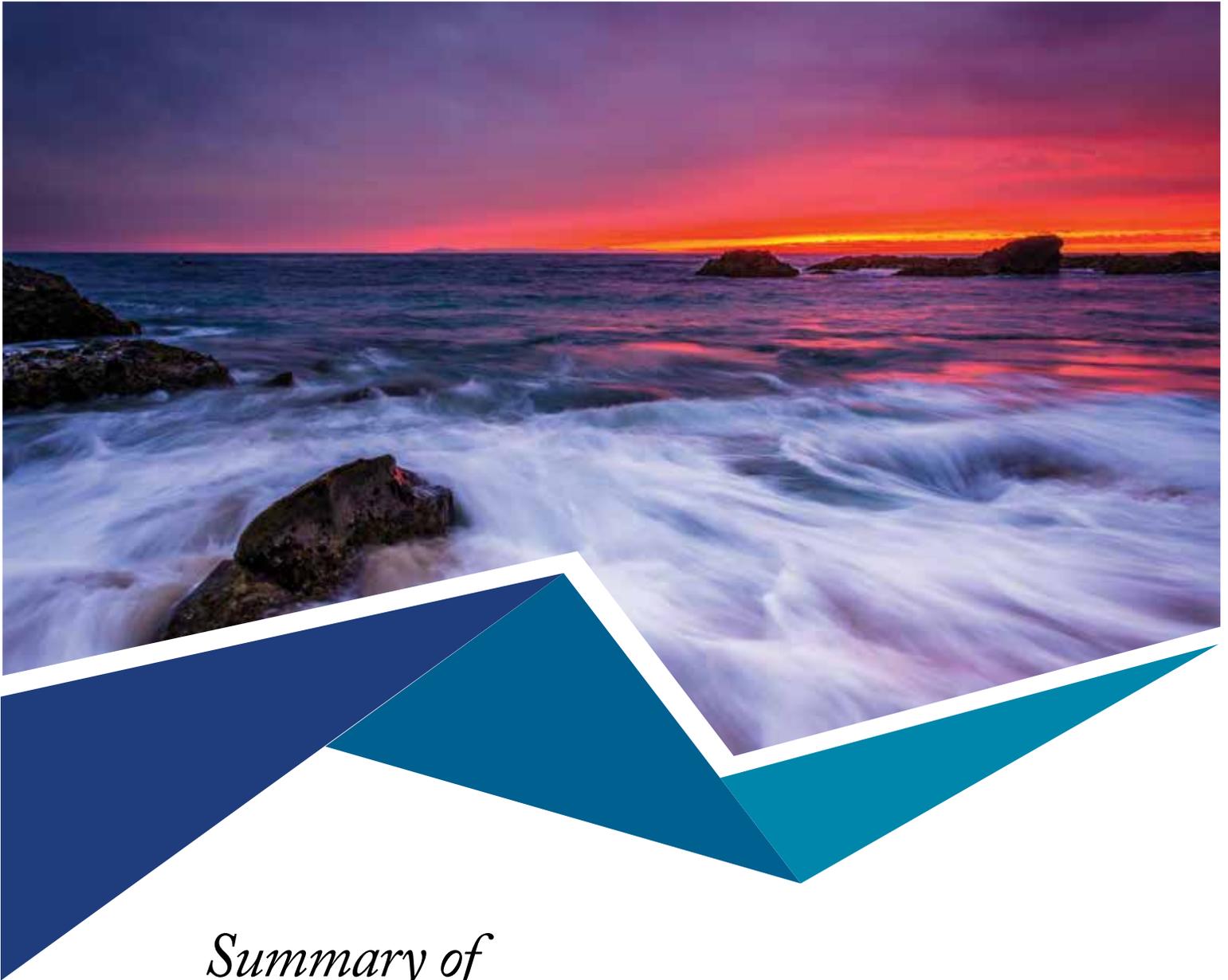




California State Board of Equalization



Summary of
CONSTITUTIONAL *and*
STATUTORY AUTHORITIES

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BOARD MEMBERS

TED GAINES
First District

MALIA M. COHEN
Second District

ANTONIO VAZQUEZ
Third District

MIKE SCHAEFER
Fourth District

BETTY T. YEE
State Controller

EXECUTIVE DIRECTOR
BRENDA FLEMING

CALIFORNIA STATE BOARD OF EQUALIZATION

Summary of
CONSTITUTIONAL *and*
STATUTORY AUTHORITIES

*This document summarizes the constitutional and
statutory bases for Board responsibilities.*

