

Rulemaking File
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Title18. Public Revenue
Property Tax
Rule 308.6 Application for Equalization by Member, Alternate Member, or Hearing
Officer

OAL Approval

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cc [unclear] Richmond
RECEIVED

JUN 29 2015

by EXECUTIVE DIRECTOR'S OFFICE
STATE BOARD OF EQUALIZATION

**State of California
Office of Administrative Law**

In re:
Board of Equalization

Regulatory Action:

Title 18, California Code of Regulations

Adopt sections:

Amend sections: 308.6

Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

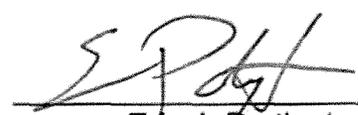
OAL Matter Number: 2015-0513-01

OAL Matter Type: Regular (S)

In this rulemaking action, the Board of Equalization is amending section 308.6 of title 18 of the California Code of Regulations regarding hearings by alternate assessment appeals boards.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 10/1/2015.

Date: June 25, 2015



Eric J. Partington
Attorney

For: DEBRA M. CORNEZ
Director

Original: Cynthia Bridges
Copy: Richard Bennion

OFFICE OF ADMINISTRATIVE LAW

300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225 FAX (916) 323-6826



DEBRA M. CORNEZ
Director

MEMORANDUM

TO: Richard Bennion
FROM: OAL Front Desk
DATE: June 26, 2015
RE: Return of Rulemaking Materials
OAL Matter Number 2015-0513-01
OAL Matter Type Regular (S)

OAL hereby returns the rulemaking record your agency submitted for review regarding “Application for Equalization by Member, Alternate Member, or Hearing.”

If this is an approved matter, it contains a copy of the regulation(s) stamped “ENDORSED APPROVED” by the Office of Administrative Law and “ENDORSED FILED” by the Secretary of State. The effective date of an approved regulation is specified on the Form 400 (see item B.5).

Beginning January 1, 2013, unless an exemption applies, Government Code section 11343.4 states the effective date of an approved regulation is determined by the date the regulation is filed with the Secretary of State (see the date the Form 400 was stamped “ENDORSED FILED” by the Secretary of State) as follows:

- (1) **January 1** if the regulation or order of repeal is filed on September 1 to November 30, inclusive.
- (2) **April 1** if the regulation or order of repeal is filed on December 1 to February 29, inclusive.
- (3) **July 1** if the regulation or order of repeal is filed on March 1 to May 31, inclusive.
- (4) **October 1** if the regulation or order of repeal is filed on June 1 to August 31, inclusive.

If an exemption concerning the effective date of the regulation approved in this matter applies, then it will be specified on the Form 400. The Notice of Approval that OAL sends to the agency will include the effective date of the regulation. The history note that will appear at the end of the regulation section in the California Code of Regulations will also include the regulation’s effective date. Additionally, the effective date of the regulation will be noted on OAL’s web site after OAL posts the Internet Web site link to the full text of the regulation that is received from the agency. (Gov. Code, secs. 11343 and 11344.)

Please note this new requirement: Unless an exemption applies, Government Code section 11343 now requires:

1. Section 11343(c)(1): Within 15 days of OAL filing a state agency’s regulation with the Secretary of State, the state agency is required to post the regulation on its Internet Web site in an easily marked and identifiable location. The state agency shall keep the regulation posted on its Internet Web site for at least six months from the date the regulation is filed with the Secretary of State.
2. Section 11343(c)(2): Within five (5) days of posting its regulation on its Internet Web site, the state agency shall send to OAL the Internet Web site link of each regulation that the agency posts on its Internet Web site pursuant to section 11343(c)(1).

OAL has established an email address for state agencies to send the Internet Web site link to for each regulation the agency posts. Please send the Internet Web site link for each regulation posted to OAL at postedregslink@oal.ca.gov.

NOTE ABOUT EXEMPTIONS. Posting and linking requirements do not apply to emergency regulations; regulations adopted by FPPC or Conflict of Interest regulations approved by FPPC; or regulations not subject to OAL/APA review. However, an exempt agency may choose to comply with these requirements, and OAL will post the information accordingly.

DO NOT DISCARD OR DESTROY THIS FILE

Due to its legal significance, you are required by law to preserve this rulemaking record. Government Code section 11347.3(d) requires that this record be available to the public and to the courts for possible later review. Government Code section 11347.3(e) further provides that "...no item contained in the file shall be removed, altered, or destroyed or otherwise disposed of." See also the State Records Management Act (Government Code section 14740 et seq.) and the State Administrative Manual (SAM) section 1600 et seq. regarding retention of your records.

If you decide not to keep the rulemaking records at your agency/office or at the State Records Center, you may transmit it to the State Archives with instructions that the Secretary of State shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. See Government Code section 11347.3(f).

Enclosures

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2015-0302-01	REGULATORY ACTION NUMBER 2015-0513-015	EMERGENCY NUMBER
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ENDORSED - FILED
in the office of the Secretary of State
of the State of California

JUN 25 2015

3:34 pm

For use by Office of Administrative Law (OAL) only	
NOTICE	REGULATIONS

2015 MAY 13 AM 9:09
OFFICE OF ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY State Board of Equalization	AGENCY FILE NUMBER (if any)
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified	<input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 2015 112	PUBLICATION DATE 3/13/2015

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Application for Equalization by Member, Alternate Member, or Hearing	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)
ADOPT
AMEND 308.6
TITLE(S) 18
REPEAL

3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify) _____		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))

Effective on filing with Secretary of State

5100 Changes Without Regulatory Effect

Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660)

Fair Political Practices Commission

State Fire Marshal

Other (Specify) _____

7. CONTACT PERSON Richard E. Bennion	TELEPHONE NUMBER (916) 445-2130	FAX NUMBER (Optional) (916) 324-3984	E-MAIL ADDRESS (Optional) rbennion@boe.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Joann Richmond</i>	DATE May 11, 2015
TYPED NAME AND TITLE OF SIGNATORY Joann Richmond, Chief, Board Proceedings Division	

For use by Office of Administrative Law (OAL) only
ENDORSED APPROVED
JUN 25 2015
Office of Administrative Law

**Final Text of Proposed Amendments to
California Code of Regulations, Title 18, Section 308.6**

308.6. Applications for Equalization Required to Be Heard by Alternate Assessment Appeals Boards, by Member, Alternate Member, or Hearing Officer.

(a) Applications Required to Be Heard by Alternate Assessment Appeals Boards.

(1) The following An applications for equalization filed pursuant to sections 1603 or 1605 of the Revenue and Taxation Code by a member or alternate member of an assessment appeals board or an appointed hearing officer shall be heard by a before an assessment appeals board panel consisting of three special alternate assessment appeals board members consisting of three persons appointed by order of the presiding judge of the superior court in the county in which the applications are is filed:-

(A) An application filed by a person listed in paragraph (2) of this subdivision in a county in which the person serves or is employed; and

(B) An application in which a person listed in paragraph (2) of this subdivision represents his or her spouse, registered domestic partner, parent, or child that is filed or pending in a county in which the person specified in paragraph (2) of this subdivision serves or is employed.

(2) This paragraph includes:

(A) A current member of an assessment appeals board or any alternate member;

(B) A current assessment hearing officer;

(C) A current employee of the office of the clerk of the board of equalization or assessment appeals board; and

(D) A current employee of the county counsel who advises the assessment appeals board or represents the county assessor before the assessment appeals board.

