DRAFT

STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	**06/23/09**	Bill No:	**SB 822**
Tax:	**Property**	Author:	**Committee on Revenue and Taxation**
Related Bills:			

BILL SUMMARY

This California Assessors' Association (CAA) sponsored property tax omnibus bill would:

- Allow the county assessor to require scale copies of building plans provided for the county assessor's use to be in an electronic format, if available. *Revenue and Taxation Code §72*
- Increase the maximum value of property that can be exempted under a "low value" local ordinance from $5,000 to $10,000. *§155.20*
- Require the Board to monitor claims for the disabled veterans' exemption to prevent multiple claims by a person for the disabled veterans' exemption and the homeowners' exemption throughout the state. *§205.6*
- Allow an employee or agent that is not a corporate officer to sign business property statements on behalf of a corporation without requiring written authorization from its board of directors. *§441*
- Allow taxpayers to sign replica business property statements instead of the printed property statement provided by the assessor with a reference to the replica property statement as an "attachment." *§441.5*
- Allow separate valuations of new subdivision lots (i.e., parcel splits) created after the lien date by county option. *§2823*

SUMMARY OF AMENDMENTS

The amendments since the previous analysis incorporate suggestions made therein to redraft the proposed changes to Section 441.5 related to signatures on property statements to avoid unintended consequences.

BACKGROUND

This bill contains provisions contained in last year's AB 3080 (AR&T) which was vetoed by the Governor, along with other measures, with the following veto message:

> The historic delay in passing the 2008-2009 State Budget has forced me to prioritize the bills sent to my desk at the end of the year's legislative session. Given the delay, I am only signing bills that are the highest priority for California. This bill does not meet that standard and I cannot sign it at this time.

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 Board's formal position.

ANALYSIS

Building Plans
Revenue and Taxation Code Section 72

CURRENT LAW

Existing property tax law requires the county assessor to assess all new construction occurring within the county. To aid in this effort, Revenue and Taxation Code Section 72 requires city and county building departments to provide the county assessor with copies of all building permits issued. It also requires that when property owners file their approved building plans they provide a scale copy of floor plans and exterior dimensions designated for the assessor's use.

PROPOSED LAW

This bill amends Section 72 to provide that the scale copy may be either in a paper or electronic format and that the assessor may require the floor plans be provided in electronic format, if available.

COMMENT

Purpose. To expressly provide that scale copies may be provided in an electronic version, such as a PDF document or a CAD document.

Low Value Ordinance Exemptions
Revenue and Taxation Code Section 155.20

CURRENT LAW

Section 1(a) of Article XIII of the California Constitution provides that all property is taxable unless otherwise provided by that Constitution or the laws of the United States.

Section 7 of Article XIII provides that "[t]he Legislature, two-thirds of the membership of each house concurring, may authorize a county board of supervisors to exempt real property having a full value so low that, if not exempt, the total taxes and applicable subventions on the property would amount to less than the cost of assessing and collecting them."

The Legislature enacted Revenue and Taxation Code Section 155.20 to provide the necessary statutory implementation. It authorizes a county board of supervisors to exempt from property tax "real property with a base year value and personal property with a full value so low that, if not exempt, the total taxes, special assessments, and applicable subventions on the property would amount to less than the cost of assessing and collecting them." This exemption is usually referred to as the "low value ordinance" exemption.

Section 155.20 limits the maximum value of property that may be exempted. The current limit is $5,000, except that for certain possessory interests in fairgrounds and convention centers the limit is $50,000.

In determining the level of the exemption, Section 155.20(b)(2) states that the board of supervisors shall:

> ". . . determine at what level of exemption the costs of assessing the property and collecting taxes, assessments, and subventions on the property exceeds the proceeds to be collected. The board of supervisors shall establish the

exemption level uniformly for different classes of property. In making this determination, the board of supervisors may consider the total taxes, special assessments, and applicable subventions for the year of assessment only or for the year of assessment and succeeding years where cumulative revenues will not exceed the cost of assessments and collections."

PROPOSED LAW

This bill would amend Section 155.20 to increase the maximum exemption amount from $5,000 to $10,000.

IN GENERAL

In addition to the low value ordinance exemption, there are other provisions of law related to property tax assessments or property tax bills that are not cost effective to pursue.

