, unitary, and abusive tax shelter issues.

A further slight increase is anticipated in tax shelter appeals in FY 2009-10 due to the following factors:

- FTB is focusing on increasing the number of tax shelter audits.
- FTB's Multi-State Audit (MSA) field office staff will receive tax shelter training in September/October 2008 to raise awareness of tax shelter issues.
- FTB will coordinate with the Internal Revenue Service in September/October 2008 on a pilot program to identify potential abusive tax shelters.
- More experienced FTB staff are working tax shelter cases in its Personal Income Tax program.
- More tax shelter audits that are penalty-only audits are anticipated, resulting from amended return filings.

Administrative appeals filed from actions of the FTB do not need to be paid prior to the taxpayer filing an appeal. Over the past two years, approximately 88 percent of disputed tax liabilities are determined to be collectible by the Board (i.e., the FTB action is sustained). The average amount at issue in each typical FIT appeal is approximately \$92,225. The average amount at issue in complex FIT appeals is approximately \$1,223,650.

The following charts show that the 2.0 Tax Counsel III positions (1.0 limited term and 1.0 permanent) and 1.0 Tax Counsel IV position will move millions closer to collection or retention within the first few years.

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<sup>1</sup> This does not include appeals involving the Senior Citizens Homeowners and Renters Property Tax Assistance Law (HRA appeals).

Tax Counsel IV (Complex FIT Appeals) FY 2009-10 and ongoing.

FY	Cases Completed (total for 1.0 Positions)	Revenue Closer to Collection or Retention (88%)
2009-10	12 x \$1,223,650	\$12,921,744
2010-11	12 x \$1,223,650	\$12,921,744
2011-12	12 x \$1,223,650	\$12,921,744
2012-13	12 x \$1,223,650	\$12,921,744

2.0 Tax Counsel III positions through FY 2011-12.

FY	Cases Completed (total for 2.0 Positions)	Revenue Closer to Collection or Retention (88%)
2009-10	102 x \$92,225	\$8,278,116
2010-11	102 x \$92,225	\$8,278,116
2011-12	102 x \$92,225	\$8,278,116

1.0 Tax Counsel III (Medium Difficulty Appeals) position 2012-13 and ongoing.

FY	Cases Completed (total for 1.0 Positions)	Revenue Closer to Collection or Retention (88%)
2012-13	51 x \$92,225	\$4,139,058
2013-14	51 x \$92,225	\$4,139,058
2014-15	51 x \$92,225	\$4,139,058

The requested FIT positions will produce an estimated \$21.2 million annually starting in FY 2009-10 to 2011-12 and \$17.0 million annually starting in FY 2012-13 and ongoing.

Final amounts due as determined by the Board are collected by the FTB.

## 2. Property and Business Tax Sections

The Business Tax Section currently has 13.0 attorney positions and 1.5 auditor positions, dedicated to the tasks of conducting appeals conferences and issuing Decisions & Recommendations (D&R) to provide advice and guidance to the elected members of the Board. These positions are responsible for processing the business tax appeals prior to final determination by the Board.

Prior to FY 2005-06, property tax appeals went directly from the Property and Special Taxes Department to the Board for final administrative determination. In FY 2005-06, the Board delegated to the Appeals Division the responsibility to perform an independent review and analysis similar to those performed on business tax cases. Taxpayers file property tax appeals in July and the Board concludes them by December, therefore the Property Tax Appeals program is equivalent to 6 months of workload. 1.0 Tax Counsel IV position has been allocated to this program. That single position is not adequate to address the growing workload. In FY 2005-06, there were 44 property tax appeals. There were 53 property tax appeals in FY 2006-07 and 62 property tax appeals in FY 2007-08. In FY 2007-08, the Property Tax Section also held 12 appeals conferences,

appeared at eight Board hearings, and wrote 30 Board Hearing Summaries, 22 Summaries and Recommendations, and 19 Findings and Decisions.

Since its inception, the Property Tax Section of the Appeals Division has had to borrow at least 2.0 positions from the Business Tax Section during the first two quarters (July – December) of each fiscal year to handle the growing number of property tax appeals.

This sharing of resources has contributed to an increase in the number of unassigned cases in the Business Tax Section, which delays final determination by the Board and the initiation of collection of several million dollars per year by BOE. The unassigned appeals inventory as of July 1 each year was as follows:

<b>Fiscal Year</b>	<b>Unassigned Appeals Inventory<sup>2</sup></b>
2004	110
2005	410
2006	254
2007	251
2008	304

The fluctuations are attributable to various causes, including the temporary and permanent loss of experienced conference holders and an increase in post D&R assignments (i.e. supplemental D&Rs, post-hearing analyses, petitions for rehearing, etc.) In the past, the Appeals Division has addressed periodic accumulations by redirecting attorney and auditor staff from other Divisions within the Legal Department and, on rare occasions, from other departments within BOE. These solutions are no longer practical, due to the negative impact on current services in other Legal Divisions being provided to taxpayers and Board program staff, and the inefficiency of training other Divisions attorneys for short periods of time.

The optimal number of unassigned cases is approximately 200. This generally allows for full rotations (a set of 7-10 conferences for a single conference holder) at eight-week intervals. On July 1, 2008, 304 cases were awaiting assignment to attorneys in the Business Taxes Section for appeals conference and D&R. Experience and past history indicate that as the number of unassigned appeals increases, the average processing time for an appeal also increases.

The average amount at issue in each business tax appeal is approximately \$375,636. Historically, 44.5% of the amount at issue, or \$167,157 (based upon FY 2007-08), is referred for collection after appeals are granted in whole or in part and adjustments are made. The following chart shows that the 2.0 Tax Counsel III positions will move millions closer to collection within the first few years.

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<sup>2</sup> There are three classes of cases pending assignment: those with audit issues only (audit-only), those with legal issues only (legal-only), and those with a mix of audit and legal issues (mixed). Auditors handle all audit-only cases. Attorneys handle all others. "Unassigned Appeals Inventory" refers to legal cases awaiting assignment to an attorney. Because the Appeals Division has successfully redirected audit staff from other divisions and departments within the BOE to handle audit-only cases and request addition legal staff only, inventory numbers discussed in this BCP refer only to cases that must be handled by an attorney.

FY	Cases Completed (total for 2.0 Positions)	Revenue Closer to Collection
2009-10	20	\$3,340,000
2010-11	32	\$5,350,000
2011-12	44	\$7,350,000
2012-13	50	\$8,360,000

The 2.0 Tax Counsel III positions will enable the Appeals Division to process property tax appeals between July and December and process Business Tax Cases between January and June.