December 2019
Office of the Executive Director

SUMMARY OF CONSTITUTIONAL AND STATUTORY AUTHORITIES

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I. BOARD MEMBERS

SUBJECT	AUTHORITY
The Board of Equalization consists of five voting members: The Controller and four members elected for four-year terms at gubernatorial elections. The State shall be divided into four Board of Equalization districts with the voters of each district electing one member. No member may serve more than two terms.	<i>Cal. Const. art. XIII, § 17</i>
The term of office of a Board Member shall commence on the Monday after January 1 following election.	<i>Cal. Const. art. II, § 20</i>
A vacancy occurs if a member of the Board is not or ceases to be an inhabitant of the district for which he or she is chosen unless a change in district boundaries is made by the Legislature.	<i>Gov. Code § 15602</i>
Each Board Member is required to devote his or her entire time to the services of the State in performing the duties imposed upon the Board and its members by the Constitution and statutes of this State.	<i>Gov. Code § 15603</i>
The Controller may designate any deputy of his or her office to act in his or her place and stead on any state board, commission, committee, or governing board of a state agency with respect to the exercise of <i>statutory</i> powers and duties of any of those bodies. The deputy, while sitting on a board, commission, committee, or governing board of a state agency may exercise the same powers that the Controller may exercise as if he or she were personally present. The Controller so designating a deputy shall be responsible for the acts of the deputy in the same manner and to the same extent that the Controller is responsible for the acts of the deputy performing their official duties as deputy to the Controller.	<i>Gov. Code § 7.9</i>
The Deputy Controller may not participate in 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 filed under the Insurance Tax Law, or Alcoholic Beverage Tax Law. The Deputy Controller may participate in the adoption and issuance of written findings and decisions on reassessments, petitions, or claims previously heard and decided by the State Controller.	
Board Members and a deputy and an employee selected by each Board Member are exempt from civil service.	<i>Cal. Const. art. VII, § 4(c)</i>
The Board may appoint an Executive Director and the Executive Director may employ such expert and clerical assistants as it deems necessary.	<i>Gov. Code §§ 15600(e)(3), 15601, 15604</i>
The Board shall hold regular meetings at Sacramento each month and special meetings at such times and places as the chair directs.	<i>Gov. Code § 15609</i>

SUBJECT

AUTHORITY

The Board shall:

Gov. Code § 15606

- (a) Prescribe rules for its own government and transaction of its business. (*Note:* This section provides the legal authority for the Board's election of a chair and vice-chair and for the chair's appointment of Board committee chairs.)
- (b) Keep a record of all its proceedings.
- (c) Prescribe rules and regulations to govern local boards of equalization and assessors, including uniform procedures for the consideration and adoption of written findings of fact by local boards of equalization.
- (d) Prescribe and enforce use of forms for assessment of property for taxation.
- (e) Prepare and issue instructions to assessors designed to promote uniformity in the assessment of property.
- (f) (c), (d), and (e) include, but are not limited to, rules, regulations, instructions, and forms relating to classifications of kinds of property and equalization procedures.
- (g) Prescribe rules and regulations to govern local boards of equalization when equalizing and assessors when assessing with respect to the assessment and equalization of possessory interests.
- (h) Bring an action in a court of competent jurisdiction to compel an assessor or any city or county tax official to comply with any provision of law governing the assessment or taxation of property.

The chair of the State Board of Equalization is a member of the Franchise Tax Board.

Gov. Code § 15700

The Board may confer in this state or elsewhere, as a Board, individually or through its staff, with officers or employees of the state or other states, their political subdivisions, or the United States, or with any other person who may be of assistance in its work.

Gov. Code § 15610

The Board may visit as a Board or by its individual members, or may send its Executive Director or duly appointed representative to, the cities and counties to investigate property values and collect information to enable it to equalize assessments and levy taxes.

Gov. Code § 15611

The Board may inspect as a Board or individually or by its appointed representative the work of any local officers relating to assessment of property and collection of taxes. It may require such officers to produce records and give testimony.