(b) Referral to An Alternate Assessment Appeals Board in Another County. The clerk of the board has discretion to refer an application for hearing to a special alternate assessment appeals board, convened to hear the application, consisting of three members who are qualified and in good standing in another California county, in lieu of having the superior court appoint a special alternate assessment appeals board to hear the application. Applications may only be referred to a county if that county's clerk of the assessment appeals board has consented to accept the referral.

(c) Subject Matter.

(1) A special alternate assessment appeals board member may hear only the application or applications for equalization set forth in the superior court order appointing such member.

(2) If the clerk of the board refers an application or applications to an actively serving assessment appeals board in another county pursuant to subdivision (b), the board may hear only the application or applications set forth in the transmittal document prepared by the clerk of the board of the county in which the application or applications were filed.

(de) Qualifications for Appointment. Any person shall be eligible for appointment as a special alternate assessment appeals board member who meets the qualifications set forth in section 1624 of the Revenue and Taxation Code.

(ed) Restrictions on Appointment and Grounds for Removal. Sections 1624.1 and 1624.2 of the Revenue and Taxation Code shall be applicable to the appointment and removal of a special assessment appeals board member.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 1612.7 and 1622.6 and 1636.5, Revenue and Taxation Code.

Comments@oehha.ca.gov with “NOIL — 1–Bromo-propane” in the subject line. Comments submitted in paper form may be mailed, faxed, or delivered in person to the addresses below:

Mailing

Address: Ms. Esther Barajas–Ochoa
Office of Environmental Health
Hazard Assessment
P.O. Box 4010, MS–12B
Sacramento, California
95812–4010

Fax: (916) 323–2265

Street

Address: 1001 I Street
Sacramento, California 95814

Comments received during the public comment period will be posted on the OEHHA web site after the close of the comment period. Electronic files submitted should not have any form of encryption.

If you have any questions, please contact Esther Barajas–Ochoa at esther.barajas-ochoa@oehha.ca.gov or at (916) 445–6900.

References

National Toxicology Program (NTP, 2011). National Toxicology Program. Toxicology and Carcinogenesis Studies of 1–Bromopropane (CAS No. 106–94–5) in F344/N Rats and B6C3F1 Mice (Inhalation Studies). Technical Report Series No. 564. NIH Publication No. 11–5906. U.S. Department of Health and Human Services, NTP, Research Triangle Park, NC. Available at URL: http://ntp.niehs.nih.gov/ntp/htdocs/lt_rpts/tr564.pdf.

National Toxicology Program (NTP, 2014). Report on Carcinogens, Thirteenth Edition, U.S. Department of Health and Human Services, Public Health Service, NTP, Research Triangle Park, North Carolina. Available at URL: <http://ntp.niehs.nih.gov/pubhealth/roc/roc13/index.html>.

**SUMMARY OF REGULATORY
ACTIONS**

**REGULATIONS FILED WITH
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916)

653–7715. Please have the agency name and the date filed (see below) when making a request.

File# 2015–0528–01

BOARD OF BARBERING AND COSMETOLOGY

Text and Reference Books for Students

The National Interstate Council of State Boards of Cosmetology (the “NIC”) currently develops the Board of Barbering and Cosmetology’s (the “Board”) examination for licensure. Through this regular rulemaking, the Board amended section 961 in Title 16 of the California Code of Regulations to transfer responsibility to approve educational materials, including text and reference books, from the Board to the NIC. Additionally, the Board added the use of on–line training programs — in lieu of text books — as an acceptable form of teaching materials.

Title 16

California Code of Regulations

AMEND: 961

Filed 06/29/2015

Effective 10/01/2015

Agency Contact: Kevin Flanagan (916) 575–7104

File# 2015–0513–01

BOARD OF EQUALIZATION

Application for Equalization by Member, Alternate Member, or Hearing

In this rulemaking action, the Board of Equalization is amending section 308.6 of title 18 of the California Code of Regulations regarding hearings by alternate assessment appeals boards.

Title 18

California Code of Regulations

AMEND: 308.6

Filed 06/25/2015

Effective 10/01/2015

Agency Contact:

Richard E. Bennion (916) 445–2130

File# 2015–0513–02

BOARD OF EQUALIZATION

Medicines and Medical Devices

This rulemaking action by the Board of Equalization (BOE) revises section 1591 of title 18 of the California Code of Regulations to clarify that articles permanently implanted in the human body to mark the location of a medical condition, such as breast tissue markers, are included in the definition of “medicines.” This rulemaking action also clarifies the type of United States Food and Drug Administration (FDA) approval that is required in order for a medical device to qualify as a “medicine.” Additionally, this rulemaking action clarifies the relationship between subdivisions (b) and (c) of the regulations as they pertain to the definition of “medicines.”

Rulemaking File Index

Title 18. Public Revenue

Property Tax

Rule 308.6 Application for Equalization by Member, Alternate Member, or Hearing Officer

1. [Final Statement of Reasons](#)
2. [Updated informative digest](#)
3. [Property Tax Committee, January 21, 2015](#)
 - Minutes Property Tax Committee, January 21, 2015
 - Formal Issue Paper Number 14-010
 - Attachment A Text Rule 308.6
4. [Reporter's Transcript Property Tax Committee, January 21, 2015](#)
5. [Estimate of Cost or Savings, March 12, 2015](#)
6. [Economic and Fiscal Impact Statements, March 3, 2015](#)
7. [Notice of Publications](#)
 - Form 400 and Notice, Publication Date March 13, 2015
 - Email sent to Interested Parties, March 13, 2015
 - CA Regulatory Notice Register 2015, Volume No. 11-Z
8. [Notice to Interested Parties, March 13, 2015](#)

The following items are exhibited:

 - Notice of Hearing
 - Initial Statement of Reasons
 - Proposed Text of Rule 308.6
 - Regulation History
9. [Statement of Compliance](#)
10. [Public Comment, John McKibben, April 7, 2015](#)
11. [Public Comment Dale Hough, April 28, 2015.](#)
12. [Reporter's Transcript, Item F3, April 28, 2015](#)
13. [Draft Minutes, April 28, 2015 F3, 2014, and Exhibits](#)
 - Notice of Proposed Regulatory Action
 - Initial Statement of Reasons
 - Proposed Text of Rule 308.6
 - Regulation History

VERIFICATION

I, Richard E. Bennion, Regulations Coordinator of the State Board of Equalization, state that the rulemaking file of which the contents as listed in the index is complete, and that the record was closed on May 11, 2015 and that the attached copy is complete.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

May 11, 2015

A handwritten signature in black ink, appearing to read "Richard E. Bennion", written over a horizontal line.

Richard E. Bennion
Regulations Coordinator
State Board of Equalization

**Final Statement of Reasons for the Adoption of the
Proposed Amendments to California Code of Regulations,
Title 18, Section 308.6, *Application for Equalization by
Member, Alternate Member, or Hearing Officer***

Update of Information in the Initial Statement of Reasons

The State Board of Equalization (Board) held a public hearing regarding the proposed amendments to California Code of Regulations, title 18, section (Rule) 308.6, *Application for Equalization by Member, Alternate Member, or Hearing Officer*, on April 28, 2015. During the public hearing, the Board unanimously voted to adopt the proposed amendments to Rule 308.6 without making any changes.

The factual basis, specific purpose, and necessity for, the problem to be addressed by, and the anticipated benefits from the adoption of the proposed amendments to Rule 308.6 are the same as provided in the initial statement of reasons. The Board anticipates that the proposed amendments to Property Tax Rule 308.6 will promote fairness, increase openness and transparency in government, and benefit members of assessment appeals boards and special alternate assessment appeals boards, assessment hearing officers, employees of the offices of the clerks of the boards of equalization and assessment appeals boards, the clerks themselves, employees of the county counsels, and the general public by providing more clarity as to the application of Revenue and Taxation Code sections 1612.7, 1622.6, 1624.1, and 1624.2.