Except in Jeopardy determinations and those relatively few cases where the taxpayer pays the disputed liability prior to the appeals conference, the collection of disputed tax/fees, interest, and penalties does not begin until the appeal process is completed. Generally, the longer it takes to process an appeal, the less likely the State will be able to collect the revenue. Consequently, the acceleration of the process has the added advantage of making it more likely that the BOE will successfully collect the amount owed.

### 3. **Board Proceedings Division**

Under the general direction of the Executive Director, the Board Proceedings Division (BPD) furnishes administrative services to the elected Board, the Executive Director, and taxpayers in support of the BOE's appellate functions. BPD is divided into two sections: Tax and Fee Case Management Section (TFCM) and the Board Meeting Administrative Section (BMAS). The TFCM section processes all incoming appeals and refund claims, manages unassigned inventory, schedules conferences, and handles clerical functions until the files are transferred to the appropriate section in the Appeals Division (FIT, Property Tax, or Business Tax). The BMAS is responsible for managing and coordinating the Board's rulemaking activities, Board Meetings, Public Agenda Notice, distribution of Board hearing materials, administering the Contribution Disclosure Program, recording and transcribing all Board meetings, and preparing the Preliminary Record of Board actions, and Board Meeting Minutes.

#### **Tax and Fee Case Management Section (TFCM)**

The TFCM is comprised of two units. The first is the Franchise and Income Taxes Unit, which is the intake unit for appeals from actions of the FTB, including FIT Appeals and Homeowner and Renter Property Tax Assistance Appeals (HRA), and coordinates the briefing and schedules hearings for those appeals. This unit consists of 7.0 staff members: 2.0 Associate Governmental Program Analysts (AGPA), 3.0 Staff Services Analysts (SSA), 1.0 Management Services Technician (MST), and 1.0 Office Technician (OT). The second is the Business Taxes Unit, which schedules conferences between taxpayers and Appeals Division attorneys and schedules hearings. This unit consists of 4.0 staff members; 1.0 AGPA, 1.0 SSA, and 2.0 MSTs.

HRA appeals filed with the BPD have increased over the past nine years. In 1998, the household income limit to qualify for the HRA program increased from \$13,200 to \$33,132, a 151% increase (Stats. 1998, ch. 322, AB 2797). In 2000, there was a temporary 150% increase in the assistance amount (Stats. 2000, ch. 60, SB 1664). In 2001, a permanent 45% increase in the assistance amount was granted (Stats. 2001,

ch. 266, AB 1370). Now in 2008, the qualifying household income has increased to \$44,096. These legislative changes have created a dramatic increase in appeals submitted to BPD over time; 410 appeals received in FY 1998/1999 vs. 1,386 appeals received in FY 2007/08, a 338% increase.

The Franchise and Income Taxes Unit of the TFCM section analyzes each appeal to confirm jurisdiction, the tax years and amounts in dispute, and the specific issues the taxpayer wishes to bring before the Board. If 3.0 additional FIT attorney positions are funded for the Appeals Division, those positions would be expected to process 114 additional cases per year, which will further add to BPD's TFCM section workload. These appeals are time consuming due to the variations in the briefing process (i.e., bankruptcy, court action, settlement, and deferrals) and they have increased in complexity due to the issues involved, such as innocent spouse, enterprise zone, and unitary. The more complex a case is the more staff hours generally are required to process the appeal and move it along into the Appeals Division for consideration. In addition, appeals conferences were not required in FIT appeals before the effective date of the new Rules for Tax Appeals, which was February 2008. Those rules now require appeals conferences in some FIT cases, further adding to the TFCM section's workload in BPD.

The TFCM section is not in compliance with Board policy in acknowledging both HRA and FIT claims/appeals. Board policy is to acknowledge written correspondence, for appeals, within 12 days of receipt (BEAM § 7600). Currently BPD is not meeting that deadline due to the volume of new appeals; the average appeal is acknowledged 90 days from the date of receipt.

Incoming business tax and fee appeals have remained relatively flat in the previous two FYs. However on July 1, 2008, 304 cases were awaiting assignment to attorneys in the Appeals Division's Business Tax Section for appeals conferences and D&Rs. The optimal number of unassigned cases is approximately 200. The Appeals Division is estimating that 2.0 property/business tax section attorneys will process 20, 32, 44, and 50 additional cases in FYs 2009-20, 2010-11, 2011-12, and 2012-13, respectively. In the event 2.0 additional attorney positions for the Appeals Division's Property and Business Tax Sections are funded, the workload of the TFCM section of BPD will increase.

In summary, more cases are coming into the TFCM section for processing. Additional duties have been added. The typical case being processed now is more complex and requires more time. Finally, increased capacity of the Appeals Division will further increase the workload of the BPD's TFCM section.

We are requesting 1.0 SSA position for the increase in volume and complexity of FIT cases and 1.0 MST position for the increase in HRA cases to augment the Franchise and Income Tax Unit of the TFCM section. We are also requesting 1.0 MST position for the anticipated workload increase in the Business Tax Unit, and 1.0 OT position for the entire TFCM section.

### **Board Meeting Administrative Section (BMAS)**

The BPD, in conjunction with the Executive Director of the Board, is responsible for assisting the Board in complying with the Bagley Keene Open Meetings Act, Quentin L. Kopp Conflict of Interest Act, the Rules for Tax Appeals and other legislation and

regulatory requirements, most of which are to ensure that the Board's actions are transparent, legal and fair.

Meeting strict statutory and regulatory deadlines, with the limited staff of BPD, has created excessive overtime directly related to the Board Meeting organization. Since FY 2004-05, this workload has been distributed between 6.0 Associate Governmental Program Analysts (AGPA) in the BMAS and TFCM Sections. For the FY 2007/08 overtime dedicated to these tasks totaled 2363.5 hours.

Workload for the BPD has increased over the past nine years but staff has not been augmented to handle the increased workload. The AGPA position requested in this proposal will enable the BPD to effectively handle the increase in workload related to BPD responsibilities to ensure the public that the Board's actions and responsibilities are transparent, legal and fair, by complying with all new and amended legislation, and regulations. Due to the nature of the workload, this position will not eliminate, but will significantly reduce, the overtime by redirecting duties.

