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CALIFORNIA ASSOCIATION OF CLERKS AND ELECTION OFFICIALS

JOSEPH E. HOLLAND, PRESIDENT

Santa Barbara County Clerk, Recorder and Assessor
Registrar of Voters

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Via Email

Senator George Runner, Chairman
State Board of Equalization
450 N Street
Sacramento, CA 95814

Subject: Item G1 – Agenda of September 25, 2018
Petition to Amend Property Tax Rules

Dear Chairman Runner:

The Clerk of the Board Members of the California Association of Clerks and Election Officials (CACEO) wish to state our current positions on the proposed Property Tax Rules that are subject to petition by the California Alliance of Taxpayer Advocates (CATA). Under the auspices of Vice Chair Fiona Ma, CACEO, CATA, and the California Assessors' Association (CAA) have continued to discuss our differences and negotiate agreements in some cases with CATA members. Please note that I will only address those issues of concern to clerks and I do not purport to speak for assessors.

As a result of direct negotiation with CATA on September 6, 2018 and additional negotiation on September 20 and 21, 2018, our positions are as follows:

Rule 302 The Board's Function and Jurisdiction. While we agree with the proposed addition of new 302(a)(1), which would state that one of the functions of a county board is to ensure that all applicants are afforded due process and are given the opportunity for a timely and meaningful hearing, we continue to

have no position on CATA's proposed subsection (c), since our group does not have a consensus with regard to CATA's proposed language. Our silence on this subsection should be taken neither as support for nor opposition to this subsection.

Rule 305 Application. We have come to a satisfactory agreement with CATA with regard to this proposed Rule and we no longer have any concerns about proposed Rule 305.

Rule 305.1 Exchange of Information. We are satisfied with the revised language of this proposed Rule, since it now clarifies that it only deals with formal exchanges of information under Revenue and Taxation Code Section 1606.

Rule 305.2 Prehearing Conference. After the September 20 meeting, we were prepared to remove our opposition to this proposed Rule, since CATA agreed to remove a sentence in subsection (b) that would have infringed upon the county board's judicial discretion to utilize prehearing conferences. However, after a conference call late last week with CATA, CAA, and CACEO representatives to discuss a new addition to Rule 302(a), CATA revised the language of proposed Rule 305.2 into a form that CACEO cannot accept. The new language would create classifications of properties, based on whether the property's assessed value is above or below \$10,000,000. That threshold would either make a property subject to not more than one prehearing conference or not subject to a prehearing conference at all, unless both the assessor and taxpayer agreed to a prehearing conference or more than one prehearing conference. Appeal cases are not so easily differentiated by a simplistic monetary threshold in real life. This would often, then, defeat the entire purpose of a board holding a prehearing conference with a less-than-cooperative party and would, once again, infringe on the board's proper judicial discretion. We believe that such provisions would be inconsistent with existing law, as does your Chief Counsel.

New Rule 305.4 Request for Information. CACEO has no position on this newly proposed Rule and defer to assessors and CATA to negotiate an agreement. We recognize that this Rule will take some considerable time to resolve and should not be hurried.

Rule 323 Postponements and Continuances. CACEO and CATA negotiated an agreement to all of the provisions of proposed Rule 323(d). However, we must oppose CATA's 323(c), as explained below.

After the September 20 meeting, we anticipated that the remaining provision in proposed Rule 323(c) that we objected to because it would have infringed on the board's judicial discretion would be removed. However, this turned out not to be the case and subsection (c) remains in the proposed Rule. Again, a decision as to whether to postpone a hearing is appropriately within the county board's discretion. We believe that this position is in line with that of your Chief Counsel.

Senator George Runner, Chairman
September 24, 2018

We urge your Board to not move proposed Rules 305.2 and 323 forward to the formal rule-making process unless the offending provisions described above are removed.

We greatly appreciate the willingness of CATA and CAA to work constructively with us to resolve as many issues as we collectively did. We will continue to work cooperatively with your Board's staff and the interested parties on this petition over the coming weeks. We also wish to thank Vice Chair Ma for her efforts in helping us to continue our discussions during the last few weeks.

Members of CACEO will attend your Board's meeting tomorrow. We plan to speak on the proposed Rules and, of course, would be happy to answer any questions you may have about our position on this package of proposed Rules.

Very truly yours,

John McKibben, Chairman
BOE Rules Work Group
California Association of Clerks
and Election Officials

c: The Honorable Fiona Ma, Vice Chair
The Honorable Diane Harkey.
The Honorable Jerome Horton
The Honorable Betty T. Yee, State Controller
c/o Yvette Stowers, Deputy Controller
Dean Kinnee, Executive Director
David Yeung, Chief, Property Tax Division
Joann Richmond-Smith, Chief, Board Proceedings Division
Joseph E. Holland, President, California Association of Clerks
and Election Officials