The adoption of the proposed amendments to Rule 308.6 is not mandated by federal law or regulations. There is no previously adopted or amended federal regulation that is identical to Rule 308.6 or the proposed amendments to Rule 308.6.

The Board did not rely on any data or any technical, theoretical, or empirical study, report, or similar document in proposing or adopting the proposed amendments to Rule 308.6 that was not identified in the initial statement of reasons, or which was otherwise not identified or made available for public review prior to the close of the public comment period.

In addition, the factual basis has not changed for the Board's initial determination that the proposed regulatory action will not have a significant adverse economic impact on business, the Board's determination that the proposed regulatory action is not a major regulation, as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000, and the Board's economic impact assessment, which determined that the Board's proposed regulatory action:

- Will neither create nor eliminate jobs in the State of California;
- Nor result in the elimination of existing businesses;
- Nor create or expand business in the State of California; and

**Updated Informative Digest for the
State Board of Equalization’s Adoption of Proposed Amendments to
California Code of Regulations, Title 18, Section 308.6, *Application for
Equalization by Member, Alternate Member, or Hearing Officer***

The State Board of Equalization (Board) held a public hearing regarding the proposed amendments to California Code of Regulations, title 18, section (Rule) 308.6, *Application for Equalization by Member, Alternate Member, or Hearing Officer*, on April 28, 2015. During the public hearing, the Board unanimously voted to adopt the proposed amendments to Rule 308.6 without making any changes.

The Board received an April 7, 2015, letter from Mr. John McKibben, the Chair of the California Association of Clerks and Election Officials’ (CACEO’) Board of Equalization Rules Workgroup, which explained that the Clerk of the Board of Supervisors members of the CACEO “strongly support” the proposed amendment to Rule 308.6 and “urge” the Board to adopt the proposed amendments “as drafted.” The Board also received an April 28, 2015, letter from Mr. Dale Hough, Chief Appraiser for the Assessment Services Division of the Los Angeles County Assessor’s Office, which provided that the Los Angeles County Assessor’s Office “approves the proposed amendments as written.” However, no other interested parties submitted written comments and no interested parties appeared at the public hearing on April 28, 2015, to comment on the proposed regulatory action.

There have not been any changes to the applicable laws or the effect of, the objective of, and anticipated benefits from the adoption of the proposed amendments to Rule 308.6 described in the informative digest included in the notice of proposed regulatory action. The informative digest included in the notice of proposed regulatory action provides:

Current Law

The Board has a number of duties in regard to the administration of California’s property tax. Under Government Code section 15606, subdivision (c), the Board is given the power and duty to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. In compliance with this duty, the Board has adopted Property Tax Rules 301 through 326 relative to the local equalization process, which is the process by which a county property tax assessment may be appealed to a local board of equalization or assessment appeals board by filing an application.

The Board adopted Property Tax Rule 308.6, pursuant to Government Code section 15606, in order to implement, interpret, and make specific the Revenue and Taxation Code’s conflict of interest provisions applicable to county property tax assessment appeals.

Effect, Objective, and Benefits of the Proposed Amendments

Board staff in the Property and Special Taxes Department, County-Assessed Properties Division, initiated a project to amend Property Tax Rule 308.6 to reflect the changes to RTC sections 1612.7 and 1622.6 made by AB 824, delete the reference in the rule to section 1636.5, which was repealed by SB 1494, and incorporate the provision regarding removal in the second sentence of RTC section 1624.2. Interested parties were provided with staff's proposed draft language for the amendments to the rule on August 28, 2012 (Letter To Assessors 2012/036), and invited to participate in the rulemaking effort.

The draft amendments provided in Letter To Assessors 2012/036 suggested that an application "may only be referred to a county if there is an agreement for the referral between the two counties." The Tulare County Counsel's Office raised concerns that staff's suggested language may be interpreted as requiring a formal contract signed by each county's board of supervisors. Therefore, the Tulare County Counsel's Office suggested replacing staff's suggested language with the following: "Applications may only be referred to a county if that county's assessment appeals board has consented to accept the referral."

Staff agreed with the comment and incorporated the Tulare County Counsel's Office's proposed language into the second draft of staff's proposed amendments to Property Tax Rule 308.6, which was provided to interested parties in Formal Issue Paper 13-001. In addition, staff determined that a violation of RTC section 1624.1 would provide cause for the removal of a special assessment appeals board member under RTC section 1625. Therefore, the second draft of staff's proposed amendments to Property Tax Rule 308.6 provided that both RTC sections 1624.1 and 1624.2 are applicable to the "removal" of a special assessment appeals board member, rather than incorporating the provision regarding removal in the second sentence of RTC section 1624.2.

CACEO raised a concern regarding the revised language providing that "Applications may only be referred to a county if that county's assessment appeals board has consented to accept the referral" in a letter dated March 6, 2013. The letter explained that CACEO's intent in sponsoring AB 824 was to establish a procedure for referring applications under which "the only action or 'agreement' . . . was the 'agreement' between the two clerks involved" and recommended that staff's proposed amendments be revised to read as follows: "Applications may only be referred to a county if that county's clerk of the assessment appeals board has consented to accept the referral."

Staff subsequently accepted CACEO's recommended revision and a third draft of the proposed amendments to the rule, which incorporated CACEO's recommended revision, was sent to interested parties on September 29, 2014 (Letter To Assessors 2014/047). No interested parties raised any further concerns regarding the third draft. Therefore, Board staff prepared Formal Issue Paper 14-010, which recommended that the Board propose the adoption of staff's third draft of the amendments to Property Tax Rule 308.6, and submitted it to the Board for consideration at its January 21, 2015, Property Tax Committee meeting.

During its January 21, 2015, Property Tax Committee meeting, the Board determined that staff's recommended amendments were reasonably necessary to have the effect and accomplish the objective of making Property Tax Rule 308.6 consistent with the provisions of RTC sections 1612.7 and 1622.6, as modified by AB 824, deleting the reference to RTC section 1636.5, which was repealed by SB 1494, and clarifying that RTC sections 1624.1 and 1624.2 are applicable to the removal of a special assessment appeals board member. Therefore, the Board unanimously voted to propose the adoption of the recommended amendments.

The Board anticipates that the proposed amendments to Property Tax Rule 308.6 will promote fairness, increase openness and transparency in government, and benefit members of assessment appeals boards and special alternate assessment appeals boards, assessment hearing officers, employees of the offices of the clerks of the boards of equalization and assessment appeals boards, the clerks themselves, employees of the county counsels, and the general public by providing more clarity as to the application of RTC sections 1612.7, 1622.6, 1624.1, and 1624.2.

The Board has performed an evaluation of whether the proposed amendments to Property Tax Rule 308.6 are inconsistent or incompatible with existing state regulations and determined that the proposed amendments are not inconsistent or incompatible with existing state regulations because there are no other Property Tax Rules that implement the RTC's conflict of interest provisions applicable to county property tax assessment appeals. In addition, the Board has determined that there are no comparable federal regulations or statutes to Property Tax Rule 308.6 or the proposed amendments to Property Tax Rule 308.6.

IV. Background

Under Government Code section 15606, subdivision (c), the Board is given the power and duty to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. In compliance with this duty, the Board has adopted Property Tax Rules 301 through 326 relative to the local equalization process.

