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MEMBER, SECOND DISTRICT
STATE BOARD OF EQUALIZATION

October 18, 2021

TO: Members of the Board of Equalization

FROM: Malia M. Cohen, Member, Second District

RE: Board of Equalization Board Meeting, October 20, 2021, K.1
Board Work Group Follow Up – Board of Equalization Proposed Work Group Charter

Discussion and possible action on the Proposed Board of Equalization Work Group Charter. The attached document is a proposed Board of Equalization Work Group Charter. Today, I will partner with the Executive Director in presenting the follow up to the Executive Director’s presentation to the Board at the August Board Meeting resulting from my L Item recommendations in March 2019 and December 2020 to formally establish a Board Committee/Work Group Structure.

This Item is being presented to request your consideration and adoption of the proposed Board of Equalization (BOE) Work Group Charter as a follow up to the Executive Director’s presentation to the Board at our August Board Meeting.

At the time, I agreed to draft a BOE Proposed Work Group Charter for the Board’s consideration.

Background

Shortly after being sworn into office, I actively engaged in steps to identify a structure to engage Assessors, Assessment Appeals Boards, the Governor’s administration, the Legislature, local governments, taxpayer advocates, taxpayers, and the general public to ensure the fair, effective and equitable administration of California’s property tax system including the modernization of the property tax system and identify emerging issues that are impacting property tax administration.

For over 60 years, the Board has used a committee structure to achieve this goal. Unfortunately, after the enactment of Assembly Bill 102 (AB 102) in July 2017, the committee structure was reevaluated by the Executive Director which resulted in a recommendation to the Board at that time to discontinue using committees. Instead, the matters that had been assigned to committees, would now go directly before the Board in

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the form of staff presentations, issue papers, and memoranda for Board discussion and adoption. The Board adopted the Executive Director's recommendation on September 26, 2017.

Since that time, the current Board has utilized statewide informational hearings and work groups to provide an opportunity to engage stakeholders and the general public. As a result of L agenda items and associated directive from the Board, the Executive Director recently recommended that the Board adopt a charter to establish a formal Board Work Group structure. The Board adopted that recommendation. As a follow up to that action, the attached proposed BOE Work Group Charter is presented for your consideration and adoption.

Recommendation

Acknowledging the need for the Board to have a structure for Board Members to engage in significant policy discussions and address emerging issues without requiring the full use of Agency resources needed for regularly scheduled Board meetings, I request that the Board consider the proposed Charter and provide recommendations for consideration and possible adoption at the November Board meeting. This approval process is similar to the approach used in the development of the Board's Governance Policy.

Board of Equalization Work Group Charter

I. PURPOSE

This Work Group Policy is established to:

- A. Set forth the policies that govern the State Board of Equalization's (the "Board") Work Group structure consistent with its constitutional and statutory responsibilities.
- B. Guide the Board in establishing and convening Work Group meetings while upholding the effectiveness and integrity of the Board's processes, including oversight, accountability, transparency, efficiency, and decision-making.
- C. Identify and distinguish between the role of the Board Members and their team members as well as the Executive Director and Agency team members. This Work Group Policy applies to both Board Members and their staff.

II. INTRODUCTION

The Board is constitutionally and statutorily charged with the oversight of California's property tax system, including prescribing rules to govern the 58 County Assessors and local boards of equalization to ensure California's property tax assessment practices are uniform and consistent statewide. Additionally, the Board directly assesses the property of regulated railroads and certain public utilities, collects the Private Railroad Car Tax, hears certain property tax appeals (State-Assessment Appeals, Private Railroad Car Tax Appeals, Publicly Owned Property Assessment Appeals, and Appeals of Denials of Organizational or Supplemental Clearance Certificates necessary for the Welfare Exemption), administers the Alcoholic Beverage Tax program, and jointly administers the Tax on Insurers, in partnership with the State Controller and the Department of Insurance. The BOE serves a critical role in property tax administration by promoting fair and equitable assessments to protect the tax dollars that schools, local communities, and the State of California depend on.

The Board is committed to working collaboratively with state leaders and local government officials to ensure that Californians receive fair and equitable taxation. To stay abreast of matters and issues that impact the state's property tax system, the impact on local government budgets, and ensuring due process is maintained for taxpayers, this Board has employed its public meeting structure, scheduled throughout 2019 and 2020 as Informational Hearings and Work Group Hearings, to engage with taxpayers, County Assessors, County Assessment Appeals Boards and Boards of Supervisors, local government officials, tax advisors and practitioners, tax policy experts, and many other stakeholders. Such discussions have highlighted emerging property tax matters, statewide property tax administration issues, and contributed to property tax policy and procedural outcomes. The Board has incorporated such testimony and discussions into its larger body of work, with notable outcomes including: the development and refinement of possible legislative fixes, meaningful data and input regarding the Board's regulations, guidance, and practices, and increasing awareness of issues facing taxpayers across the 58 counties.