Gov. Code § 15612

The Board may issue subpoenas for attendance of witnesses or production of records before it, its executive director, any of its members, or any representative designated by it.

Gov. Code § 15613

The Board shall report annually to the Governor. The report shall show:

Gov. Code § 15616

- (a) The assessed value of state-assessed and locally assessed real and personal property in each county and the assessed value of state-assessed and locally assessed property in each incorporated city or town.
- (b) Information concerning other taxes which it administers.
- (c) Further information and suggestions as it deems proper.

The Board may require persons having knowledge of the business of any person subject to assessment by it or having custody of records of such persons to testify and bring such records before it or any of its members.

Gov. Code § 15617

SUBJECT

AUTHORITY

The Board may examine as a Board, individually, or through its staff the records of all persons required to report to it or having knowledge of the affairs of those required to report.

Gov. Code § 15618

The Board, as a Board, individually, or through its staff, may obtain copies of fullface engraved pictures or photographs of licensees directly from the Department of Motor Vehicles for the purposes of enforcing the duties, powers, and responsibilities described in Section 15600.

Gov. Code § 15618.5

Members or former members of the Board or any agent employed by it are prohibited from making known information obtained regarding the business affairs of companies reporting to the Board, except the Governor may cause such information to be made public.

Gov. Code § 15619

The Board may extend for a period not to exceed 30 days the time for filing any report required by the Board.

Gov. Code § 15620

The Board may establish a uniform policy for the acceptance of remittance, claim for credit or refund, document, return, or other information in cases where the cancellation mark stamped upon the envelope containing the remittance, claim for credit or refund, document, return, or other information shows a date after the date specified in law.

Gov. Code § 15620.5

The Board may hold a closed session: (1) to confer with, or receive advice from, its legal counsel regarding pending litigation; (2) to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee (unless the employee requests a public hearing); (3) when considering matters pertaining to the appointment or removal of the Executive Director; and (4) for the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law. (Open Meeting Act.) Settlement proceedings shall be conducted in closed session.

Gov. Code § 11126(a),(e),(f);

Rev. & Tax. Code §§ 32471

The Board shall designate a clerk or other officer or employee to attend each closed session and keep and enter in a minute book a record of the topics discussed as the chair directs.

Gov. Code § 11126.1

SUBJECT

AUTHORITY

The Board shall establish the position of Taxpayers' Rights Advocate, who shall report directly to the Executive Director and be responsible for facilitating resolution of taxpayer complaints and problems, review and report on the adequacy of existing procedures with respect to informational programs and materials, and upon request of a county assessor(s), assist assessors in their efforts to provide education and instruction to their staffs and local taxpayers. The Board shall annually conduct a public hearing, soliciting input of assessors, local agency representatives, and taxpayers, to address the taxpayers' rights advocate's annual report and to identify means to correct any problems identified in that report.

*Rev. & Tax. Code
§§ 5900-5911*

For the alcoholic beverage tax, the Board shall:

- (a) develop and implement a taxpayer education and information program directed at newly registered taxpayers and board audit and compliance staff;
- (b) prepare and publish brief but comprehensive statements in simple and non-technical language which explain procedures, remedies, and the rights and obligations of the Board and taxpayers;
- (c) develop and implement a program to evaluate an individual employee's or officer's performance with respect to their contact with taxpayers. The development and implementation of the program shall be coordinated with the Taxpayers' Rights Advocate.

32460-32476

Elected state officers who assume office in December or January are required to file financial disclosure statements annually. An assuming office statement is not required.

*Gov. Code
§§ 87200-87208*

Elected state officers are required to file campaign statements semiannually, and each candidate for elective state office is required to file campaign statements in connection with the election. Board Members shall provide Board staff with a copy of each campaign statement at the time each statement is filed.

*Gov. Code
§§ 84200-
84216,15626*

Members of the Board and the employees thereof shall not engage in any gainful profession, trade, business, or occupation whatsoever for any person, firm or corporation, or be so engaged in their own behalf, which profession, trade, business, or occupation is incompatible or involves a conflict of interest with their property tax duties as members and employees of the Board. Conflict of interest includes receipt of compensation or gifts from private persons or firms for advice or other services relating to the taxation or assessment of property. Violation of the conflict of interest prohibitions by a member of the Board constitutes malfeasance in office.