Assembly Bill 824 (Stats. 2009, ch. 477) made revisions to the Revenue and Taxation Code's conflict of interest provisions applicable to county property tax assessment appeals. Among other things, Assembly Bill 824 repealed and reenacted Revenue and Taxation Code section 1612.7 and amended section 1622.6 to:

- Add to and revise the statutory list of persons whose applications must be heard in accordance with the procedures in section 1622.6 regarding hearings by special alternate assessment appeals boards appointed by the superior court;
- Grant clerks discretion to refer an application to an actively serving special alternate assessment appeals board in another California county in lieu of requesting that the superior court appoint a new special alternate assessment appeals board to hear the application in the clerk's county; and
- Specify the jurisdiction of special alternate assessment appeals boards to hear applications referred from other counties.

In addition, Senate Bill 1494 (Stats. 2010, ch. 654) repealed Revenue and Taxation Code section 1636.5 which applied to applications filed by assessment appeal hearing officers. Section 1636.5 was repealed because similar provisions pertaining to hearing officers were added to section 1612.7 by Assembly Bill 824.

V. Discussion

Property Tax Rule 308.6, *Application for Equalization by Member, Alternate Member, or Hearing Officer*, reflects the conflict of interest provisions applicable to county property tax assessment appeals prior to the statutory changes made by Assembly Bill 824 and Senate Bill 1494. Staff of the Property and Special Taxes Department, County-Assessed Properties Division, initiated a project to amend Rule 308.6 to accommodate the provisions of Assembly Bill 824, and delete the reference in the rule to section 1636.5 which was repealed by Senate Bill 1494. Interested parties were provided with proposed draft language for the rule on August 28, 2012 (Letter To Assessors 2012/036) and invited to participate in the rulemaking effort. Following a delay in the project, a second draft of the proposed revisions to the rule was sent to interested parties on September 29, 2014 (Letter To Assessors 2014/047).

Section 1622.6, as amended by Assembly Bill 824, gives clerks discretion to refer specified applications from their counties to an actively serving special alternate assessment appeals board in another county. The draft rule language provided in Letter To Assessors 2012/036 suggested that an application "may only be referred to a county if there is an agreement for the referral between the two counties." One comment received from the Tulare County Counsel's Office raised concerns that staff's suggested language might be interpreted as requiring a formal contract signed by each

county's board of supervisors. Tulare County suggested replacing staff's language with the following: "Applications may only be referred to a county if that county's assessment appeals board has consented to accept the referral." Staff sent the Tulare County proposed language to interested parties, and concerns were expressed by the California Association of Clerks and Election Officials in a letter dated March 6, 2013. Subsequently, the proposed language for the sentence in contention has been rewritten as: "Applications may only be referred to a county if that county's clerk of the assessment appeals board has consented to accept the referral."

All interested parties who participated in the interested parties process to revise Rule 308.6 have agreed to the proposed revisions as presented in Attachment A.

VI. Alternative 1 - Staff Recommendation

Authorize for publication amendments to Property Tax Rule 308.6. The primary focus of the proposed amendments is to reflect changes to Revenue and Taxation Code sections 1612.7 and 1622.6 made by Assembly Bill 824.

A. Description of Alternative 1

Staff recommends that the attached amendments to Rule 308.6 be authorized for publication (see Attachment A). The amendments add the provisions of Revenue and Taxation Code sections 1612.7 and 1622.6 as reenacted by Assembly Bill 824, and delete the reference to section 1636.5 which was repealed by Senate Bill 1494.

B. Pros of Alternative 1

The proposed amendments to Rule 308.6 will clarify the conflict of interest provisions applicable to county property tax assessment appeals. Specifically, the provisions apply to appeals applications filed by:

- A current member of an assessment appeals board or any alternate member;
- A current assessment hearing officer;
- A current employee of the office of the clerk of the board of equalization or assessment appeals board; and
- A current employee of the county counsel who advises the assessment appeals board or represents the county assessor before the assessment appeals board.

Additionally, the amendments to Rule 308.6 will clarify the provisions for a clerk of the board to refer an assessment appeal application to alternate assessment appeals board in another county.

C. Cons of Alternative 1

None

D. Statutory or Regulatory Change for Alternative 1

Action by the Board to adopt amendments to Rule 308.6 will amend section 308.6 of title 18 of the California Code of Regulations.

E. Operational Impact of Alternative 1

None

F. Administrative Impact of Alternative 1

1. Cost Impact

Development of Property Tax Rules is within the scope of the statutory duties of the County-Assessed Properties Division and will be absorbed by existing staff.

2. Revenue Impact

None

G. Taxpayer/Customer Impact of Alternative 1

None

H. Critical Time Frames of Alternative 1

None

VII. Other Alternatives

None

Preparer/Reviewer Information

Prepared by: Property and Special Taxes Department, County-Assessed Properties Division

Current as of: December 15, 2014

RULE 308.6. APPLICATIONS FOR EQUALIZATION BY MEMBER, ALTERNATE MEMBER, OR HEARING OFFICER REQUIRED TO BE HEARD BY ALTERNATE ASSESSMENT APPEALS BOARDS.

Authority Cited: Section 15606, Government Code.
Reference: Sections 1612.7 and 1622.6-1636.5, Revenue and Taxation Code.

(a) Applications Required to Be Heard by Alternate Assessment Appeals Boards.

(1) The following ~~An~~ applications for equalization filed pursuant to sections 1603 or 1605 of the Revenue and Taxation Code by a member or alternate member of an assessment appeals board or an appointed hearing officer shall be heard before an assessment appeals board panel consisting of three by a special alternate assessment appeals board members consisting of three persons appointed by order of the presiding judge of the superior court in the county in which the applications is are filed:

(A) An application filed by a person included in paragraph (2) of this subdivision in a county in which the person serves or is employed; and

(B) An application in which a person included in paragraph (2) of this subdivision represents his or her spouse, registered domestic partner, parent, or child that is filed or pending in a county in which the person specified in paragraph (2) of this subdivision serves or is employed.

(2) This paragraph includes:

(A) A current member of an assessment appeals board or any alternate member;

(B) A current assessment hearing officer;

(C) A current employee of the office of the clerk of the board of equalization or assessment appeals board; and

(D) A current employee of the county counsel who advises the assessment appeals board or represents the county assessor before the assessment appeals board.

(b) Referral to An Alternate Assessment Appeals Board in Another County. The clerk of the board has discretion to refer an application for hearing to a special alternate assessment appeals board, convened to hear the application, consisting of three members who are qualified and in good standing in another California county, in lieu of having the superior court appoint a special alternate assessment appeals board to hear the application. Applications may only be referred to a county if that county's clerk of the assessment appeals board has consented to accept the referral.

(b c) Subject Matter.

(1) A special alternate assessment appeals board member may hear only the application or applications for equalization set forth in the superior court order appointing such member.

(2) If the clerk of the board refers an application or applications to an actively serving assessment appeals board in another county pursuant to subdivision (b), the board may hear only the application or

applications set forth in the transmittal document prepared by the clerk of the board of the county in which the application or applications were filed.

(e d) Qualifications for Appointment. Any person shall be eligible for appointment as a special alternate assessment appeals board member who meets the qualifications set forth in section 1624 of the Revenue and Taxation Code.

(d e) Restrictions on Appointment and Grounds for Removal. Sections 1624.1 and 1624.2 of the Revenue and Taxation Code shall be applicable to the appointment and removal of a special assessment appeals board member.