- Section 75.55(a) provides that the county board of supervisors may, by ordinance, permit the county (presumably this means the county auditor or tax collector) to cancel supplemental tax bills, which are less than $50. Alternatively, Section 75.55(b) provides that the board may adopt an ordinance allowing the *assessor* to cancel the supplemental assessments in the first place.
- Section 531.9 provides that the county board of supervisors may, by ordinance, prohibit the county assessor from making escape assessments of an appraisal unit where the assessment would result in an amount of taxes due which is less than the cost of assessing and collecting them. The amount of taxes cancelled cannot exceed $50.
- Section 4986.8 allows the county auditor, upon the tax collector's recommendation, to cancel any tax bill, if the amount is so small as not to justify the cost of collection. This includes penalties, costs, fees and special assessments resulting from nonpayment of a tax bill. No express cap is provided.
- Section 2611.4 provides that "any county department, officer, or employee may refrain from collecting any tax, assessment, penalty or cost" when the amount to be collected is less than $20.

BACKGROUND

The authorization for the low value ordinance exemption was established by a constitutional amendment, Proposition 8, in November 1974. Proposition 8 also revised various articles of the State Constitution relating to taxation generally, as recommended by the Constitution Revision Commission. According to documents related to the legislation that added Section 155.20 to implement this constitutional amendment, many county assessors had decided not to assess certain real property interests, such as undeveloped mining rights, where the value of the property was minor. The constitutional amendment, therefore, was intended to provide some legal authority for the actual assessment practice.

The maximum value of property that may be exempted under a low value ordinance has been periodically increased as noted in the following table. The most recent increase, which was sponsored by the Board, was in 1995.

Amount	Year	Legislation
$ 400	1975	AB 728 (Stats. 1975, Ch. 106)
$1,500	1980	SB 1414 (Stats. 1980, Ch. 1098)
$2,000	1984	AB 511 (Stats. 1984, Ch. 1040)
$5,000	1995	SB 722 (Stats. 1995, Ch. 497)

Legislation has also amended Section 155.20 to permit higher exemption amounts for specific types of property as noted in the following table. In addition, it has been amended to permit low value ordinances to apply to personal property. While the constitutional amendment only referred to real property, the constitution previously authorized the Legislature to provide for the exemption of personal property.

SPECIAL CATEGORIES	YEAR	SPECIAL AMOUNT	GENERAL AMOUNT	BILL
Personal Property Included	1980	$ 1,500	$1,500	SB 1414 (Stats. 1980, Ch. 1098)
Mobilehome Accessories	1991	$ 5,000	$2,000	SB 367 (Stats. 1991, Ch. 441)
Possessory Interests - Convention and Cultural Centers	1996	$50,000	$5,000	SB 1737 (Stats. 1996, Ch. 570)
Possessory Interests- Fairgrounds	1997	$50,000	$5,000	SB 33 (Stats. 1997, Ch. 106)

COMMENTS

1. **Purpose.** To obtain authority to exempt properties with a value of less than $10,000 from property tax, subject to local board of supervisor approval. The sponsors state that in some counties making assessments of property valued between $5,000 and $10,000 is a net money loser. With limited staff and pending budget cuts increasing the low value ordinance is one option in managing scarce resources.

2. **Should other sections of the code also be amended to increase the specified threshold found in those sections?** For instance, both Section 75.55, for supplemental assessments, and Section 531.9, for escape assessments, are set at $50.

3. **The $5,000 threshold has been in place since January 1, 1996.** The threshold has been periodically increased to its current level as noted below.

Year	Amount
1975	$ 400
1980	$1,500
1984	$2,000
1995	$5,000

4. **County participation optional.** Any increase in the exemption amount would take effect only if a county board of supervisors subsequently amends its ordinance.

