DRAFT

STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date:	**04/03/14**	Bill No:	**Assembly Bill 2415**
Tax Program:	**Property**	Author:	**Ting**
Sponsor:	**Author**	Code Sections:	**BPC Chapter 14.5**
Related Bills:	**AB 1151 (Ting)**	Effective Date:	**01/01/14**

BILL SUMMARY

This bill requires property tax agents to register with the Secretary of State's Office before representing taxpayers in local assessment matters with county officials.

ANALYSIS

CURRENT LAW

Property Tax Agents. Existing law does not regulate persons who represent property owners in property tax related matters.

Board of Supervisor Members. Existing law does not restrict members of county boards of supervisors from representing property owners in the county where they serve. With respect to assessment appeals proceedings, the law bars certain county officials and employees from representing, for compensation, applicants in the county where the official serves or the employee works.[1] This prohibition applies to assessment appeals board members and alternate members, assessment hearing officers, employees of clerks of the board of supervisors, assessors' office employees, and county counsel staff who either advise the assessment appeals board or who represent the assessor in assessment appeal proceedings.

The law requires certain county officials and employees to notify the assessment appeals board clerk if they file an assessment appeal application on their own behalf.[2] Additionally, these individuals must notify the clerk if they represent their spouse, parent, or child in an assessment appeal matter. As a conflict of interest safeguard, the county's regular assessment appeals board may not hear these appeals. Instead, a special assessment appeals board panel hears the appeal.[3]

PROPOSED LAW

Property Tax Agents. Beginning September 1, 2015, this bill prohibits an unregistered property tax agent from representing taxpayers before a county official to influence official actions. An agent must register and be issued a number from the Secretary of State (SOS).[4]

Property tax agents must file a statement that they have read and understood the duties and prohibitions this bill creates and renew registration every two years. Property tax agents may not make any gifts of monetary value to a county official.

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[1] Revenue and Taxation Code (RTC) §1612.5.
[2] RTC §1612.7.
[3] RTC §1622.6.
[4] Chapter 14.5 "Property Tax Agents" (commencing with Section 22260) to Division 8 of the Business and Professions Code.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

SOS Duties. The bill requires the SOS to:

- Post on its website a registered property tax agent list.
- Maintain and post on its website a list of agents that have been fined or had their license revoked.
- Conduct background checks on applicants.
- Enforce violations, impose civil penalties, and revoke registration.

"County official" means the county assessor, an assessment appeals board member, an assessment hearing officer, and any other county employee within those offices whose duties are not primarily clerical or manual.

"Influencing official action" means representing a taxpayer as an agent in any matter before a county official by promoting, supporting, influencing, seeking modification of, opposing, or seeking delay of any official action by any means. It does not include filing and submitting required county forms or communicating about those filings.

"Official action" means:

- Establishing a taxable value for any property subject to property taxation, including initial value, declines in value, corrections to values and any other changes in taxable value set;
- Completing an assessment roll showing the assessed values of all property;
- Applying all legal exemptions to assessments;
- Issuing refunds; and,
- Deciding all property assessment disputes between taxpayers and a county official.

Prohibited Persons. The bill prohibits from providing property tax agent services:

- Persons convicted of any felony under state or federal tax laws;
- Persons convicted of any other criminal offense involving dishonesty, breach of trust, or moral turpitude; or,
- Persons disbarred or suspended as an attorney, certified public accountant, public accountant, actuary, real estate broker, real estate salesperson, or licensed real estate appraiser, as specified. Disbarment or suspension for failing to pay dues is an allowable exception.

Excused Persons. Persons excused from registration as property tax agents are are those:

- Representing themselves or an immediate family member.
- Representing an entity if they have an ownership interest of at least 10%.
- In-house company employees representing their employer.
- Government agency employees or officials when acting in their official capacity.

Local Ordinance Impact. State registration preempts and supersedes all local ordinances regarding registration of persons that communicate with county officials for the purpose of influencing official action regarding a property tax assessment. The bill doesn't prohibit counties from establishing ordinances related to campaign contributions to elected officials.

Board of Supervisor Members. The bill also prohibits a county supervisor or county assessment appeals board member from acting as a property tax agent in the county they currently serve.

RECENT LEGISLATION

AB 1151 (Ting, 2013), similar to this bill**,** required property tax agents to register with the SOS. Among other provisions, the bill did not include the gift prohibition, the duty and prohibitions statement, the background check, or the local ordinance preemptive provision. In addition, the Attorney General was the enforcement officer. The bill was held in the Assembly Appropriations Committee.

AB 404 (Gatto, 2012) required those counties that regulate lobbying before its Board of Supervisors to require annual registration and quarterly reporting by any individual representing a taxpayer for compensation before county assessment or equalization officials. The bill also prohibited registrants from making campaign contributions to elected county assessors or candidates for the office. The bill did not pass from the Senate Floor.

AB 2183 (Smyth, 2012) required an agent representing a taxpayer before the assessor, a county board of equalization, or an assessment appeals board to register with the county prior to representing a taxpayer. This bill was held in the Senate Appropriations Committee.

COMMENTS

1. **Sponsor and purpose.** The author seeks to improve the property tax appeals process and create transparency by establishing a public registration process for property tax agents. In 2011, Los Angeles County District Attorney investigators began probing improper property tax reductions granted to more than 100 Los Angeles County property owners. The DA's office looked into complaints from assessor's office employees who claimed they were under pressure to lower assessed values. The author notes although the events in Los Angeles are infrequent and extreme occurrences that are not reflective of most property tax appeals processes in California, these events have generated public concern over the transparency of the individuals who may represent taxpayers in property tax appeals cases.

2. **Enforcement.** The bill requires the SOS to perform a background check on persons registering. The agent must file a statement that they read and understand the duties and prohibitions. Any person can file a complaint with the SOS that a tax agent has violated any provision of this bill. The bill establishes a process for the SOS to investigate and revoke registration or impose civil fines not to exceed $1,500. The bill also gives tax agents the right to a hearing on these matters.

3. **Existing law does not require tax agents to register with any jurisdiction and does not regulate the profession.** The bill's proponents note that current law authorizes a taxpayer to file an application for an assessment reduction with the county's assessment appeals board and an authorized agent is permitted to represent a taxpayer in an assessment appeal proceeding.

4. **Statewide registration benefit claims.** Supporters that endorse state registration argue it would be more efficient and convenient since there would be a single, uniform portal to register agents, collect registration fees, and distribute and

organize registration numbers. Proponents note that a single state system eliminates duplicative efforts and makes it easier for tax agents to operate across county lines. They argue the state oversight approach will facilitate information shared with all counties of those tax agents in violation of this bill's requirements, and prevent them from simply conducting business in a neighboring county.

5. **Burdensome and duplicate regulation claims.** Opponents argue that most of the professionals who act as tax agents already practice under the oversight of state and/or federal agencies, and that the bill imposes a redundant and needlessly burdensome regulation layer. Additionally, opponents contend this bill will make it more difficult for homeowners to exercise their appeal rights over unfair property tax assessments.

COST ESTIMATE

The BOE's administrative costs would be absorbable.

REVENUE ESTIMATE

This measure does not impact state or local revenues.

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