History: Adopted June 13, 1974, effective June 14, 1974.
Amended December 17, 1975, effective January 25, 1976.
Amended October 6, 1999, effective April 22, 2000.
Amended February 13, 2001, effective February 13, 2001.

BEFORE THE CALIFORNIA STATE BOARD OF EQUALIZATION

450 N STREET
SACRAMENTO, CALIFORNIA

REPORTER'S TRANSCRIPT

JANUARY 21, 2015

PROPERTY TAX COMMITTEE

Reported by: Juli Price Jackson

No. CSR 5214

P R E S E N T

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For the Board
of Equalization:

Jerome Horton
Chairman

Sen. George Runner (Ret.)
Member

Fiona Ma, CPA
Member

Diane L. Harkey
Member

Yvette Stowers
Appearing for Betty Yee,
State Controller (per
Government Code
Section 7.9)

Joann Richmond
Chief, Board
Proceedings Division

---oOo---

For Staff:

Benjamin Tang
Manager
Property and Special
Taxes Department

---oOo---

1 450 N STREET
2 SACRAMENTO, CALIFORNIA
3 JANUARY 21, 2015

4 ---oOo---

5 MR. HORTON: Ms. Richmond.

6 MS. RICHMOND: Would you like to take up
7 the Property Tax Committee? Or what would you --

8 MR. HORTON: Yes, please.

9 MS. RICHMOND: -- like to take up next?

10 So, our next item is the Property Tax
11 Committee. Mr. Horton is the Chair of that
12 committee.

13 Mr. Horton.

14 MR. HORTON: Members, let us reconvene --
15 let us convene -- the meeting of the Property Tax
16 Committee is hereby called to order.

17 Welcome to the Board. Please introduce
18 yourself for the record.

19 MR. TANG: Good afternoon, Mr. Chairman and
20 Members of the Board. My name, for the record, is
21 Benjamin Tang, with the County Assessed Properties
22 Division.

23 Before you now for consideration are
24 amendments to Property Tax Rule 308.6, Application
25 for Equalization by Member, Alternate Member, or
26 Hearing Officer.

27 The property tax rule amendments were
28 necessitated by statutory revisions to conflict of

1 interest provisions. The proposed amendments were
2 developed in an open process with interested parties
3 in an interested parties process.

4 I'm happy to report that there are no
5 outstanding issues. As such, staff respectfully
6 asks that the Board authorize publication of the
7 amendments to Property Tax Rule 308.6 and begin the
8 formal rulemaking process.

9 MR. HORTON: Members, let us note the
10 nonparticipation by Deputy Controller.

11 Is there a motion to take up item H.1 and
12 H.2 or your so desire?

13 MR. RUNNER: So moved.

14 MR. HORTON: Member Runner moves adoption,
15 a recommendation reducing Board adoption of unitary
16 values.

17 Second by Member Ma -- Ma, noting
18 nonparticipation by Deputy Controller.

19 Without objection, such will be the order.

20 Ms. Richmond, please continue.

21 MR. TANG: Staff respectfully requests that
22 the Board authorize publication of Property Tax
23 Rule 308.6. And staff is available to answer any
24 questions you may have.

25 MS. HARKEY: I thought we just did that.

26 MR. HORTON: Uhmm --

27 MR. RUNNER: Didn't we just do that?

28 MS. MA: We just did that.

1 MR. HORTON: Member -- yes, we did vote.

2 Thank you very much.

3 MR. TANG: Thank you.

4 MR. HORTON: Okay.

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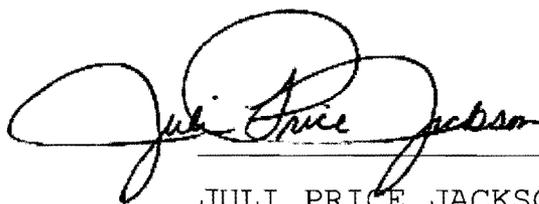
REPORTER'S CERTIFICATE

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State of California)
) ss
County of Sacramento)

I, JULI PRICE JACKSON, Hearing Reporter for the California State Board of Equalization certify that on JANUARY 21, 2015 I recorded verbatim, in shorthand, to the best of my ability, the proceedings in the above-entitled hearing; that I transcribed the shorthand writing into typewriting; and that the preceding pages 1 through 5 constitute a complete and accurate transcription of the shorthand writing.

Dated: FEBRUARY 3, 2015



JULI PRICE JACKSON
Hearing Reporter



**ESTIMATE OF COST OR SAVINGS RESULTING
FROM PROPOSED REGULATORY ACTION**

**Proposed Amendment of Property Tax Rule 308.6, Application for Equalization by Member,
Alternate Member, or Hearing Officer**

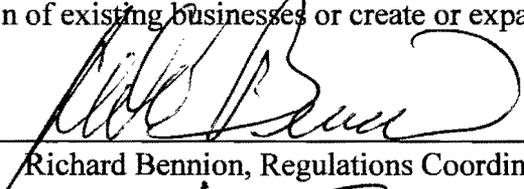
STATEMENT OF COST OR SAVINGS FOR NOTICE OF PUBLIC HEARING

The State Board of Equalization has determined that the proposed action does not impose a mandate on local agencies or school districts. Further, the Board has determined that the action will result in no direct or indirect cost or savings to any State agency, any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary cost or savings imposed on local agencies, or cost or savings in Federal funding to the State of California.

The cost impact on private persons or businesses will be insignificant. This proposal will not have a significant adverse economic impact on businesses.

This proposal will not be detrimental to California businesses in competing with businesses in other states.

This proposal will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand business in the State of California.

Statement Prepared by  Date 3-12-15
Richard Bennion, Regulations Coordinator

Approved by  Date 3/12/15
Randy Ferris, Chief Counsel

If Costs or Savings are Identified, Signatures of Chief, Fiscal Management Division, and Chief, Board Proceedings Division, are Required

Approved by _____ Date _____
Chief, Financial Management Division

Approved by _____ Date _____
Chief, Board Proceedings Division

NOTE: SAM Section 6615 requires that estimates resulting in cost or savings be submitted for Department of Finance concurrence before the notice of proposed regulatory action is released.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME State Board of Equalization	CONTACT PERSON Richard E. Bennion	EMAIL ADDRESS rbennion@boe.ca.gov	TELEPHONE NUMBER 916-445-2130
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Title 18, Section 308.6, Application for Equalization by Member, Alternate Member, or Hearing Officer			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- a. Impacts business and/or employees
- b. Impacts small businesses
- c. Impacts jobs or occupations
- d. Impacts California competitiveness
- e. Imposes reporting requirements
- f. Imposes prescriptive instead of performance
- g. Impacts individuals
- h. None of the above (Explain below):

Please see the attached .

***If any box in Items 1 a through g is checked, complete this Economic Impact Statement.
If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.***

2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- Below \$10 million
- Between \$10 and \$25 million
- Between \$25 and \$50 million
- Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a Standardized Regulatory Impact Assessment as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: Statewide
 Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? YES NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)

ESTIMATED COSTS *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____

a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____

d. Describe other economic costs that may occur: _____

2. If multiple industries are impacted, enter the share of total costs for each industry: _____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.* \$ _____

4. Will this regulation directly impact housing costs? YES NO
If YES, enter the annual dollar cost per housing unit: \$ _____

Number of units: _____

5. Are there comparable Federal regulations? YES NO

Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____

2. Are the benefits the result of: specific statutory requirements, or goals developed by the agency based on broad statutory authority?

Explain: _____

3. What are the total statewide benefits from this regulation over its lifetime? \$ _____

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)

Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? YES NO

Explain: _____

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.*

California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.