### **C. State Level Considerations**

The mission of the BOE is to serve the public through fair, effective, and efficient tax administration. Board responsibilities include fair and efficient administration of FTB appeals, Business and Property Tax Cases, and Board Member preparation. This proposal is consistent with the mission of the BOE and its strategic plan goals and objectives to:

- Maximize Voluntary Compliance
- Improve the efficiency of BOE's Tax and Fee Programs
- Improve the BOE's Organizational Efficiency
- Create an expanded and responsive infrastructure
- Foster a skilled, motivated, and diverse workforce

If the positions in this proposal are approved, collection of millions of taxes owed to the State due to FIT appeals will not have to be deferred to later years and taxpayers will not accrue additional interest on their contested tax. The requested funding would also increase the efficiency of the business tax appeals process, upon which several other state agencies, including Department of Public Health, Department of Toxic Substances Control, and Department of Insurance, rely for the efficient processing of administrative appeals. This increased efficiency will also accelerate the collection of millions of dollars in business taxes and related revenue annually because in most appeals cases, the contested amount is not paid until the appeals process is complete. Finally, taxpayers, low income senior citizens, disabled and blind HRA claimants will benefit from increased efficiency in the processing of their appeals.

### **D. Justification/Analysis of All Feasible Alternatives**

The Appeals Division (FIT, Property and Business Tax Sections) and the BPD need to increase staffing levels to efficiently address the increased volume and complexity of workload. The following are three alternative ways to address the need:

**Alternative 1 – Establish 10.0 permanent positions and 1.0 three-year limited term position and related resources to augment the Appeals Division (FIT, Property Tax, and Business Tax Sections), and the BPD.**

Approval of these positions will satisfy the needs of all three areas to address increases in workload.

**1. Franchise Income Tax Section**

The FIT Section requests a budget augmentation of \$718,000 to fund 3.0 permanent positions and 1.0 three-year limited term position to work in the FIT section of the Appeals Division.

2.0 Tax Counsel III (1.0 permanent, 1.0 three-year limited term) and 1.0 Tax Counsel IV positions are needed to address the 10% overall increase in FIT appeals and the 90% increase in complex cases. A medium difficulty FIT case takes an average of 24 hours to complete and an attorney can complete 51 such appeals in a year. Complex FIT cases take an average 87 hours to complete; therefore, an attorney can complete 12 complex cases on average in a year.

These positions will:

- Complete an additional 114 appeals annually for FY 2009-10 through 2011-12.
- Produce an estimated \$21.2 million annually in finalized, collectible tax liabilities for FY 2009-10 through 2011-12.
- Complete an additional 63 appeals annually for FY 2012-13 and thereafter.
- Produce an estimated \$17.0 million annually in finalized, collectible tax liabilities for FY 2012-13 and thereafter.

The following table summarizes FIT Appeals Current Workload and Position Needs:

Case Difficulty	Case Type	Hours Per Case	Average Cases per Year	Total Hours Required per Year
Simple	HRA	2	237	474
Medium Difficulty	Innocent Spouse, Federal Determination, Statute of Limitations, Credit/Deductions	28	448	12,544
Complex	Enterprise Zone, VCI Tax Shelter, Unitary, Native American Cases, Issues of First Impression, Factually Intensive Cases	87	30	2,610
<b>Total Hours Required Per Year</b>				15,628
<b>Existing Position Hours (5.5 * 1800)</b>				9,900
<b>Total Hours Needed to fulfill workload</b>				5,728
<b>Total Positions needed</b>				<b>3.0</b>
<b>Total Positions requested</b>				<b>3.0</b>

See Exhibit II on page 22 for the workload detail for the requested attorney positions.

The following tables summarize the impact of adding the requested positions on unassigned appeals inventory. The tables assume a static number of incoming appeals (although additional slight increases are anticipated in tax shelter appeals) and demonstrate that the requested positions will not entirely address the unassigned FIT appeals inventory. The limited term Tax Counsel III position is requested to allow a three-year evaluation period to assess incoming appeals levels and measure whether additional permanent positions are needed.

#### Inventory Increase without New Positions

Year*	New FIT <sup>3</sup> Appeals	Cases Processed	Inventory Change	Ending Inventory
2007-08				370
2008-09	478	280	198	568
2009-10	478	280	198	766
2010-11	478	280	198	964
2011-12	478	280	198	1162
2012-13	478	280	198	1360
2013-14	478	280	198	1558
2014-15	478	280	198	1756

#### Inventory Increase with New Positions

Year*	New FIT Appeals	Cases Processed	Inventory Change	Ending Inventory
2007-08				370
2008-09	478	394	84	454
2009-10	478	394	84	538
2010-11	478	394	84	622
2011-12	478	394	84	706
2012-13	478	394	84	790
2013-14	478	394	84	874
2014-15	478	394	84	958

\*Prior to FY 2005-06, FIT inventory records were kept on hardcopy Microsoft Word or Excel spreadsheets. Those records are not available at this time due to the evacuation of the 22<sup>nd</sup>, 23<sup>rd</sup>, and 24<sup>th</sup> floors of the Headquarters building in September 2007. Records available from Integrated Revenue Information System (IRIS) begin in FY 2005-06.

FIT appeals inventory levels have fluctuated month to month and year to year, due to variations in incoming appeals. Previous inventory levels that exceeded existing staffing levels were addressed by borrowing positions from other Divisions in the Legal Department. This method is not recommended at this time due to the negative impact on current services in other Legal Divisions being provided to taxpayers and Board program staff, the inefficiency of training other Divisions attorneys in Franchise and Income Tax law for short periods of time, and the expertise required to address the increase in complex appeals.

<sup>3</sup> This figure does not include Senior Citizens Homeowners and Renters Property Tax Assistance appeals.

The FIT section currently has 2.0 secretary positions supporting the existing 7.5 attorney positions. The FIT section secretaries input data for incoming and completed appeals for tracking purposes, format and revise edited decisions, prepare routine correspondence, mail decisions and other correspondence to the parties, respond to case status requests, and distribute decisions for publication. The requested 1.0 secretary position is needed to provide secretarial support to the 3.0 requested attorney positions.

**2. Property and Business Taxes Sections**

The Appeals Division requests a budget augmentation of \$416,000 to fund 2.0 Tax Counsel III positions to work in its Property Tax and Business Tax Sections. These positions will fully staff the Property Tax Appeals program from July – December each year and work on the inventory of unassigned Business Tax Cases from January – June each year.