5. **Seventeen counties have ordinances currently at the maximum level.** Those counties are Kern, Lassen, Madera, Nevada, Placer, Riverside, Sacramento, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Solano, Stanislaus (personal property only), Ventura, and Yolo.
6. **Counties determine their maximum exemption amount.** Counties set the appropriate level of the exemption. The manner of preparing the cost-benefit analysis in each county may vary. Where the analysis is identical, the actual break-even point will still likely vary because of the uniqueness of costs in each particular county.
7. **What types of property could qualify?**
   - **Real property** with a value of less than $10,000 might include mining or mineral rights, possessory interests, timeshare estates in timeshare projects, and leased tenant improvements.
   - **Personal property** with a value of $10,000 might include personal property used in a trade, profession or business, and boats, jet skis, planes, and mobilehomes.
8. **State-County Property Tax Administration Grant Program.** In some contracts between the Department of Finance and counties, one element in approving the grant was a restriction against increasing the county's low value exemption threshold. However, the grant program is not in effect currently.

Disabled Veterans' Exemption Claims

Revenue and Taxation Code Section 205.6

CURRENT LAW

Revenue and Taxation Code Section 218.5 requires assessors to provide specified information to the Board so that it can monitor claims for the homeowners' exemption to prevent duplicate claims from being made within the state. To this end, the Board maintains a database with information supplied by county assessors of all persons claiming the homeowners' exemption on their principal place of residence. The homeowners' exemption is in the amount of $7,000 of assessed value and the state reimburses local governments for the revenue loss associated with granting the exemption.

Persons that qualify for the disabled veterans' exemption, claim that exemption instead since it is greater (nearly $111,000 or $167,000 depending on income). Unlike the homeowners' exemption, the state does not reimburse local governments for the revenue loss. A person cannot receive both the disabled veterans' exemption and the homeowners' exemption at the same time. For those persons that may own more than one home in California only one exemption in the state is allowed on a single principal place of residence. Thus, a person may not claim both the homeowners' exemption and the disabled veterans' exemption if that person owns more than one home (i.e., a second home or rental home).

Relevant to this bill:

- Section 277 requires that a person claiming the disabled veterans' exemption provide their social security number or another personal identifying number.
- Section 278 requires the assessor to annually mail a notice to all persons receiving the exemption in the prior year informing them of the need to inform the

assessor if they are no longer eligible for the exemption along with other required information.

- Section 279(b) requires the assessor of each county to (1) verify the continued eligibility of persons receiving the disabled veterans exemption, (2) establish a control system to monitor claims for the exemption, and (3) provide for a periodic audit of the claims.

PROPOSED LAW

This bill adds Section 205.6 to the Revenue and Taxation Code to prevent multiple claims for the disabled veterans' exemption within the state and improper overlapping with the homeowners' exemption from being granted to persons filing more than one claim anywhere in the state.

The practical effect of this section is to require the Board to act as the statewide clearinghouse for disabled veterans' exemption claims. However, participation by assessors is optional. Thus, the database may be incomplete. To administer these provisions, the Board would add the names and social security numbers of persons claiming the disabled veterans' exemption to the existing homeowners' exemption database and report to counties any person that has made more than one claim in the state for investigation and resolution.

IN GENERAL

The disabled veterans' exemption applies to the principal place of residence of a qualified disabled veteran and, after his or her death, to the surviving unmarried spouse. Surviving spouses of persons who died while on active duty are also eligible.

The amount of exemption, which is automatically indexed each year, depends upon the claimant's income. For those with a household income below $49,969 (the "low income exemption"), the amount will be $166,944 in 2008-09. For all others (the "basic exemption"), the amount will be $111,296.

COMMENTS

1. **Purpose.** To discover duplicate claims for the disabled veterans' exemption on a statewide basis as well as to prevent improper overlapping with the homeowners' exemption.
2. **Discovering Multiple Claims**. The requirement for a person claiming the disabled veterans' exemption to provide his or her social security number is a new requirement that became effective on January 1, 2007 via SB 1637 (Stats. 2006, Ch. 677). This bill was also sponsored by the CAA to aid in the discovery of possible multiple claims. However, SB 1637 did not require the Board to act as the statewide clearinghouse for disabled veterans' exemption claims. Thus, while a county might be able to determine if multiple claims for the disabled veterans' exemption are being filed within its own county, or a claim for the homeowners' exemption and the disabled veterans' exemption within its county, it could not monitor claims being filed in other counties.
3. **Assessor participation is optional.** The database would not necessarily be complete with respect to those assessors that do not provide the Board with the necessary data.
4. **Adding disabled veterans' exemption claims to the homeowners' exemption database.** The Board currently maintains a database, as required by Section 218.5,

to monitor claims for the homeowners' exemption to prevent multiple claims from being made. These claims would be added to that database.