1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? YES NO

If YES, complete E2. and E3

If NO, skip to E4

Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

YES NO

If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD 399 (REV 12/2013)

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

a. Funding provided in _____

Budget Act of _____ or Chapter _____, Statutes of _____

b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

a. Implements the Federal mandate contained in _____

b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

3. Annual Savings. (approximate)

\$ _____

4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

5. No fiscal impact exists. This regulation does not affect any local entity or program.

6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT (CONTINUED)**FISCAL EFFECT ON STATE GOVERNMENT** Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years. 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:

 a. Absorb these additional costs within their existing budgets and resources. b. Increase the currently authorized budget level for the _____ Fiscal Year 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

 3. No fiscal impact exists. This regulation does not affect any State agency or program. 4. Other. Explain _____**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years. 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program. 4. Other. Explain _____

FISCAL OFFICER SIGNATURE



DATE

March 3, 2015

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY



DATE

March 3, 2015

once approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER

 Exempt under SAM section 6615

DATE

Attachment to Economic and Fiscal Impact
Statement (STD. 399 (Rev. 12/2013)) for the Proposed Amendments to
California Code of Regulations, Title 18, Section 308.6,

Application for Equalization by Member, Alternate Member, or Hearing Officer

California Code of Regulations, title 18, section (Property Tax Rule) 308.6, *Application for Equalization by Member, Alternate Member, or Hearing Officer*, implements, interprets, and makes specific Revenue and Taxation Code (RTC) sections 1612.7 and 1622.6. The proposed amendments make Property Tax Rule 308.6 consistent with the repeal and reenactment of RTC 1612.7 and amendments made to RTC section 1622.6 by Assembly Bill No. 824 (Stats. 2009, ch. 477) (AB 824) and the repeal of RTC section 1636.5 by Senate Bill 1494 (Stats. 2010, ch. 654). As explained in detail in the initial statement of reasons, the proposed amendments to Property Tax Rule 308.6 clarify the conflict of interest provisions applicable to county property tax assessment appeals by: (1) specifying the individuals whose appeal applications must be heard by an alternate assessment appeals board; (2) establishing procedures for a clerk of the local assessment appeals board to refer an assessment appeal application to an alternate assessment appeals board in another county, which are consistent with both the Legislature's intent in enacting and California Association of Clerks and Election Officials' intent in sponsoring AB 824; and (3) clarifying that RTC sections 1624.1 and 1624.2 are applicable to the removal of a special assessment appeals board member.

As a result, the proposed amendments mainly clarify existing law and procedures regarding the use of special alternate assessment appeals boards in conflict of interest situations. The proposed amendments will not significantly change how appeals applications are heard by special alternate assessment appeals boards or the clerks' discretion to refer appeals applications in the absence of the proposed amendments. And, the Board anticipates that the proposed amendments to Property Tax Rule 308.6 will promote fairness, increase openness and transparency in government, and benefit members of assessment appeals boards and special alternate assessment appeals boards, assessment hearing officers, employees of the offices of the clerks of the boards of equalization and assessment appeals boards, the clerks themselves, employees of the county counsels, and the general public by providing more clarity as to the application of RTC sections 1612.7, 1622.6, 1624.1, and 1624.2.

Therefore, based upon the foregoing information and all of the information in the rulemaking file, the Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulatory action, the Board estimates that the proposed amendments will not have a measurable economic impact on individuals and business that is in addition to whatever economic impact the repeal and reenactment of RTC 1612.7 and amendments made to RTC section 1622.6 by AB 824 have had and will have on individuals and businesses, and the Board has determined that the proposed amendments will have no impact on revenue. The Board has also determined that the proposed amendments to Property Tax Rule 308.6 are not a major regulation, as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000, because the Board has estimated that the proposed amendments will not have an economic impact on California business enterprises and individuals in an amount exceeding fifty million dollars (\$50,000,000) during any 12-month period. And, the Board has determined that the proposed amendments to Property Tax Rule 308.6:

- Will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states;
- Will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California;
- Will not have a significant effect on housing costs;
- Will result in no direct or indirect cost or savings to any state agency, cost to local agencies or school districts that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, other non-discretionary cost or savings imposed on local agencies, or cost or savings in federal funding to the State of California; and
- Will not impose a mandate on local agencies or school districts, including a mandate that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

Finally, Property Tax Rule 308.6 does not regulate the health and welfare of California residents, worker safety, or the state's environment. Therefore, the Board has also determined that the adoption of the proposed amendments will not affect the benefits of Property Tax Rule 308.6 to the health and welfare of California residents, worker safety, or the state's environment.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2015-0302-01	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

RECEIVED FOR FILING PUBLICATION DATE

MAR 02 '15 MAR 13 '15

Office of Administrative Law

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
State Board of Equalization

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Application for Equalization by Member		TITLE(S) 18	FIRST SECTION AFFECTED 308.6	2. REQUESTED PUBLICATION DATE March 13, 2015
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON Richard E. Bennion	TELEPHONE NUMBER (916) 445-2130	FAX NUMBER (Optional) (916) 324-3984
OAL USE ONLY <input checked="" type="checkbox"/>	ACTION ON PROPOSED NOTICE <input checked="" type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2015, 112	PUBLICATION DATE 03/13/2015

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
------------------------------	--

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND
	REPEAL
TITLE(S)	

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
---	--	--	--

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

For use by Office of Administrative Law (OAL) only

SIGNATURE OF AGENCY HEAD OR DESIGNEE	DATE
TYPED NAME AND TITLE OF SIGNATORY	

TITLE 18. BOARD OF EQUALIZATION

The State Board of Equalization Proposes to Adopt Amendments to California Code of Regulations, Title 18, Section 308.6, *Application for Equalization by Member, Alternate Member, or Hearing Officer*

NOTICE IS HEREBY GIVEN that the State Board of Equalization (Board), pursuant to the authority vested in it by Government Code section 15606, proposes to adopt amendments to California Code of Regulations, title 18, section (Property Tax Rule) 308.6, *Application for Equalization by Member, Alternate Member, or Hearing Officer*. The proposed amendments to Property Tax Rule 308.6 implement, interpret, and make specific Revenue and Taxation Code (RTC) sections 1612.7 and 1622.6, by clarifying the current conflict of interest provisions applicable to county property tax assessment appeals, including specifying the individuals whose applications must be heard by an alternate assessment appeals board, and by establishing the procedures for a clerk of the local assessment appeals board to refer an assessment appeal application to an alternate assessment appeals board in another county. The proposed amendments also delete a reference to repealed RTC section 1636.5, and clarify that RTC sections 1624.1 and 1624.2 are applicable to the removal of a special assessment appeals board member.

PUBLIC HEARING

The Board will conduct a meeting in Room 121 at 450 N Street, Sacramento, California on April 28-30, 2015. The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board's Website at www.boe.ca.gov at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 9:30 a.m. or as soon thereafter as the matter may be heard on April 28, 29, or 30, 2015. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the proposed amendments to Property Tax Rule 308.6.

AUTHORITY

Government Code section 15606

REFERENCE

RTC sections 1612.7 and 1622.6

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current Law

The Board has a number of duties in regard to the administration of California's property tax. Under Government Code section 15606, subdivision (c), the Board is given the power and duty to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. In compliance with this duty, the Board has adopted Property Tax Rules 301 through 326 relative to the local equalization process, which is the process by which a county property tax assessment may be appealed to a local board of equalization or assessment appeals board by filing an application.

The Board adopted Property Tax Rule 308.6, pursuant to Government Code section 15606, in order to implement, interpret, and make specific the Revenue and Taxation Code's conflict of interest provisions applicable to county property tax assessment appeals.