The current inventory of unassigned Business Tax Cases is in part a result of the Property Tax Appeals program. Currently the Business Tax Section lends 2.0 positions to the Property Tax Appeals program from July – December each year, leaving those positions only 6 months to work on assigned business tax cases, which reduces the average case processing rates from 58 cases each per year to approximately 25 cases each per year

Based on an analysis of actual production during the last FY, an experienced appeals conference holder working full-time can process an average of 58 business tax cases annually. A new, full-time attorney with no recent appeals conference experience processes approximately 12 cases in the first six months, 18 cases in the next six months, 23 cases in the next six month, and 29 in the next six months, maintaining close to that production thereafter. Using existing staffing and assuming no unusual disruptions and immediate replacement of retiring attorneys, the Business Tax Section predicts the following production:

<b>Period:</b>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
<b>D&amp;Rs:</b>	602	579 <sup>4</sup>	671	680	680

There were approximately 670 new case assignments to the Business Taxes Section during FY 2007-08. The number of unassigned appeals cases was 304 on July 1, 2008.<sup>5</sup> If the number of new appeals filed during the current and next four FYs remains static, and with current staffing and manageable caseloads, the unassigned appeals inventory will continue to increase to approximately 595 cases during FY 2008-09, and then decrease at the rate of approximately 12 cases per year. This translates to increased time for completion of the appeal process.

Approval of 2.0 Tax Counsel III positions for the Property and Business Taxes Sections will address the workload related to property tax appeals, as well as reduce the inventory of unassigned business tax cases. The inventory will continue to increase to 409 cases during FY 2010-11 and then begin decreasing by approximately 47 cases annually, moving millions of revenue dollars closer to collection annually.

<sup>4</sup> The reduction will be due to the replacement of a retiring conference holder with an inexperienced one and the transfer of responsibility for local tax allocation cases from a Business Tax Specialist III (auditor) position to a Tax Counsel III Specialist.

<sup>5</sup> This number normally fluctuates by 15 to 25 on a week-to-week basis depending on when new cases are logged in and assignments are made. It has increased steadily since the evacuation of the Appeals Division staff from headquarters.

The following tables summarize the impact of adding the requested positions on unassigned appeals inventory.

**Inventory Increases/Decreases without New Positions**

Year	New Appeals	Cases Processed	Inventory Change	Ending Inventory
2007-08				304
2008-09	668	602	66	370
2009-10	668	579	89	459
2010-11	668	671	-3	456
2011-12	668	680	-12	444
2012-13	668	680	-12	432
2013-14	668	680	-12	420
2014-15	668	680	-12	408

**Inventory Increases/Decreases with New Positions**

Year	New Appeals	Cases Processed	Inventory Change	Ending Inventory
2007-08				304
2008-09	668	622	46	350
2009-10	668	611	57	407
2010-11	668	715	2	409
2011-12	668	730	-47	362
2012-13	668	730	-47	315
2013-14	668	730	-47	268
2014-15	668	730	-47	221

The following table summarizes the need in the Property Tax Section (Total attorney hours are listed and the existing permanent Tax Counsel IV position is deducted):

<b>PROPERTY TAX APPEALS WORKLOAD</b>			
	Hrs/Case	# Cases	Total
File Review & Preparation	12	62	744
Travel			
Conference	2	12	24
Other Info. Gathering	16	12	192
Research/Writing Summary/Decision	23	62	1426
Post-Summary/Decision	3	59	177
Hearing Preparation and Appearance	5	8	40
Post-Board Hearing	4	19	76
<b>Total Hours Required</b>			<b>2679</b>
.5 Tax Counsel IV position already in place			<u>900</u>
Work requiring Tax Counsel III			1779
Total Tax Counsel III Positions Required			.99
Total Tax Counsel III Positions Requested			1.0

See Exhibit III on pages 23-24 for the workload detail for the requested Tax Counsel III positions in the Business and Property Tax Sections.

**3. Board Proceedings Division**

The BPD requests a budget augmentation of \$474,000 to fund 5.0 permanent positions (1.0 AGPA, 1.0 SSA, 2.0 MST, and 1.0 OT) to address increased workload resulting from the following:

- Increase in FTB and HRA appeals
- Inventory of appeals conferences
- New Regulatory Requirements requiring conferences of new tax types

The following table summarizes the need for 1.0 Staff Services Analyst (SSA), 1.0 Management Services Technician (MST) and 1.0 Office Technician (OT) in the TFCM section. The tasks below are similar; however, the difference is the level of complexity. The clerical duties currently being performed by the SSA and MST will be transferred to the OT position.

<b>FIT 2007/08 Workload Description</b>	<b>Hours</b>
Verification of all Appeals Received: 2,276 X 1.5 hours per appeal	3414
Briefing Process: 1,585 appeals x 5 sets of briefs each x 30 minutes for each	3962
Dismissal Letter: 691 Dismissals X 30 minutes each	346
Board Decisions: 2.5 hours X 14 hearings per year X 5 analysts = 175 hours (450 Cases Decided)	225
Miscellaneous:	
• Correspondence, phone, e-mail, internet	3250
• Staff meetings	778
• Weekly/Monthly/Yearly Reports	36
• Personnel Issues	25
• Training	360
• Review Work	185
• Prioritize daily workload	325
• Special Projects	1099
• Transaction and research problem appeals	650
Total:	<b>6708</b>
Total Hours	14655
Existing Position Hours (1,800 hrs X 5)	9000
Additional Positions Needed	3.14
<b>Positions Requested</b>	<b>3.0</b>

See Exhibit IV on page 25 for the workload detail for the requested SSA, MST, and OT positions for the TFCM Section.

The following summarizes the need for 1.0 MST position in conjunction with the anticipated addition of 2.0 Tax Counsel III positions in the Business Tax and Property Tax Section.

