



MIKE SCHAEFER
MEMBER
CALIFORNIA STATE BOARD OF EQUALIZATION

MEMORANDUM

Date: July 8, 2026

To: Sally Lieber, Chair
Ted Gaines, Vice Chair
Antonio Vazquez, Board Member, Third District
Malia M. Cohen, State Controller

From: Mike Schaefer, Board Member, Fourth District

Re: July 22, 2026, Board Meeting Item – Recommendations regarding clarification of officer elections

This memo provides the Board with the opportunity to consider clarifications regarding the election of Board Officers and role of the Controller therein.

With regard to the election of executive officers, our Governing Policy is admirably succinct: "The Board shall automatically place on the agenda an election to take place in December for the offices of Chair and Vice Chair of the Board. During a gubernatorial election year, the Board shall defer the election of the Chair and Vice Chair until after the duly elected Board Members are sworn into office. In such instances, the Board will place on the agenda an election to take place in January for the offices of Chair and Vice Chair of the Board. The Chair and Vice Chair shall serve a full one-year term which shall begin January 1 of the following year (except in the case of gubernatorial election years, where the term is effective after the election at the January Board meeting) and will end on December 31. There is no limit on serving consecutive terms. If there is a tied vote, the currently serving Chair or Vice Chair, as the case may be, shall continue to serve" (BOE GP VIII.A). This is substantially the full extent of the Policy's description of officer elections. It omits, however, one key factor in the election: the eligibility or ineligibility of the Controller to serve as Chair of the BOE.

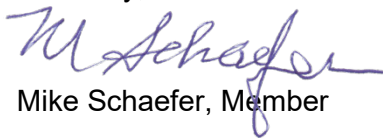
Although I have not found explicit prohibition of such service in either the California Constitution, Government Code, or State Board of Equalization Governance Policy, the exclusion of the Controller from consideration is customary and can be inferred from the contradictions it would impose both on the governance of both the BOE and the Franchise Tax Board. Although the Controller serves on the BOE in an ex officio capacity (BOE GP III), in California there are no inherent limitations on the ability of ex officio board members to chair boards or committees. However, with regard specifically to the BOE, electing the Controller to the Chair would introduce difficulties in hearing constitutional items. Per Gov. Code § 7.9. (a),

the Controller “may designate any deputy of his or her office to act in his or her place and stead on” the BOE “with respect to the exercise of *statutory* powers and duties.” The Deputy Controller may not, however, participate in the exercise of *constitutional* powers, which, for the BOE, include “state assessee and private railroad car tax valuations or reassessments, reviews of assessment of publicly owned property, or petitions for redetermination or claims for refund fled under the Insurance Tax Law, or Alcoholic Beverage Tax Law.” If the Controller were to serve in the capacity of Chair, the actual presiding officer would actually be two individuals, depending on whether the Controller or the Deputy Controller were present, and all items involving the exercise of constitutional powers would either compel the attendance of the Controller or force the Deputy Controller (serving as Chair in the Controller’s absence) to abstain from participation and hand the gavel to the Vice Chair.

But the disruptions it might impose on the BOE pale in comparison to those it would impose on the Franchise Tax Board, which consists of only three members: the Controller, the Chair of the BOE, and the Director of the Department of Finance (Gov. Code § 15700). If the Controller were to serve as Chair of the BOE, he or she would effectively be serving as two of the FTB’s three members, which is not only undesirable with regard to the deliberative legitimacy of the FTB, but a permanent threat to the FTB’s ability to maintain quorum.

I therefore propose that the Board makes two changes to our Governing Policy related to the office of Chair and its election. First, I propose that we amend the Governing Policy VIII.A to make explicit our customary restriction of the Chair and Vice Chair to our four district-elected members. Second, I propose that the Controller be identified as the presiding officer for the election of Chair and Vice Chair for the duration of the relevant agenda item. At our last officer election, Controller Cohen did a superlative job of moderating and centering the discussion on the visions and competencies of the respective candidates. This moderation gave the Board and the general public the opportunity to genuinely reflect on the future and potential of the Board.

Sincerely,



Mike Schaefer, Member

Board of Equalization, 4th District

Mr. Cody Petterson, Chief Deputy, Office of Member Mike Schaefer

Mr. Douglas Winslow, Chief Deputy, Office of Chair Sally J. Lieber

Mr. Matt Cox, Chief Deputy, Office of Vice Chair Ted Gaines

Mr. Juan Flores, Chief Deputy, Office of Member Antonio Vazquez

Mr. Hasib Emran, Deputy State Controller

Ms. Yvette Stowers, Executive Director