Prior to 2009, RTC section 1612.7 required an application filed by an employee of the office of the clerk of an assessment appeals board in the county in which the individual is employed, on the employee's own behalf or with the intention to represent the employee's spouse, parent, or child in an assessment appeal, to be heard in accordance with RTC section 1622.6.

Prior to 2009, RTC section 1622.6 required an application filed by a member or alternate member of an assessment appeals board in the county in which the member serves, on the member's own behalf or with the intention to represent the member's spouse, parent, or child, to be heard by a special alternate assessment appeals board appointed by the superior court.

In addition, prior to its repeal (discussed below), RTC section 1636.5 required an application filed by an assessment hearing officer in the county in which the officer serves, on the officer's own behalf or with the intention to represent the officer's spouse, parent, or child, to be heard in accordance with RTC section 1622.6.

Assembly Bill No. 824 (Stats. 2009, ch. 477) (AB 824) repealed and reenacted RTC section 1612.7 and amended RTC section 1622.6 in order to:

- Add to and revise the statutory list of persons whose applications must be heard in accordance with the procedures in RTC section 1622.6 regarding hearings by special alternate assessment appeals boards appointed by the superior court;
- Grant clerks discretion to refer an application to an actively serving special alternate assessment appeals board in another California county in lieu of requesting that the superior court appoint a new special alternate assessment appeals board to hear the application in the clerk's county; and

- Specify the jurisdiction of special alternate assessment appeals boards to hear applications referred from other counties.

The August 19, 2009, Senate Floor Analysis of AB 824 explained that the California Association of Clerks and Election Officials (CACEO) sponsored the bill, and that the new procedures for clerks to refer an application to an actively serving special alternate assessment appeals board in another county are intended to “be voluntary for both [the referring and receiving] counties.”

As a result of AB 824, RTC section 1612.7 currently requires applications filed by the following persons, in the counties in which they serve or are employed, on their own behalf or with the intention to represent their spouse, parent, or child, to be heard in accordance with RTC section 1622.6:

- A current member of an assessment appeals board or a current member of a special alternate assessment appeals board;
- A current assessment hearing officer;
- A current employee of the office of the clerk of the county board of equalization or assessment appeals board; and
- A current employee of the county counsel who advises the assessment appeals board or represents the assessor before the assessment appeals board.

As a result of AB 824, RTC section 1622.6 currently requires that such applications must be heard by a special alternate assessment appeals board either appointed by the superior court or consisting of three qualified special alternate assessment appeals board members in good standing in another California county.

Senate Bill No. 1494 (Stats. 2010, ch. 654) (SB 1494) subsequently repealed RTC section 1636.5 because similar provisions pertaining to hearing officers were added to RTC section 1612.7 by AB 824.

Property Tax Rule 308.6 reflects the conflict of interest provisions applicable to county property tax assessment appeals prior to the statutory changes made by AB 824 and SB 1494.

Furthermore, RTC section 1624.1 currently provides that “No person shall be qualified to be a member of an assessment appeals board who has, within the three years immediately preceding his or her appointment to that board, been an employee of an assessor’s office.” RTC section 1624.2 currently provides that “No member of an assessment appeals board shall knowingly participate in any assessment appeal proceeding wherein the member has an interest in either the subject matter of or a party to the proceeding of such nature that it could reasonably be expected to influence the impartiality of his judgment in the proceeding. Violation of this section shall be cause for removal under Section 1625 of this code.” RTC section 1625 provides that “Any member of an assessment appeals board may be removed for cause by the board of supervisors.” And, Property Tax Rule 308.6, subdivision (d), currently provides that “Sections 1624.1 and

1624.2 of the Revenue and Taxation Code shall be applicable to the appointment of a special assessment appeals board member.”

Effect, Objective, and Benefits of the Proposed Amendments

Board staff in the Property and Special Taxes Department, County-Assessed Properties Division, initiated a project to amend Property Tax Rule 308.6 to reflect the changes to RTC sections 1612.7 and 1622.6 made by AB 824, delete the reference in the rule to section 1636.5, which was repealed by SB 1494, and incorporate the provision regarding removal in the second sentence of RTC section 1624.2. Interested parties were provided with staff’s proposed draft language for the amendments to the rule on August 28, 2012 (Letter To Assessors 2012/036), and invited to participate in the rulemaking effort.

The draft amendments provided in Letter To Assessors 2012/036 suggested that an application “may only be referred to a county if there is an agreement for the referral between the two counties.” The Tulare County Counsel’s Office raised concerns that staff’s suggested language may be interpreted as requiring a formal contract signed by each county’s board of supervisors. Therefore, the Tulare County Counsel’s Office suggested replacing staff’s suggested language with the following: “Applications may only be referred to a county if that county’s assessment appeals board has consented to accept the referral.”

Staff agreed with the comment and incorporated the Tulare County Counsel’s Office’s proposed language into the second draft of staff’s proposed amendments to Property Tax Rule 308.6, which was provided to interested parties in Formal Issue Paper 13-001. In addition, staff determined that a violation of RTC section 1624.1 would provide cause for the removal of a special assessment appeals board member under RTC section 1625. Therefore, the second draft of staff’s proposed amendments to Property Tax Rule 308.6 provided that both RTC sections 1624.1 and 1624.2 are applicable to the “removal” of a special assessment appeals board member, rather than incorporating the provision regarding removal in the second sentence of RTC section 1624.2.

CACEO raised a concern regarding the revised language providing that “Applications may only be referred to a county if that county’s assessment appeals board has consented to accept the referral” in a letter dated March 6, 2013. The letter explained that CACEO’s intent in sponsoring AB 824 was to establish a procedure for referring applications under which “the only action or ‘agreement’ . . . was the ‘agreement’ between the two clerks involved” and recommended that staff’s proposed amendments be revised to read as follows: “Applications may only be referred to a county if that county’s clerk of the assessment appeals board has consented to accept the referral.”

Staff subsequently accepted CACEO’s recommended revision and a third draft of the proposed amendments to the rule, which incorporated CACEO’s recommended revision, was sent to interested parties on September 29, 2014 (Letter To Assessors 2014/047). No interested parties raised any further concerns regarding the third draft. Therefore, Board staff prepared Formal Issue Paper 14-010, which recommended that the Board propose the adoption of staff’s third draft of the amendments to Property Tax Rule 308.6, and

submitted it to the Board for consideration at its January 21, 2015, Property Tax Committee meeting.

During its January 21, 2015, Property Tax Committee meeting, the Board determined that staff's recommended amendments were reasonably necessary to have the effect and accomplish the objective of making Property Tax Rule 308.6 consistent with the provisions of RTC sections 1612.7 and 1622.6, as modified by AB 824, deleting the reference to RTC section 1636.5, which was repealed by SB 1494, and clarifying that RTC sections 1624.1 and 1624.2 are applicable to the removal of a special assessment appeals board member. Therefore, the Board unanimously voted to propose the adoption of the recommended amendments.

The Board anticipates that the proposed amendments to Property Tax Rule 308.6 will promote fairness, increase openness and transparency in government, and benefit members of assessment appeals boards and special alternate assessment appeals boards, assessment hearing officers, employees of the offices of the clerks of the boards of equalization and assessment appeals boards, the clerks themselves, employees of the county counsels, and the general public by providing more clarity as to the application of RTC sections 1612.7, 1622.6, 1624.1, and 1624.2.