<b>TFCM 2007/08 Workload</b>	<b>Hours</b>
Receipt of Petition file (B300): 30 minutes/ file 865 files received	432
Schedule Conferences: 3 people 2.5 hours/person/week x 52 weeks	400
Prepare Conference Notices: 2 hours/case ID x 600 notices	1200
Postponement/Reschedule: 1.5 hours/request x 220	330
Board Hearing/Nonappearance: 30 minutes/88 cases x 12 months	528
Case Indexing of Board Hearing status material	228
Miscellaneous:	1755
• Correspondence, phone, e-mail, internet	234
• Staff meetings	26
• Weekly Reports	30
• Monthly/Yearly Reports	360
• Training	476
• Special Projects	94
• Update Procedures and Policy Manuals	52
• Board Member Requests	217
• Transaction and research problem appeals	<u>3244</u>
Total hours (existing workload)	<u>6362</u>
Anticipated extra work with the addition of the 2.0 Attorney positions requested by the Property and Business Taxes Sections	
12 conferences a year x 10 cases = 120 x 2 hours to process	240
Response to Notices = 80 responses x 30 minutes each	40
Postponement/Reschedules = 43 x 1.5 hours	64
Miscellaneous = 5 x 120 new cases	<u>600</u>
Total hours (additional workload)	<u>944</u>
Total Hours	<u>7306</u>
Existing Position Hours (1,800 hrs X 3)	5400
Additional Positions Needed	1.05
<b>Positions Requested</b>	<b>1.0</b>

See Exhibit IV on page 26 for the workload detail for the MST position in the TFCM Section.

The following table summarizes the need in the Board Meeting Administrative Section for 1.0 AGPA. Current workload is being distributed between 6.0 AGPAs in the BMAS and TFCM Sections. During FY 2007-08, overtime was required to meet this need.

<b>Board Meeting Administrative Section Workload</b>	<b>Hours</b>
Associate Governmental Program Analyst	
Annual Workload Plan	115
Board Meeting Reference	180
Review of Board Meeting Material	174
Board Meeting Materials Distribution ( coordination between BPD and Departments, Day of Binders, posting agenda to internet, PRA/IPA requests)	432
Public Agenda Notice - Preparation, Proofing and Editing	162
Board Meeting Attendance	210
Lead and Training Sergeant of Arms	38
Board Directives	68
Transcripts	75
Approved calendars – obtain signatures and distribution	18
Back-up to Contribution Disclosure Analyst	80
Back-up to Vote Recorder	40
Miscellaneous:	
• Correspondence, phone, e-mail, internet	190
• Reports	24
• Staff meetings	120
• Special Projects	53
Total	387
Total AGPA Hours	1979
<b>Total AGPA Positions Requested (1,800 Hours Per Position)</b>	<b>1.0</b>

See Exhibit IV on page 26 for the workload detail for the requested AGPA position in the BMAS Section.

**Pros:**

- Ensures taxpayers rights to due process through the appeals process are provided in a timely manner.
- Accelerates the resolution of Franchise and Income Tax appeals, adding resolution of an additional 114 appeals annually for FY 2009-10 through 2011-12, producing an estimated \$21.2 million annually in finalized, collectible tax liabilities for FY 2009-10 through 2011-12, and 63 appeals and \$17.0 million annually for FY 2012-13 and thereafter.
- Accelerates the collection of up to \$3.3 million in FY 2009-10, with the amount increasing thereafter to \$8.4 million in FY 2012-2013 and ongoing.
- Contributes to and facilitate the acceleration of the final determination of disputed FIT and business tax liabilities and collection of tax and related revenue of up to \$24.5 million starting in FY 2009-10, with increases thereafter to \$25.4 million in FY 2012-2013, and ongoing.

- Provides resources necessary to recruit and retain qualified staff with experience in Franchise and Income Tax law, Business Tax law and Property Tax law.
- Provides a proactive approach to addressing steady increases in Franchise and Income Tax appeals.
- Addresses need for permanent half-time assignments of attorneys to Property Tax Section and need for reduction of unassigned business tax appeals inventory.
- Accelerates the resolution of business tax appeals and adds capacity to process more appeals, thus annually moving millions of dollars in revenue closer to collection.
- Ensures Board Members and staff receive all materials timely.
- Meets statutory and regulatory requirements for Board meetings.
- Reduces the use of overtime.

**Cons:**

- Requires additional funding of \$1,608,000 to fund 10.0 new permanent positions and 1.0 three-year limited term position.

**Alternative 2 – Redirect positions from other Legal Divisions to augment the Franchise and Income Tax Section, the Business and Property Tax Sections, and the Board Proceedings Division.**

This alternative does not require a budget augmentation and recognizes the potential of drawing staff from other Legal Department divisions, but fails to recognize the negative impact to other Legal Division's existing programs and services to taxpayers. This alternative also does not address the need for experienced attorneys with the expertise to efficiently develop and prepare complex appeals for hearing or decision.

**Pros:**

- No additional funding required.
- Utilizes current Legal Division resources.

**Cons:**

- Does not accelerate movement of revenue into collection.
- Redirection of attorneys from other Legal Divisions within the Board will negatively impact current services being provided to taxpayers and Board program staff.
- Redirection of borrowed attorneys for limited periods of time from other Legal Divisions necessarily requires time consuming training and development as other Legal Divisions do not practice in the area of Franchise and Income Tax law.
- Redirection of borrowed employees from other Divisions to assist the BPD's TFCM Section requires time consuming training and development as no other Division in the Board handles this type of case work.
- Fails to recognize the existing serious short-fall in staffing necessary to meet current workload demands.
- Slow reduction of unassigned business tax inventory, which decreases efficiency of the appeals process and slows the collection of final tax liabilities.
- Delays in collection generally reduce the success of collection activity.

**E. Facility/Capital Outlay Considerations**

The BOE is currently completing a “restacking plan” for BOE’s Headquarter building. This plan will allow BOE to address current optimum occupancy issues, align program functions/activities, identify additional offsite lease space, and address growth.

**F. Outcomes and Accountability**

This proposal addresses the staffing deficiency within the Appeals Division (FIT, Property Tax, and Business Tax Sections) and Board Proceedings Division by identifying specific resource needs to protect the financial interests of the State. The data collected from resolved appeals will be captured for revenue estimation and reporting.

FIT appeals are tracked by IRIS. Attorney production and FIT Section production are measured monthly. The output of the requested positions can be tracked monthly to measure the number of appeals completed. In addition, the amounts at issue determined by the Board for collection in the appeals completed by these positions will be tracked to measure the amounts finalized for collection in those appeals.

Property and business tax appeals are tracked by IRIS and using internal tracking and production reports.

TFCM workload is tracked by IRIS and Access. Daily, weekly and monthly production input and output can be tracked for the four positions requested. For the two positions requested in BMAS work will be tracked through reports generated, daily and weekly meetings with supervision and identification of expectations.

Revenue retention (i.e. the percentage of revenue sent to collections after all grants and adjustments during the appeals process) is tracked on audit cases by the Sales and Use Tax Department.

