

Issue Paper Number 01-015



BOARD OF EQUALIZATION
KEY AGENCY ISSUE

- Board Meeting
- Business Taxes Committee
- Customer Services and Administrative Efficiency Committee
- Legislative Committee
- Property Tax Committee
- Other

APPRAISER CERTIFICATION REVOCATION RULE

I. Issue

Should the Board initiate rulemaking to establish formal procedures for revocation of appraiser certificates in accordance with the requirements of Revenue and Taxation Code section 671?

II. Staff Recommendation

Staff recommends that a rule be drafted which establishes procedures for the revocation of appraiser certificates, as authorized by Revenue and Taxation Code section 671.

III. Other Alternative(s) Considered

None.

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IV. Background

Revenue and Taxation Code section 670 provides that any person performing the duties or exercising the authority of an appraiser for property tax purposes as an employee of the state, any county, or city and county must hold a valid appraiser's or advanced appraiser's certificate issued by the State Board of Equalization. Further, subdivision (a) of Revenue and Taxation Code section 671 states that, "In order to retain a valid appraiser's certificate every holder shall complete at least 24 hours of training conducted or approved by the State Board of Equalization in each one-year period." To retain an advanced appraiser's certificate, only 12 hours of training in each one-year period are required.

Subdivision (a) of section 671 further states: "Failure to receive such training shall constitute grounds for revocation of an appraiser's certificate; provided, however, that proceedings to revoke shall be conducted in accordance with the Administrative Procedure Act contained in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code." The same revocation provisions apply to advanced appraisers' certificates. Currently, no rules exist that interpret this part of the statute.

Historically, the Board has not had an occasion to enforce the revocation provisions of section 671. Recently, however, it came to the Board's attention, in the assessment practices survey process, that several counties have failed to ensure that their appraisers meet the requirements to retain their certificates. As a result, during the Spring of 2001, Board staff sent letters and training records to certified appraisers in all assessors' offices throughout the state, as well as to Board staff who hold appraisers' certificates, asking for a reconciliation of their training hours. Los Angeles County submitted their updated training records to the Board in late 2000; therefore, staff did not send letters and training records to certified appraisers in that county.

V. Staff Recommendation

A. Description of the Staff Recommendation

Under subdivision (c) of Government Code section 15606, the Board is authorized to prescribe rules and regulations to govern assessors when assessing. Staff recommends that the Board act on that authority by approving staff's plan to draft a rule to implement the revocation requirements of Revenue and Taxation Code section 671.

A few years ago, staff developed draft *Guidelines for the Revocation of an Appraiser Certificate* as informal procedures for revoking an appraiser's certificate prior to a revocation proceeding under the provisions of the Administrative Procedure Act (APA). These guidelines were recently reviewed and revised. Legal Division staff has prepared a memorandum to Property Taxes Department management reviewing the procedural and legal requirements of a revocation proceeding under the provisions of the APA. The APA procedures provide for a formal hearing before an Administrative Law Judge, who prepares a proposed decision that is submitted to the Board for a final disposition of the matter.

Given that the Board is addressing a significant right, the right of an appraiser to continued employment, Board staff should proceed carefully and methodically with the appraiser certification revocation process and assure that standards of due process are met. Staff, therefore, believes that, although informal guidelines have been drafted, a rule should be developed providing for procedures

that meet the standards of due process, so that such procedures can be followed prior to a formal revocation of an appraiser's certificate under the provisions of the APA.

B. Pros of the Staff Recommendation

- Development of a rule would provide Board staff with uniform guidelines for implementing the statutory authority given the Board to revoke appraisers' certificates as authorized by Revenue and Taxation Code section 671.
- The drafting of a rule creating revocation procedures would provide for consistency in the application of Revenue and Taxation Code section 671, assuring that the standards of due process are met in such proceedings.

C. Cons of the Staff Recommendation

- By formalizing revocation procedures into a Property Tax Rule, Board staff will be unable to adjust these procedures, once approved, as practicalities and experience dictate through the actual implementation of the procedures, without a subsequent interested parties' process and approval by the Board.

D. Statutory or Regulatory Change

If the Board acts on staff's recommendation, staff will be required to develop a new Property Tax Rule and submit it to the Board for authorization to publish in Title 18 of the California Code of Regulations.

E. Administrative Impact

Minimal. The rulemaking process requires an expenditure of Board staff time in the development of a new Property Tax Rule.

F. Fiscal Impact

1. Cost Impact

The expenditure of Board staff time to develop the new rule will be accomplished using current budgeted positions.

2. Revenue Impact

None.

G. Taxpayer/Customer Impact

Certified property appraisers employed by the state, any county, or city and county will be provided with procedures that meet the standards of due process when faced with the potential of having their appraiser's certificate revoked. Taxpayers will be ensured that appraisers who are rendering value judgments in the administration of the valuation phase of ad valorem property taxation under Article XIII, sections 1, 2, 9, 14, 17, 18, 19, and 24 of the California Constitution hold valid appraisers' certificates and have received the training required by Revenue and Taxation Code section 671.

H. Critical Time Frames

None.

VI. Alternative 1

A. Description of the Alternative

None.

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