Gov. Code § 15625

A Board Member shall not make, participate in making, or influence the decision in any adjudicatory proceeding pending before the Board if the Member has received a contribution of \$250 or more from a party, participant, or agent to the proceeding within the preceding 12 months. The Board Member shall disclose the disqualifying contribution on the record. (The Kopp Act.)

Gov. Code § 15626

Members of the Board and employees thereof shall not be financially interested in any contract made by them in their official capacity.

Gov. Code § 1090

Members of the Board and employees thereof shall not engage in any employment, activity, or enterprise from which the officer or employee receives compensation or in which the officer or employee has a financial interest and which is sponsored and/or funded by any state agency through or by a state contract unless the employment, activity, or enterprise is required as a condition of the Member's or employee's regular state employment. Board Members and employees are also prohibited from contracting on their own behalf as independent contractors with any state agency to provide services or goods.

*Pub. Contract Code
§ 10410*

SUBJECT**AUTHORITY**

No elected state officer shall use his or her official position to influence any governmental decision before the Board, if he or she has reason to know that the decision will have a direct and significant financial impact on a lobbyist employer or on any person, distinguishable from the public generally, from whom the officer has received any compensation within the preceding 12 months.

Gov. Code § 87102.8

Members of the Board and the employees thereof are prohibited from making, participating in making, or using their official position to influence any governmental decision directly relating to any contract where they know or have reason to know that any party to the contract is a person with whom they, or an immediate family member, has engaged in any business transaction on terms not available to members of the public, regarding any investment or interest in real property, or the rendering of goods or services totaling in value \$1,000 or more within 12 months prior to the time the official action is to be performed.

Gov. Code § 87450

A transportation company may not grant free passes or discounts to anyone holding office in this state.

Cal. Const. art. XII, § 7

The California Citizens Compensation Commission shall establish the annual salary and the medical, dental, insurance, and other similar benefits of each Member of the State Board of Equalization.

Cal. Const. art. III, § 8; Cal. Const. art. V, § 14

Members of the Board are subject to recall. A petition for recall must be signed by electors equal in number to 20% of the last vote for that office.

Cal. Const. art. II, § 14(b)

Members of the Board are subject to impeachment for misconduct in office.

Cal. Const. art. IV, § 18

Whenever there is a vacancy on the Board, the Governor shall nominate a person to fill the vacancy who shall take office upon confirmation by the Senate and the Assembly and shall hold office for the balance of the unexpired term. In the event the nominee is neither confirmed nor refused confirmation by both the Senate and the Assembly within 90 days of the submission of the nomination, the nominee shall take office as if he or she had been confirmed. If the 90-day period ends during a recess of the Legislature, the period shall be extended until the sixth day following the day on which the Legislature reconvenes. Events causing a vacancy are listed in Government Code section 1770.

Cal. Const. art. V, § 5;

Gov. Code § 1775

After a vacancy has occurred on the Board and prior to the time the vacancy is filled, the chief deputy of the former Board Member shall discharge all of the constitutional and statutory duties of the office. (Attorney General Opinion 96-1106, December 31, 1996.)

Gov. Code § 1775

Each Member of the Board elected by the voters of an Equalization District shall have only one office in Sacramento and one District Office.

Gov. Code § 15600(f)

A Board Member shall have no authority to appoint, remove, discipline, assign, reassign, promote, demote, or issue orders to any employee of the Board, including, but not limited to, the career executive assignment positions and other non-civil service managers.

Gov. Code § 15600(h)(1)

A Board Member shall not modify or approve a budget change proposal for the Board. The Executive Director shall modify or approve all budget change proposals for the Board, and shall be solely responsible for selecting persons for career executive assignment positions and other non-civil service managers for the Board.