**G. Timetable**

The processing of applicants and non-commitment hiring interviews of potential candidates will begin prior to FY 2009-10 to gain the immediate benefit of the increased staff.

**Appeals Division: FIT Section and Business Tax Section**

<b>January 2009 to June 2009</b>	<b>July 2009 +</b>
1. Develop seating plan and identify any workstation, desktop PC, and telephone needs.	Hire new personnel July 1, 2009.
2. Prepare training plans for new staff	Train new personnel.
3. Advertise new positions and conduct hiring interviews.	Monitor and measure production of new hires.

**Board Proceedings Division**

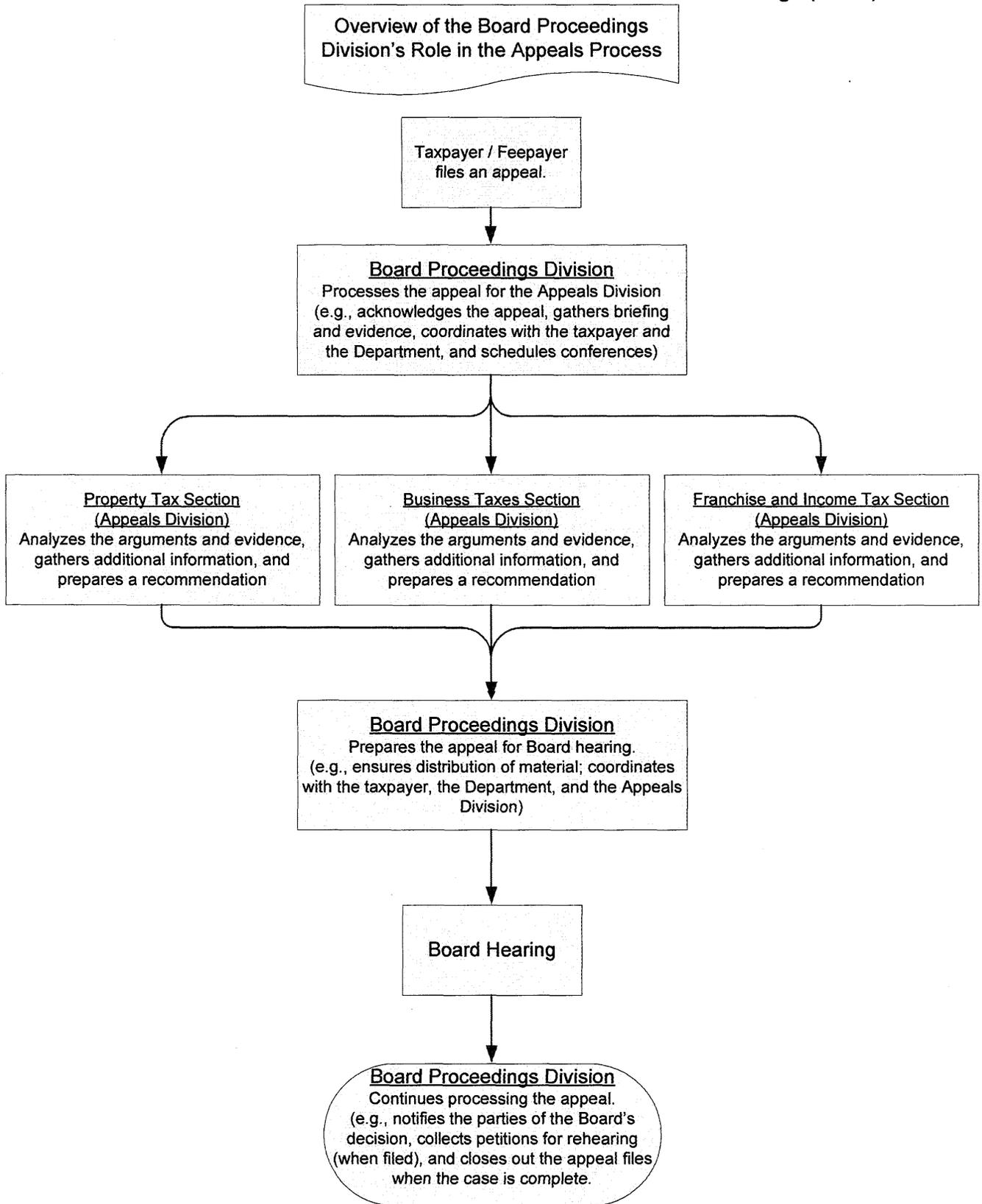
January 2009 to June 2009	July 2009 +
1. Develop seating plan and identify any workstations, PCs, telephones, and other equipment needs	Hire new personnel July 1, 2009.
2. Prepare duty statements and training plans for new staff	Train new personnel.
3. Advertise new positions and conduct hiring interviews.	Monitor progress of new resources.
4. Develop implementation and training phase for new employees.	

**H. Recommendation**

**Alternative 1 is recommended.** This alternative would authorize funding for 10.0 permanent positions and 1.0 limited term position to address staffing deficiencies within the FIT Section, Business Tax Section, and Property Tax Section of the Appeals Division and the BPD. By providing the resources as identified in Alternative 1, the FIT Section will be able to hire and train experienced attorneys that are needed to prepare and resolve the increased volume of appeals and increase in complex appeals being filed with the Board; the Business Tax Section will be able to reduce the number of unassigned cases to the optimal level as well as continue to process the property and business tax appeals in an efficient manner, accelerating the movement of millions of dollars annually toward collection; and the BPD will be able to augment the movement of dollars toward collection by processing more appeals.

**I. Fiscal Detail**

See attached "Fiscal Detail" schedules.