5. **To fully populate the database it would be necessary for persons currently receiving the disabled veterans' exemption to provide their social security number to the local county assessor**. Because the basic disabled veterans' exemption has a one-time filing requirement, persons receiving the exemption prior to the change in law may never have provided their social security number. Assessors would need to canvass taxpayers currently receiving the exemption to obtain their social security number for purposes of the database, if they have not already done so after SB 1637 was enacted.

Business Property Statements - Signatures

Revenue and Taxation Code Sections 441 and 441.5

CURRENT LAW

Under existing property tax laws, an ad valorem tax is imposed every year on all assessable personal property used in a trade or business at its current fair market value. In making this annual assessment, taxpayers typically report the cost of their property holdings to the local county assessor on the "business property statement" as provided in Section 441. The business property statement shows all taxable property, both real and personal, owned, claimed, possessed, controlled, or managed by the person filing the property statement.

When the aggregate cost of the taxable personal property is one hundred thousand dollars ($100,000) or more, taxpayers are required to file a signed property statement each year with the assessor. Property Tax Rule 171(d) requires the assessor to mail a property statement to any person required by law to file one, in order to prompt taxpayers to complete and file the annual statements.

Business property statements are required to be "signed." The signature serves to declare that the information contained in the statement is true. Section 441(e) requires that in the case of a corporate owner of property, the property statement must be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign the statements on behalf of the corporation. Section 441(k) allows property statements that are filed electronically to be authenticated by means other than a traditional signature.

Section 441.5 provides that, in lieu of completing the property statement as printed by the assessor, an assessee may furnish information as "attachments" to the property statement. This filing is acceptable provided that the property statement attachments (1) are in a format specified by the assessor, (2) include one copy of the property statement, as printed by the assessor and signed and executed by the taxpayer, and (3) include appropriate reference to the data.

PROPOSED LAW

This bill would amend Revenue and Taxation Code Sections 441 and 441.5 related to signature requirements on the business property statement to:

- Delete a provision that in the case of a corporate owner of property, the person who signs the statement must have been designated in writing by the board of directors to sign the statements on behalf of the corporation. *§441*

- Provide that in lieu of completing and signing the property statement as printed by the assessor (in other words, the property statement that the assessor mailed to the taxpayer), the assessor may accept as the "property statement" a statement that is substantially similar to the one mailed that is signed by the taxpayer. This modifies a requirement that the property owner sign the property statement mailed by the assessor and instead allows the replica property statement itself to be signed. *§441.5*

COMMENTS

1. **Purpose.** To improve the efficiency of the annual processing of the property tax statement by liberalizing what may be accepted as meeting the requirements of a completed filing.

2. **Amendments.** To avoid unintended consequences, as noted in the previous analysis, the **June 23** amendments redraft the amendments to Section 441.5 in the introduced version of the bill. The section now provides a third "in lieu" option for completing the property statement as printed (i.e., mailed) by the assessor to address computer generated replica property statements which may be submitted and signed. Specifically, the third option would be "[a] property statement that is substantially similar to the property statement as printed by the assessor that is signed by the taxpayer." As introduced, there were various issues associated with modifying the outdated "attachment" language to address current administrative practices. If the taxpayer is no longer required to sign the copy of the property statement as printed by the assessor, the attachment is no longer an attachment – it is effectively the "property statement." If an "attachment" serves as the "property statement" then other sections of law that expressly apply to "property statements" but not "attachments" may not apply. Furthermore, in some cases, taxpayers may need to submit "attachments" that are data rather than a replica statement, so the existing language should be retained for those circumstances.

   For example:
   - Various sections of law (§§441, 442, 443, 445, and 448) provide the filing provisions and requirements for the contents of the *property statement*.
   - Section 451 provides that the *statement* is not a public document and is not open to public inspection.
   - Section 463 provides a 10 percent penalty if the annual *property statement* is not filed timely.

   The amendments address the above stated concerns and achieve the goal of allowing assessors to accept a signature on the face of a replica property statement as meeting the requirements of Section 441 as to a "signed property statement."