III. BACKGROUND

The Board has used a committee structure for over 60 years.

Early on, committees adapted from year to year to meet the business and subject matter needs of the BOE. The committee structure allowed Board Members to partner and interact with agency program staff, having direct input and participation in driving projects important to the agency. At times, the committee would move forward issues or recommendations for presentation and consideration by the full Board for adoption. At other times, the committees would serve as advisory bodies, providing the agency recommendations and direction on specific staff initiatives relevant to the agency's day-to-day work. Annually, the Board created the desired committees and the Board's Chair appointed committee chairs.

Committees met several times per year, depending on the topic and purpose. After a committee meeting, the committee chair (or designated committee member) reported on the status of committee initiatives at the following regular Board Meeting, presenting the committee's recommended actions to the Board. Committee contributions have included recommendations to achieve the following objectives:

- Respond to changes in technology.
- Address agency needs.
- Implement new legislation.
- Recommend Board positions on pending legislation.
- Create, amend, or delete regulations.
- Identify process improvement opportunities for Board programs.

By the 1990s, the Board consistently used four specific committees:

- Legislative Committee.
- Customer Service and Administrative Efficiency Committee.
- Business Taxes Committee.
- Property Tax Committee.

These four committees were each comprised of a Committee Chair (Board Member), the Board's Chair (who served as an ex officio Committee Member), and other designated Committee Members (varied based on project goals, but included other Board Members, Board Members' team members, or other agency program team members, as needed/relevant to committee objectives). In addition, the Board Proceedings Division, the related program Deputy Director, the Legal Department, and agency planning were necessary to ensure that committee meetings were compliant with the Bagley-Keene Open Meeting Act, that committee workplan goals were achievable, and items were placed on each committee's agenda with supporting information. Board Member team members and committee liaisons (often a Deputy Director or designee) invested substantial efforts to ensure items were fully developed for committee discussion. Other stakeholders were often invited to provide testimony or collaborate. Any interested party or member of the public was able to attend the committee meeting.

After the enactment of Assembly Bill 102 (AB 102) in July 2017, the committee structure was

reevaluated by the Executive Director.

Subsequently, a recommendation was presented to the Board to discontinue using committees. Instead, the matters that had been assigned to the Property Tax Committee, would now go directly before the Board in the form of staff presentations, issue papers, and memoranda for Board discussion and adoption.

The Board adopted the Executive Director's recommendation on September 26, 2017. The Board's decision acknowledged that the continued use of prior committee processes was in direct conflict with the intent of AB 102 (2017) and related provisions in Government Code. Specifically, the prior committee structure involved Board Members regularly directing agency staff to generate agendas, materials, presentations, and planning logistics in support of committee meetings, which was directly inconsistent with the AB 102 prohibition on Members directing or assigning work to agency staff. Instead, agency staff would continue to hold Interested Parties' Processes to engage with stakeholders (e.g., County Assessors, industry, agents, taxpayers, and other interested parties) to prepare items for consideration at future Board Meetings.

Beginning in 2019, the Board held a series of Statewide Informational Hearings and Work Group meetings to begin to establish a process for engaging stakeholders and staff to address business needs and emerging issues. The value of such structure is evident in the Board's leadership in public policy development, problem-solving, and addressing the needs of California's property tax administration and its workforce. The lessons learned from the evolution of the Board's informational and Work Group meetings are incorporated herein.

IV. ESTABLISHMENT OF A WORK GROUP

The Chair or a Member of the Board may take action to establish a Work Group.

A. Chair's Establishment of a Work Group

The Chair may use his or her discretion to establish a Work Group to further the objectives of the Board in carrying out its constitutional and statutory authority. The Chair shall specify the subject matter of the Work Group. Such recommendation would require a motion and adoption by the Board.

B. Board Member Establishment of a Work Group

A Member of the Board may present through an L agenda item a recommendation to the full Board to establish a Work Group to address a specific subject matter that furthers the objectives of the Board in carrying out its constitutional and statutory authority. Such recommendation would require a motion and adoption by the Board. Such recommendation would require a motion and adoption by the Board.