## FIT Section Workload Detail

The following tables summarize the workload detail for a FIT Tax Counsel III position:

Workload Detail					
Classification	Activity	Time Measure		On-going Activities	
		H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
Tax Counsel III	Review Policies & Procedures	H	10	40	400
	Produce Legal Opinions	H	114	2	224
	Prepare Appeals Cases	H	28	102	2856
	Prepare Litigation Cases	H	30	2	60
	Board Appearances	H	8	10	80
	Advice to Board Members		2	24	48
	Total Tax Counsel III Hours				<b>3668.0</b>
	Total Tax Counsel III Positions Requested (1,800 Hours Per Position) 1.0 Permanent & 1.0 Limited Term (3 years)				<b>2.0</b>

The following tables summarize the workload detail for a FIT Tax Counsel IV position:

Workload Detail					
Classification	Activity	Time Measure		On-going Activities	
		H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
Tax Counsel IV	Review Policies & Procedures	H	10	20	200
	Produce Legal Opinions	H	128	2	256
	Prepare Complex Appeals Cases OR Review Appeals Section Cases	H	87	12	1044
	Prepare Litigation Cases	H	60	2	120
	Board Appearances	H	8	22	176
	Advice to Board Members	H	2	110	220
	Total Tax Counsel IV Hours				<b>2016.0</b>
	Total Tax Counsel IV Positions Requested (1,800 Hours Per Position)				<b>1.0</b>

**Business and Property Tax Workload Detail**

The following table summarizes the workload detail for a Tax Counsel III in the Property Tax Section:

Appeals Division, Property Tax Section, Justification Table – One (1.0) Tax Counsel III

<b>Activity</b>	<b>Hrs/Case</b>	<b># Cases</b>	<b>Total</b>
File Review & Preparation	12	42	504
Conference	2	8	16
Other Info. Gathering	16	8	128
Research/Writing Summary/Decision	23	41	943
Post-Summary/Decision	3	40	120
Hearing Preparation and Appearance	5	3	15
Post-Board Hearing	4	13	52
<b>Total Hours Required</b>			<b>1778</b>
Total Tax Counsel III Positions Required			0.99
<b>Total Tax Counsel III Positions Requested</b>			<b>1.0</b>

The following tables summarize the workload detail for a Tax Counsel III in the Business Tax Section:

Appeals Division, Business Tax Section, Justification Table – 1.0 Tax Counsel III

FY 2008-09

FY 2009-10

<b>Activity</b>	<b>Hrs/Case</b>	<b># Cases</b>	<b>Total</b>		<b>Hrs/Case</b>	<b># Cases</b>	<b>Total</b>
Education, Training, & Transition <sup>6</sup>			600				200
File Review & Preparation	5	20	100		4	32	128
Travel	1	20	20		1	32	32
Conference	1.5	20	30		1.25	32	40
Other Info. Gathering	6	20	120		5	32	160
Research/Writing Decision	43	20	860		36	32	1152
Post-Decision	2.5	20	50		2	32	64
Post-Board Hearing	0.25	20	5		0.25	32	8
<b>Total Hours Required</b>			<b>1785</b>				<b>1784</b>
Hours per Position - TC III			1800				1800
Total Position Required - TC III			0.99				0.99
<b>Total Positions Requested - TC III</b>							<b>1.0</b>

<sup>6</sup> Transitioning between the property tax and the business tax appeals programs necessarily requires some transition time during which production is limited. The Appeals Division assigns special projects to be done during this time.

FY 2010-11

FY 2011-12 and Ongoing

Activity	Hrs/Case	# Cases	Total	Hrs/Case	# Cases	Total
Education, Training, & Transition			75			75
File Review & Preparation	3	44	132	2	50	100
Travel	1	44	44	1	50	50
Conference	1.25	44	55	1.25	50	62.5
Other Info. Gathering	4	44	176	3	50	150
Research/Writing Decision	28	44	1232	26	50	1300
Post-Decision	1.5	44	66	1.5	50	75
Post-Board Hearing	0.25	44	11	0.25	50	12.5
Total Hours Required			1791			<b>1825</b>
Hours per Position - TC III			1800			1800
Total Position Required - TC III			0.99			1.00
<b>Total Positions Requested - TC III</b>			<b>1.0</b>			<b>1.0</b>

## SSA Workload Justification for the TFCM Section

Tax and Fee Case Management Workload Detail					
Classification	Activity	Time Measure		On-going Activities	
		H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
SSA	Verification of New Appeals	H	1.5	177	265
	Briefing	H	.30	774	387
	Dismissals	H	.75	22	17
	Board Decisions	H	.30	450	45
	Misc. – Phone calls, emails, Staff meetings, reports, training, reviewing, special projects, Research	H	1.0	1341	1341
	<b>Total Hours</b>				<b>2055</b>
	<b>Total Number of Positions Needed</b>				<b>1.0</b>

## MST Workload Justification for the TFCM Section

Tax and Fee Case Management Workload Detail					
Classification	Activity	Time Measure		On-going Activities	
		H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
MST	Verification of New Appeals	H	1.5	695	1042
	Briefing	H	.30	405	202
	Dismissals	H	.75	612	217
	Board Decisions	H	.30	64	32
	Misc. – Phone calls, emails, Staff meetings, reports, training, reviewing, special projects, Research	H	1.0	310	310
	<b>Total Hours</b>				<b>1802</b>
	<b>Total Number of Positions Needed</b>				<b>1.0</b>

## OT Workload Justification for the TFCM Section

Tax and Fee Case Management Workload Detail					
Classification	Activity	Time Measure		On-going Activities	
		H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
OT	Log In and Distribute new appeals	M	.30	886	443
	Copying processed briefs	M	.15	4644	1161
	Copying and Filing Dismissals	M	.15	112	28
	Copy and Filing Board Decisions	M	.15	450	112
	Misc. –Staff meetings, Emails, Research	H	1.0	112	112
	<b>Total Hours</b>				<b>1800</b>
	<b>Total Number of Positions Needed</b>				<b>1.0</b>

## MST Workload Justification for the TFCM Section

Tax and Fee Case Management Workload Detail					
Classification	Activity	Time Measure		On-going Activities	
		H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
MST	Conferences to Schedule and Prepare	H	2.0	120	240
	Response to Notices, Postponement/Reschedules	H	1.5	70	105
	Phone calls, emails, Staff meetings, reports, Research	H	5.0	120	600
	Hearing Analyst Staff Support Work – Summaries, Acknowledgement Ltrs., Submit letters, Hearing Notices, Notices of Board Action	H	1.0	320	320
	training, reviewing, special projects,	H	1.0	535	535
	<b>Total Hours</b>				<b>1800</b>
	<b>Total Number of Positions Needed</b>				<b>1.0</b>