3. **Board Recommendations Made in Audits of County Assessors.** In previous Assessment Practices Survey reports, the Board has been critical of county assessors' acceptance of signed taxpayer-created computer-generated prepared attachments to business property statements with the original business property statement mailed to the taxpayer unsigned. To follow the letter of the law, the original property statement mailed to the taxpayer by the assessor must be signed and returned. However, the "attachment" is generally a replica of a property statement that is computer generated and printed by the taxpayer. Thus, it is counterintuitive for the taxpayer to sign the original statement rather than the replica statement with current year information. Therefore, this amendment seeks to update

the law to reflect current business practices for those that file hard copy business property statements using various software applications that create replica property statements. The "attachment to a property statement" language was added in the early 1980's before the widespread use of computers and software programs that could create replica property statements.

Parcel Splits – Subdivision Lots

Revenue and Taxation Code Section 2823

CURRENT LAW

Revenue and Taxation Code Section 327 provides that the assessor may renumber or re-letter parcels or prepare new map pages to show combinations or divisions of parcels.

Section 2821 allows any person filing an affidavit of interest to apply to the tax collector to have any parcel separately valued for the purpose of paying property taxes. Section 2823 requires the assessor to then determine the separate valuation for the parcel.

Separate valuations are prohibited when the parcel is covered by a subdivision map filed for record after the lien date (January 1) immediately preceding the current fiscal year.

Generally, any subdivision of property for the purpose of sale, lease, or finance is subject to the Subdivision Map Act. Subdivisions into five or more parcels require local government approval of both a tentative subdivision map, which is discretionary, subject to whatever conditions are established by local ordinance, and a final subdivision map, which is ministerial once all of the conditions of the tentative map have been fulfilled. Subdivisions into four or fewer parcels require local government approval of a parcel map, which is also discretionary. In either case, once a map is approved by the local government, the clerk of the council or board of supervisors transmits the map to the county recorder for recordation. The county recorder has ten days to accept or reject the map for recordation.

PROPOSED LAW

This bill would amend Section 2823 to allow separate valuations of new subdivision lots (i.e., parcel splits) created after the lien date by county option.

COMMENT

Purpose. According to the CAA, currently there is no method for placing newly recorded subdivision lots created after the lien date on the roll being prepared. (For example, on January 1, 2008, the roll being prepared is for the 2008-09 fiscal year.) As a result it can take up to 18 months before new subdivision lots appear on the regular assessment roll. The CAA reports that during the six month period between the lien date and the start of the next fiscal year (January 1 to June 30) parcels may have had new construction completed and lots may have been sold. This creates complicated tax bill situations for new buyers. These changes would allow counties the ability to make the separate assessments.

COST ESTIMATE

This bill, among other things, would require that claimants for the disabled veterans' exemption be added to the existing database of claimants for the homeowners' exemption. These costs are estimated to be absorbable.

REVENUE ESTIMATE

BACKGROUND, METHODOLOGY, AND ASSUMPTIONS

Currently 48 counties have adopted a low value property tax exemption. The maximum limits in these counties range from $500 to $5,000; seventeen counties have adopted the maximum $5,000 limit. A few of these counties do not prepare a tax bill for the property if the taxes are less than $5 - $20; several counties exempt low value properties by assigning them a taxable value of zero.

Under this measure, the $5,000 maximum would be raised to $10,000. A county could then increase its low value property tax exemption limit to $10,000 if the costs of billing and assessing this type of property exceeded $10,000 X 1% or $100. In such cases, there would be a small cost savings equal to the difference between the costs of assessing and billing and the tax proceeds for such properties.

REVENUE SUMMARY

Low Value Property Tax Exemption. We cannot identify any clear revenue effect from increasing the low value property tax exemption from $5,000 to $10,000 in part because it is difficult to determine which counties would raise their current limit over $5,000. For any county that would opt to raise the low value property tax exemption to an amount exceeding $5,000, there would be a small cost savings equal to the difference between the costs of assessing and billing and the tax proceeds for properties that would qualify for the low value property tax exemption only under the increased limit.

The remainder of the bill's provisions would not affect the state's revenues.

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