Gov. Code § 15600(h)(2),(i)

II. BOARD ADMINISTRATIVE MATTERS

SUBJECT	AUTHORITY
The Executive Director of the Board shall keep an accurate record of the Board's proceedings. When required by the chair of the Board, the Executive Director shall collect data in the various counties relating to the assessment of property in the county. The Executive Director will annually prepare the report of the Board and forward it to the Governor and will perform all other acts required by law or the Board. The Executive Director is authorized to certify oaths in any county in the State.	<i>Gov. Code § 15605</i>
The Board may hire or lease any property for its use subject to approval by the Director of the Department of General Services.	<i>Gov. Code § 15621</i>
The Board may sell copies of revenue laws compilations, maps, and other documents.	<i>Gov. Code § 15622</i>
The Board is required to adopt regulations to establish procedures and guidelines to access public records.	<i>Gov. Code §§ 6253, 15652</i>
The Public Records Act requires all state and local agencies to disclose records not otherwise exempt from disclosure to the public upon request.	<i>Gov. Code §§ 6250-6270</i>
Each state body shall provide a copy of the Bagley-Keene Open Meeting Act to each member of the state body upon his or her appointment to membership or assumption of office.	<i>Gov. Code §§ 11120-11132</i>
No record shall be destroyed or otherwise disposed of by any agency of this state, unless it is determined by the Secretary of State that the record has no further administrative, legal, or fiscal value and the Secretary of State has determined that the record is inappropriate for preservation in the State Archives.	<i>Gov. Code § 12275</i>
Every agency shall adopt and promulgate a conflict of interest code for designated employees.	<i>Gov. Code § 87300</i>
The Information Practices Act requires each state agency to provide for access and correction of an individual's records maintained by the agency. The Information Practices Act also limits the maintenance and dissemination of personal information about individuals by the agency and makes the intentional disclosure of medical, psychiatric, or psychological information in violation of the disclosure provisions a misdemeanor if the wrongful disclosure results in economic loss or personal injury to the individual to whom the information pertains.	<i>Civ. Code §§ 1798-1798.78</i>
Each agency shall provide over-the-counter information and services directly to the public during customary lunch hours of 11:30 a.m. to 1:30 p.m., if there are four or more full-time employees at the office.	<i>Gov. Code § 7595</i>
Each agency shall establish a procedure requiring incoming telephone calls on any public line to be answered within ten rings during regular business hours.	<i>Gov. Code § 11022</i>
Each agency shall file with the Joint Committee on Rules a copy of any publication that the agency has published or distributed if more than 1,000 copies of the publication have been distributed in the preceding 12 months.	<i>Gov. Code § 11099</i>
All state agencies are required to accept payments made by credit card or a payment device unless an exemption has been obtained.	<i>Gov. Code §§ 6160-6165</i>

SUBJECT

AUTHORITY

Each agency, on or after July 1, 2001, unless otherwise authorized by the Department of Information Technology pursuant to Executive Order D-3-99, shall provide a plain-language form for individuals to register complaints or comments regarding the performance of the agency.

*Gov. Code §§
8330–8332*

Each state agency shall offer at least semiannually, and certain state officials and employees shall attend once every two years, an orientation course on the relevant ethics statutes and regulations that govern the official conduct of the state officials and employees.

*Gov. Code
§§ 11146–11146.4*

State agencies that have an Internet website and that collect personal information of the user accessing the website are required to notify the user of specific information, including the fact that the personal information is being collected and the purpose for which the collected information will be used. The agency shall notify the user that he or she has the option of having his or her personal information discarded without reuse or distribution. This provision does not apply to electronically collected personal information on or relating to individuals who are users serving in a business capacity, such as business owners, officers, or principals of that business.

*Civ. Code §
1798.16;
Gov. Code §§
6254.20, 11015.5*

Each agency shall establish a permanent privacy policy consistent with the Information Practices Act.

*Civ. Code § 1798
et seq.;*

No state or local agency shall post the home address or telephone number of specified elected or appointed officials, including state constitutional officers, on the Internet without first obtaining the written permission of the official.

*Gov. Code §
11019.9
Gov. Code §
6254.21*

III. MAJOR BOARD FUNCTIONS

SUBJECT

AUTHORITY

A. *Administrative*

The Board is the sole administrative agency for the following programs:

1. **County Assessment Standards**

Ensures equity and uniformity relative to the assessment of all properties assessed by the 58 county assessors. Provides county assessors, their staffs, and others involved with the assessing function with consultation and services to aid them in the legal distribution of the property tax burden equitably among property owners. Establishes standards and the effective administration of legally conforming practices in all property assessments by individual assessor's office. Major program elements are:

a. Assessment Services.

