



MALIA M. COHEN
CHAIR
STATE BOARD OF EQUALIZATION

April 16, 2019

The Honorable Adrin Nazarian
Member of the California Assembly, District 46
State Capitol, Room 4146
Sacramento, CA 95814

Dear Assemblymember Nazarian:

We write to respectfully oppose AB 576 (Nazarian), the ACA 2 (Nazarian) implementing legislation to transfer the Constitutional functions of the California State Board of Equalization (BOE) to two new agencies, the California Department of Tax and Fee Administration (CDTFA) and the Office of Tax Appeals (OTA), thereby terminating the BOE. We acknowledge that AB 576 is implementing legislation, but we believe a vote in favor of AB 576 in its current form is a vote in support of ACA 2.

Our opposition to AB 576 is based on the following three basic facts:

- AB 576 is premature and should be opposed, or held in abeyance, until the reforms enacted in AB 102 (Chap. 16, Stats. 2017) are thoroughly evaluated to determine the impacts on taxpayer rights.
- AB 576 constitutes a major state government reorganization and results in additional sweeping changes to tax administration affecting millions of property owners without any proven facts or without the kind of in-depth analyses which may reveal a more efficient and effective path forward.
- AB 576 is counter to representative government, which is at the core of our founding principles as a state, and would result in the disenfranchisement of California taxpayers.

Please consider the following:

AB 576 is premature and should be opposed, or held in abeyance, until the reforms enacted in AB 102 (Chap. 16, Stats. 2017) are thoroughly evaluated to determine the impacts on taxpayer rights.

Our opposition is reasonable and appropriate considering the magnitude of the changes enacted in AB 102 and the effect of these changes on individual taxpayers and businesses, as well as on tax administration policy and practices.

In 2017, the Legislature enacted, and Governor Brown signed AB 102, a bill that transferred many of the statutory functions of the BOE to the newly created departments: CDTFA and OTA. These changes went into full effect in January 2018. However, they have been neither fully implemented nor evaluated. Before the Legislature enacts another major change to state tax administration without comprehensive review and evaluation, it is prudent and responsible to determine if the reforms enacted in 2017 are indeed working and/or if there are issues of accountability to the people in fulfilling the findings and declarations of AB 102 to "put fairness, consistency, and transparency of the tax administration and appeals processes in the forefront."

AB 576 constitutes a major state government reorganization, and results in additional sweeping changes to tax administration affecting millions of property owners without any proven facts, and without the kind of in-depth analyses which may reveal a more efficient and effective path forward.

ACA 2 and AB 576 are attempting to transfer the substantial Constitutional functions of the elected State Board of Equalization to two recently created appointed tax agencies without any current evaluation of all the options, including the opportunities and consequences of pursuing these options. Without such an in-depth analysis, there is no way to ensure the effective delivery of taxpayer services or transparency.

Historically, the Little Hoover Commission has reviewed and made recommendations on government reorganization plans. Similarly, the Legislature has used the Little Hoover Commission, or commissioned an independent study to achieve the same goal, prior to executing any reorganization plan. This was not done in the reorganization under AB 102 which resulted in the creation of the CDTFA and the OTA, nor is this kind of review and recommendation process being utilized in this proposal.

The need for a detailed evaluation and careful deliberation is even more important where the elimination of state elected officials is at stake. If the goal of reorganization is increased efficiency, transparency, and accountability, where are the data proving it? What are the "hidden costs" to achieve efficiency, if any?

We respectfully urge the Legislature to thoroughly review and carefully consider hard facts and data-driven analyses regarding the impacts of transferring the functions of BOE to other agencies and eliminating an elected BOE on property owners, businesses, agency employees, and the people of California.

AB 576 is counter to representative government which is at the core of our founding principles as a state and would result in the disenfranchisement of California taxpayers.

Last November (well after implementation of AB 102), four new diverse, bi-partisan Board Members were elected with 11,901,189 votes cast in the Board of Equalization election. AB 576 sends the message that this outcome should be overturned in favor of transferring powers vested in the Constitution to unelected officials.

Prior proposals have been advanced to either consolidate tax agencies, or significantly change the role of an elected BOE. These proposals met similar criticisms, that elected officials are more responsive to taxpayers, property owners, and non-profit organizations than an appointed body or

a state bureaucracy; and, most significantly, that there is no compelling reason to transfer functions.

In the past 20 years, the direct access that taxpayers and assessors had in deliberating with the elected Board Members at monthly (live-streamed) Board meetings has resulted in significant accomplishments that would not have occurred under an appointed official; such as:

- Established exclusions from reassessment for property transfers between registered domestic partners.
- Simplified/streamlined the exemption qualification process for low income housing partnerships.
- Established criteria qualifying land conservation easements for exemption.
- Provided solutions to valuation and transfer problems of timberland, Williamson Act, and historical properties.
- Detailed discussion and guidance to resolve parent-to-child and grandparent-to-grandchild property transfer problems.

The fundamental question is whether it is in the best interests of the residents of California to reduce our democracy by transferring the powers of the four elected Constitutional officers to one appointed official who is not directly accountable to the people.

We believe it is not in the best interests of the residents of California. If AB 576 passes, it will negatively impact the interests of the people by:

- Eliminating direct public and assessor access to decision-makers who are elected by the voters and are subject to term limits.
- Eliminating or reducing monthly open forums for assessors' and property owners' input into regulatory changes, Assessors Handbooks (manuals), Letters to Assessors, published guidance, and precedential legal opinions.
- Ending open public review or assessor access to the value setting process for gas and electric utilities, railroads, telecommunication companies, and other state assessees – or to their assessment appeals.
- Ending independent oversight of property tax and assessor matters by elected officials and a transfer of existing constitutional powers to bureaucrats

In addition to the arguments stated above, California, as the world's fifth largest economy, is well-served by an elected BOE. The responsibilities of the BOE involve administering the state's \$67 billion property tax system, which includes the assessment of over \$5.7 trillion in property by 58 elected county assessors. This system is the second largest source of revenue in the state of California based upon 13 million individual property tax assessments, with more than 40,000 state assessed parcels.

As Members of the BOE, we are dedicated to seeing the reformed BOE continue to fulfill the core Constitutional responsibilities and functions invested in us by our constituents. We remain committed to exercising these responsibilities in a transparent and open manner, knowing that the highest standards of ethics and fiscal responsibility must guide our operations and actions.

Once again, we urge your consideration of the issues we have raised about AB 576. And, if you have questions or comments regarding this correspondence, please contact Chair Cohen directly at 1-415-557-3000 for further discussion.

Sincerely



Chair, Malia M. Cohen



Vice-Chair Antonio Vazquez



Member Ted Gaines



Member Mike Schaefer

Copy:

Members of the Assembly Revenue and Taxation Committee:

The Honorable Autumn R. Burke, Chair, Assembly Revenue and Taxation Committee
The Honorable William P. Brough, Vice Chair, Assembly Revenue and Taxation Committee
The Honorable Kansen Chu
The Honorable Adam C. Gray
The Honorable Chad Mayes
The Honorable Melissa A. Melendez
The Honorable Kevin Mullin
The Honorable Cottie Petrie-Norris
The Honorable Bill Quirk
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Mr. M. David Ruff, Chief Consultant

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