DRAFT

STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date:	**03/19/13**	Bill No:	**Assembly Bill 43**
Tax Program:	**Property**	Author:	**Bocanegra**
Sponsor:	**Author**	Code Sections:	**RTC 5143.5**
Related Bills:		Effective Date:	**01/01/13**

BILL SUMMARY

This bill requires courts to provide written instructions when they issue a remand to the county board of equalization.

ANALYSIS

CURRENT LAW

A party who is dissatisfied with a local county board's[1] decision may bring an action in superior court (the state trial court) challenging that decision. The superior court may (1) reverse the county board on legal issues and remand, or send back, the case to the county board with instructions, or (2) render a decision in those instances where no valuation issue remains to be determined. Unless the case is further appealed, the county board must rehear the appeal and is bound by the court's instructions to follow the court's interpretation of the law.

PROPOSED LAW

This bill adds Revenue and Taxation Code Section 5143.5 to require that in all actions or proceedings for judicial review of a county board's decision, if remand is required for any reason, the court must issue a written statement of decision or order explaining the factual and legal basis for the court's decision as to each of the material controversial issues and include instructions for remand to the county board.

IN GENERAL

County Boards. Local county boards are independent entities, separate from the assessor's office, established to decide disputes between county assessors and property owners. All 58 California counties have assessment appeals proceedings. In 19 counties, the county board of supervisors hears the appeals, meeting as a county board of equalization. The remaining counties have separate assessment appeals boards comprised of persons appointed by the board of supervisors.

Quasi-Judicial Body. Judicial deference is given to the decisions made by county boards, in part, because they are constitutional agencies granted quasi-judicial powers delegated to them by the California Constitution, with special expertise in property valuation. On appeal, a court's review of a county board's findings of factual issues is limited to a determination of whether the county board's findings were supported by substantial evidence presented at the appeals hearing. A county board's factual determination of value may not be set aside by a reviewing court unless it was fraudulent, arbitrary, involved an abuse of discretion, or unless the board failed to follow

[1] Revenue and Taxation Code Section 1601 defines "county board" as "a county board of supervisors meeting as a county board of equalization or an assessment appeals board."

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standards prescribed by the Legislature. However, a county board's findings on legal issues (including the valuation method used by a county board) are subject to a complete review by an appellate body. Legislative Counsel Opinion #7065, December 9, 1987, explains that county boards are quasi-judicial bodies:

> Section 16 of Article XIII of the California Constitution imposes on county boards of equalization the duty to equalize the values of locally assessed property within each county by the adjustment of individual assessments. In accordance with an appeal procedure prescribed by statute (see Ch. 1 (commencing with §1601), Pt. 3, Div. 1, R.& T.C.), county boards of equalization discharge this constitutional duty by the review of contested assessments made by the assessor and by the review of recommendations of assessment hearing officers in connection with assessment protests.
>
> The courts have held that county boards of equalization, in conducting reviews of assessments of locally assessed property, are creatures of the Constitution and pursuant thereto constitute quasi-judicial agencies which function as the fact-finding bodies designated by law to remedy excessive assessments (*Universal Cons. Oil Co. v. Byram,* 25 Cal. 2d 353, 362; *Eastern-Columbia, Inc*. v. *County of L.A.,* 61 Cal. App. 2d 734, 745). Accordingly, it has been held that the duty of determining the value of locally assessed property and the fairness of its assessment is confided to the appropriate county board of equalization and, in discharging this duty, the board's determination upon the merits of the controversy is conclusive; that is, the taxpayer has no right to a trial *de novo* in the superior court to resolve conflicting issues of fact as to the taxable value of his or her property (*Bank of America v. Mundo*, 37 Cal. 2d 1, 5; *Universal Cons. Oil Co. v. Byram*, supra, p. 362; *Eastern-Columbia, Inc. v. County of L.A*., supra, p. 745).

Questions of Law v. Fact. In a refund action for locally assessed property taxes, where the issue is a question of law, the taxpayer has a right to a trial *de novo*, with the court being able to receive and consider new evidence. When the issue is a question of fact, the court is restricted to a review of the county board's findings and decisions (the administrative record).

COMMENTS

1. **Sponsor and purpose.** The author is sponsoring this bill so that courts will provide greater guidance to county boards when remanding a property tax matter back to the board for further proceedings.

2. **Proponents state that when the court does provide explicit instructions to the appeals board, the scope of remanded proceedings is uncertain.** Proponents state that when a court provides a summary decision to the county boards, they often fail to provide explicit instruction with respect to the remand order. They further contend that this can cause a great deal of uncertainty as to the scope of the remanded proceedings. Proponents assert that most often the county board rehears the entire appeal when only a single issue should be addressed. Other times, though less frequently, they believe the county board too narrowly limits the remand proceedings, leading to a denial of due process and additional litigation.

3. **A remand to the assessment appeals board is generally required if value determinations remain.** Judicial deference is given to assessment appeals board decisions, in part, because they are constitutional agencies granted quasi-judicial powers delegated to them by the constitution, with special expertise in property valuation (Article XIII, Sec. 16 of the California Constitution). The court remands the case to the board for further proceedings rather than resolving the valuation issue itself, since the board is the sole arbiter of factual questions, including property values. *Kaiser Center, Inc. v. Alameda County* (1987) 189 Cal.App.3d 978. The constitutional responsibility to assess falls to the local board, not to the courts. *Norby Lumber Company, Inc. v. Madera County* (1988) 202 Cal.App.3d 1352.

COST ESTIMATE

The BOE's administrative costs would be absorbable.

REVENUE ESTIMATE

This measure has no revenue impact.

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