C. Motion to Establish the Work Group

The Chair or the Member of the Board in establishing the Work Group shall specify the

following items:

- Subject matter and objective (e.g., discussing and reviewing proposed legislation, discussing, and recommending topics for new Board guidance).
- Chair and Vice-Chair (or Co-Chairs).
- Timeframe for meeting.
- Membership criteria.

Board Work Groups may only discuss the items on its public meeting agenda.

V. SCOPE OF WORK GROUP

The Board Work Group shall further the constitutional and statutory objectives of the Board. Board Work Groups serve as information gathering and advisory bodies to the full Board. They have no authority to act on behalf of the full Board. Board Work Groups are forums for discussions with County Assessors, Assessment Appeals Boards, other local government officials, external stakeholders, and the public.

Board Work Groups would not replace BOE's Interested Parties' Processes, but may be supplementary or complementary, and serve as additional public forums for discussion and examination of complex and/or emerging matters.

VI. CHAIR, CO-CHAIR AND MEMBERS OF WORK GROUP

In establishing a Board Work Group, the Chair or the Board Member will state who will serve as Chair and Co-Chair (or Co-Chairs). To ensure that all Board Members may engage in Work Group discussions, each Board Member will serve as a Member of the Work Group. The Board Members are not required to attend each Work Group meeting.

The Chair and Co-Chairs are responsible for establishing the Work Group meeting plan including the agenda, supporting material, list of scheduled presenters and participants, inviting presenters and participants, arranging the location and facility, and preparing meeting minutes.

The Chair of the Board and Executive Director, or designated team member, will review the meeting plan for legal and technical purposes, shall review the completed meeting plan and transmit to the Board Proceedings Division for public notice posting.

The Chair and Co-Chair are responsible for drafting the report(s) of the Work Group and reporting the information out to the full Board as the Board's next regular meeting.

VII. PARTICIPANTS OF WORK GROUP

The Board in establishing the Work Group shall specify the members of the Work Group or authorize Chair and Vice-Chair to establish the Work Group members based on pre-determined guidelines.

The Chair and Vice-Chair (or Co-Chairs) shall notice the Work Group members of their

inclusion on the Work Group and extend all invitations to participate in Work Group meetings.

Each Board Member may participate in the Work Group meeting and may designate a designee to participate on their behalf.

VIII. NOTICE REQUIREMENTS OF WORK GROUP MEETINGS

The Board shall publicly notice each Work Group meeting to further its goal of open and transparent meetings and allowing the public an opportunity to fully engage in the discussions, actions, and decisions of the Board.

Such action will also allow each Board Member the opportunity to participate in each Work Group.

The Board Work Group agenda, minutes, material, and other public meeting artifacts shall fulfill all Board Proceedings procedures and public meeting requirements.

IX. MEETINGS OF WORK GROUP

The Board shall schedule the Work Group adjacent to a regular scheduled Board Meeting or may schedule the Work Group meeting at different time, based on the urgency or importance of the matter due to the demands and competing priorities of the BOE team members.

The Board shall publicly notice each Work Group meeting consistent with the Board's commitment to compliance with the Bagley-Keene Open Meeting Act and ensuring the Board's stakeholders and the public have a continued seat at the table.

Board Work Groups may only discuss in its meetings items publicly noticed on the public meeting agenda.

X. REPORT OUT OF WORK GROUP

Following the adjournment of the Work Group meeting, the Board Work Group Chair shall prepare the meeting minutes and complete the related meeting minutes tasks which includes compiling any material received or reports needed for the full Board's consideration.

The Board Work Group Chair will submit the draft minutes to the Chair of the Board and the Executive Director for approval, then submitted to the full Board for final approval at a regularly scheduled Board Meeting. Note, to avoid Bagley-Keene issues, the draft minutes or any other Board Work Group material must be submitted using the Board Proceedings process.

The Executive Director shall submit the final version of the minutes to the Board Proceedings Division Chief for posting to the BOE website and to serve as the material for the Board Work Group Report to the full Board.

The Chair shall report at the Board's next regular meeting, accompanied by a written report

reflecting the Work Group's discussions, recommendations, and findings.

The full Board will direct the Work Group's schedule of updates and reports.

XI. CONCLUSION OF BOARD WORK GROUP MEETINGS AND HEARINGS

The Board shall determine and publicly announce the conclusion and final adjournment of the Board Work Group, including the outcomes and/or Board actions resulting from the Board Work Group's efforts.

XII. APPLICABLE POLICIES, PROCEDURES, RULES, REGULATIONS AND LAWS

Work Groups shall abide by and comply with all Board Proceedings procedures, the Board's Governance Policy, and all relevant law.

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