## AGPA Workload Justification for the Board Proceedings Division

Board Meeting Administrative Section Workload Detail					
Classification	Activity	Time Measure		On-going Activities	
		H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
AGPA	Annual Workload Plan	H	28.8	4	115
	Board Meeting Reference Coordinator	H	1.7	12	20
	Review of Board Meeting Material	H	14.5	12	174
	Board Meeting Materials Distribution (coordination between BPD and Departments, Day-of-Binders, posting agenda to Internet, PRA/IPA requests)	H	14.4	30	432
	Public Agenda Notice (Preparation, Proofing and Editing)	H	13.5	12	162
	Board Meeting Attendance	H	7	30	210
	Lead and Training Sergeant of Arms	H	1.25	30	38
	Board Directives	H	2.7	30	68
	Transcripts	H	6.25	12	75
	Approved calendars – obtain signatures and distribution	H	1.5	12	18
	Back-up to Contribution Disclosure Analyst	H	6.6	12	80
	Back-up to Vote Recorder	H	1.3	30	40
	Miscellaneous: <ul style="list-style-type: none"> <li>• Correspondence, phone, e-mail, Internet</li> <li>• Reports</li> <li>• Staff meetings</li> <li>• Special Projects</li> </ul>				190 24 120 53
	<b>Total Hours</b>				<b>1819</b>
	<b>Total Number of Positions Needed</b>				<b>1.0</b>

BCP No.  
 DATE: September 16, 2008

STATE OF CALIFORNIA  
 BUDGET CHANGE PROPOSAL--FISCAL DETAIL  
 STATE OPERATIONS  
 FISCAL YEAR 2009-10  
 (Dollars in Thousands)

**Title of Proposed Change:** ADMINISTRATIVE APPEALS

**Program/Element/Component:** \_\_\_\_\_

	PERSONNEL YEARS			CY	BY	BY + 1
	CY	BY	BY + 1			
<b>TOTAL SALARIES AND WAGES</b> <i>_a/</i>		11.0	11.0		\$759	\$759
Salary Savings		-.6	-.6		-38	-38
<b>NET TOTAL SALARIES AND WAGES</b>		10.4	10.4		721	721
Staff Benefits <i>_a/</i>					267	267
Distributed Administration <i>_b/</i>					117	93
<b>TOTAL PERSONAL SERVICES</b>		10.4	10.4		\$1,105	\$1,081

**OPERATING EXPENSE AND EQUIPMENT**

General Expense					\$122	\$20
Distributed Administration					29	23
Printing						
Communications					11	7
Postage						
Travel--In-State					12	12
Travel--Out-of -State						
Training					10	10
Facilities Operations					312	125
Consulting & Professional Services: Interdepartmental						
Consulting & Professional Services: External						
Department of Technology Services						
Data Processing					7	
Equipment						
Other Items of Expense: (Specify Below)						

*\_a/* See page 28 of 29 for itemized staff benefits and classification detail.

*\_b/* Represents Distributed Administration costs resulting from this BCP. The Distributed Administration costs for existing BOE programs will reflect a corresponding decrease which will be addressed in the Planning Estimate process.

	<u>CY</u>	<u>BY</u>	<u>BCP No.</u> <u>BY + 1</u>
<b>TOTAL OPERATING EXPENSE AND EQUIPMENT</b>		\$503	\$197
<b>TOTAL EXPENDITURES (State Operations)</b>		\$1,608	\$1,278

**Source of Funds**

General Fund	(0001)	\$1,441	\$1,145
Special Funds:			
Breast Cancer Fund	(0004)		
State Emergency Telephone	(0022)	1	1
Motor Vehicle Fuel Account	(0061)	21	17
Occupational Lead Prevention Fund	(0070)	1	1
Childhood Lead Poisoning Prev. Fund	(0080)		
Cig. and Tobacco Prod. Surtax Fund	(0230)	7	6
Oil Spill Prevention and Admin. Fund	(0320)		
Integrated Waste Management	(0387)		
Underground Storage Tank Fund	(0439)	3	2
Energy Resources Programs Account	(0465)		
CA. Children and Families First Trust Fund	(0623)	12	10
Federal Trust Fund	(0890)		
Timber Tax Fund	(0965)	3	2
Gas Consumption Surcharge Fund	(3015)		
Water Rights Fund	(3058)		
Elec. Waste Recovery and Recycling Acct.	(3065)	5	3
Cig. and Tobacco Prod. Compliance Fund	(3067)		
Federal Funds			
Other Funds			
Reimbursements	(0995)	\$114	\$91
Net Total Augmentation (Source of Funds)		\$1,608	\$1,278

**DETAIL OF STAFF BENEFITS  
AND PERSONAL SERVICES**

Staff Benefits Detail:	<u>CY</u> <u>BY</u> <u>BY + 1</u>		
	<i>(Whole Dollars)</i>		
OASDI		\$55,157	\$55,157
Health Insurance		85,718	85,718
Retirement		122,548	122,548
Workers' Compensation		294	294
Industrial Disability Leave		516	516
Non-Industrial Disability Leave		373	373
Unemployment Insurance		110	110
Other		1,901	1,901
<b>TOTAL</b>		<b>\$266,617</b>	<b>\$266,617</b>

Classification	Positions			Salary Range <small>_a/</small>	Amount		
	CY	BY	BY + 1		CY	BY	BY + 1
Legal Department							
Appeals Division							
Legal Secretary		1.0	1.0	\$38,280		\$38,280	\$38,280
Tax Counsel IV		1.0	1.0	112,272		112,272	112,272
Tax Counsel III		4.0	4.0	101,628		406,512	406,512
Executive Department							
Board Proceedings Div.							
Associate Govt. Prog. Analyst		1.0	1.0	58,200		58,200	58,200
Staff Services Analyst		1.0	1.0	40,356		40,356	40,356
Mgmt. Services Tech.		2.0	2.0	33,804		67,608	67,608
Office Tech (Typing)		1.0	1.0	35,532		35,532	35,532
Blanket Funds:							
Overtime (Various)							
Temporary Help							
<b>TOTAL SALARIES AND WAGES</b>		<b>11.0</b>	<b>11.0</b>			<b>\$758,760</b>	<b>\$758,760</b>

\_a/ The salary is the mid-step of the salary range for the stated classification.

**SUPPLEMENTAL INFORMATION**

Dollars in Thousands

	<u>Current Year</u>	<u>Budget Year</u>	<u>Budget Year + One</u>
<b>Proposed Equipment:</b>			
N/A			
Total			
<b>Proposed Contracts:</b>			
N/A			
Total			
<b>One-Time Costs:</b>			
General Expense		\$102	
Communications		4	
Facilities Operations		187	
Data Processing		7	
Total		<u>\$300</u>	
<b>Future Savings:</b>			
N/A			
Total			
<b>Full-Year Cost Adjustments:</b>			
N/A			
Total			