*Gov. Code §§
15606-15608, Rev. &
Tax Code §§ 401.5,
423, 1153, 5364*

b. County Assessment Practices Surveys.

*Cal. Const. art. XIII,
§18; Rev. & Tax.
Code §§ 75.60,
155, 407, 408, 601,
602, 615, 618, 987,
1252, 1366, 1650,
1716, 1817; Gov.
Code §§ 15606–
15608, 15611,
15640–15646*

c. Property Tax Forms and Rules.

*Rev. & Tax. Code
§§ 251, 452, 672,
1254, 1603, 5781,
5840*

d. Certification and Training.

*Rev. & Tax. Code
§§ 670, 671, 673-
675, 677-680*

e. Exemptions.

*Rev. & Tax. Code
§§ 214–214.15,
218.5, 254.5*

f. Contract Auditing Services.

Gov. Code § 15624

g. Legal Entity Ownership.

*Rev. & Tax. Code
§§ 480.1, 480.2,
480.4*

2. **State-Assessed Property**

The Board is required to estimate the market value and assess annually intercounty pipelines, exclusive of land and rights-of-way, and all of the taxable properties owned or used by railroads and certain public utilities.

*Cal. Const. art. XIII, §
19; Rev. & Tax. Code
§§ 100.9, 721–868,
4876–4880, 5011–
5014, 5148; 23154;
Gov. Code §§
54900–54916.5*

SUBJECT

AUTHORITY

3. Private Railroad Car Tax

The Board is required to make annual assessments of privately-owned railroad cars operating within the state and levy and collect the tax. The tax is retained by the state and is in lieu of all local ad valorem property taxes on such railroad cars.

Cal. Const. art. XIII, § 19; Rev. & Tax. Code §§ 11201–11702

The Board is one of several agencies charged with administration of the following programs:

4. Alcoholic Beverage Tax

A tax and surtax are imposed on beer, wine, and distilled spirits sold in this state. The taxes on beer and wine are reported and remitted by manufacturers, wine growers, importers, and sellers, all of whom must be licensed with the Alcoholic Beverage Control Board. The taxes on distilled spirits are reported and remitted by manufacturers or their agents, rectifiers, wholesalers, and sellers, all of whom must be licensed by the Department of Alcoholic Beverage Control. Pursuant to an inter-agency agreement, the California Department of Tax and Fee Administration (CDTFA) is to assess, collect, and administer this tax, and the BOE is to reimburse CDTFA for the costs of its administration.

Cal. Const. art. XX, § 22; Rev. & Tax. Code §§ 32001–32557

5. Insurance Tax

The Insurance Tax, which is administered jointly by the Board, the State Controller, and the Insurance Commissioner, is measured by gross premiums received by insurance companies upon their business done in this state. (Surplus line brokers also pay a gross premiums tax. Ocean marine insurance companies pay tax on underwriting profits and title insurance companies pay tax on “all income” as defined, rather than paying tax on gross premiums.) The insurance tax is levied against insurance companies in lieu of all other taxes with certain limited exceptions. An additional tax is assessed against an out-of-state insurance company if its home state imposes a higher tax burden on California companies for the same business. The Board issues initial assessments against insurance companies based on the data they report on their insurance tax returns. The Board also issues deficiency assessments for underpayments of taxes in accordance with recommendations from the Insurance Commissioner, hears taxpayer appeals, and makes decisions to grant or deny petitions for redetermination and claims for refund.

Cal. Const. art. XIII, § 28; Rev. & Tax. Code §§ 12001–13170; Ins. Code §§ 132, 685–685.4, 995.5, 1530, 1531, 1774–1780, 10089.44, 12976, 12976.5

6. Review of Assessment of Publicly Owned Property Program

The Board reviews, equalizes, and adjusts appealed assessments of taxable property of counties and municipal corporations outside their jurisdictions.

Cal. Const. art XIII, § 11; Rev. & Tax. Code §§ 1840, 1841

B. Rulemaking

In the administration of its tax programs, the Board adopts rules and regulations; publishes law guides and tax publications; issues directives for the guidance of taxpayers, county assessors, and county assessment appeals boards; conducts surveys of the operations of county assessors' offices; prescribes property tax forms and publishes handbooks for assessors' use; and oversees assessment practices.

Gov. Code §15606(c)