The Board has performed an evaluation of whether the proposed amendments to Property Tax Rule 308.6 are inconsistent or incompatible with existing state regulations and determined that the proposed amendments are not inconsistent or incompatible with existing state regulations because there are no other Property Tax Rules that implement the RTC's conflict of interest provisions applicable to county property tax assessment appeals. In addition, the Board has determined that there are no comparable federal regulations or statutes to Property Tax Rule 308.6 or the proposed amendments to Property Tax Rule 308.6.

NO MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Property Tax Rule 308.6 will not impose a mandate on local agencies or school districts, including a mandate that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

NO COST OR SAVINGS TO ANY STATE AGENCY, LOCAL AGENCY, OR SCHOOL DISTRICT

The Board has determined that the adoption of the proposed amendments to Property Tax Rule 308.6 will result in no direct or indirect cost or savings to any state agency, cost to local agencies or school districts that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, other non-discretionary cost or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Board has made an initial determination that the adoption of the proposed amendments to Property Tax Rule 308.6 will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The adoption of the proposed amendments to Regulation 1533.2 may affect small business.

NO COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)

The Board has prepared the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1), and included it in the initial statement of reasons. The Board has determined that the adoption of the proposed amendments to Property Tax Rule 308.6 will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California. Furthermore, the Board has determined that the adoption of the proposed amendments to Property Tax Rule 308.6 will not affect the benefits of Property Tax Rule 308.6 to the health and welfare of California residents, worker safety, or the state's environment.

NO SIGNIFICANT EFFECT ON HOUSING COSTS

Adoption of the proposed amendments to Property Tax Rule 308.6 will not have a significant effect on housing costs.

DETERMINATION REGARDING ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Bradley M. Heller, Tax Counsel IV, by telephone at (916) 323-3091, by e-mail at Bradley.Heller@boe.ca.gov, or by mail at State Board of Equalization, Attn: Bradley M. Heller, MIC:82, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Rick Bennion, Regulations Coordinator, by telephone at (916) 445-2130, by fax at (916) 324-3984, by e-mail at Richard.Bennion@boe.ca.gov, or by mail at State Board of Equalization, Attn: Rick Bennion, MIC:80, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0080.

WRITTEN COMMENT PERIOD

The written comment period ends at 9:30 a.m. on April 28, 2015, or as soon thereafter as the Board begins the public hearing regarding the proposed amendments to Property Tax Rule 308.6 during the April 28-30, 2015, Board meeting. Written comments received by Mr. Rick Bennion at the postal address, email address, or fax number provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the proposed amendments to Property Tax Rule 308.6. The Board will only consider written comments received by that time.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an underline and strikethrough version of the text of Property Tax Rule 308.6 illustrating the express terms of the proposed amendments and an initial statement of reasons for the adoption of the proposed amendments, which includes the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the proposed amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed amendments and the initial statement of reasons are also available on the Board's website at www.boe.ca.gov.

SUBSTANTIALLY RELATED CHANGES PURSUANT TO GOVERNMENT CODE SECTION 11346.8

The Board may adopt the proposed amendments to Property Tax Rule 308.6 with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently

related change is made, the Board will make the full text of the proposed amendments, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting amendments will be mailed to those interested parties who commented on the original proposed amendments orally or in writing or who asked to be informed of such changes. The text of the resulting amendments will also be available to the public from Mr. Bennion. The Board will consider written comments on the resulting amendments that are received prior to adoption.

AVAILABILITY OF FINAL STATEMENT OF REASONS

If the Board adopts the proposed amendments to Property Tax Rule 308.6, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's website at www.boe.ca.gov.

Bennion, Richard

From: State Board of Equalization - Announcement of Regulatory Change
<Legal.Regulations@BOE.CA.GOV>
Sent: Friday, March 13, 2015 9:09 AM
To: BOE_REGULATIONS@LISTSERV.STATE.CA.GOV
Subject: State Board of Equalization - Announcement of Regulatory Change 308.6

The State Board of Equalization proposes to amend Property Tax Rule 308.6, *Application for Equalization by Member, Alternate Member, or Hearing Officer*. A public hearing regarding the proposed regulatory action will be held in Room 121, 450 N Street, Sacramento, at 9:30 a.m., or as soon thereafter as the matter may be heard, on April 28-30, 2015.

The proposed amendments clarify the current conflict of interest provisions applicable to county property tax assessment appeals.

To view the notice of hearing, initial statement of reasons, proposed text, and history click on the following link:
http://www.boe.ca.gov/regs/reg_308_6_2015.htm.

Questions regarding the substance of the proposed amendments should be directed to Mr. Bradley Heller, Tax Counsel IV, at 450 N Street, MIC:82, P.O. Box 942879, Sacramento, CA 94279-0082, e-mail Bradley.Heller@boe.ca.gov, telephone (916) 323-3091, or FAX (916) 323-3387.

Written comments for the Board's consideration, notices of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed regulatory action should be directed to Mr. Rick Bennion, Regulations Coordinator, telephone (916) 445-2130, fax (916) 324-3984, e-mail Richard.Bennion@boe.ca.gov or by mail to: State Board of Equalization, Attn: Rick Bennion, MIC: 80, P.O. Box 942879-0080, Sacramento, CA 94279-0080.

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Bennion, Richard

From: BOE-Board Meeting Material
Sent: Friday, March 13, 2015 7:13 AM
To: Alonzo, Mary Ann (Legal); Angeja, Jeff (Legal); Appleby, Jaclyn; Armenta, Christopher; Asprey, Kathryn E; Bartolo, Lynn; Bennion, Richard; Benson, Bill; Bisauta, Christine (Legal); Blake, Sue; Block, Susan; BOE-Board Meeting Material; Boyle, Kevin; Bridges, Cynthia; Brown, Michele C; Chung, Sophia (Legal); Cruz, Giovan; Davis, Toya P.; Dixon, Camille; Duran, David; Durham, Mark; Epolite, Anthony (Legal); Ferris, Randy (Legal); Folchi, Gino; Ford, Ladeena L; Garcia, Laura; Gau, David; Gilman, Todd; Hamilton, Tabitha; Harrison, Michelle; Harvill, Mai; Heller, Bradley (Legal); Hellmuth, Leila; Herrera, Cristina; Holmes, Dana; Hughes, Shellie L; Jacobson, Andrew; Kinkle, Sherrie L; Kinst, Lynne; Kruckenberg, Kendra; Kuhl, James; Lambert, Gary; Lambert, Robert (Legal); Lee, Chris; Levine, David H. (Legal); Lopez, Claudia; Lowery, Russell; Matsumoto, Sid; Matthies, Ted; McGuire, Jeff; Miller, Brad; Moon, Richard (Legal); Morquecho, Raymond; Nienow, Trecia (Legal); Oakes, Clifford; Pielsticker, Michele; Ralston, Natasha; Richmond, Joann; Riley, Denise (Legal); Schultz, Glenna; Shah, Neil; Silva, Monica (Legal); Singh, Sam; Smith, Kevin (Legal); Smith, Rose; Stowers, Yvette; Tran, Mai (Legal); Treichelt, Tim; Tucker, Robert (Legal); Vandrick, Tanya; Vena, Emily (Legal); Wallentine, Sean; Whitaker, Lynn; White, Sharon; Wiggins, Brian; Williams, Lee; Zivkovich, Robert
Subject: State Board of Equalization - Announcement of Regulatory Change 308.6

The State Board of Equalization proposes to amend Property Tax Rule 308.6, *Application for Equalization by Member, Alternate Member, or Hearing Officer*. A public hearing regarding the proposed regulatory action will be held in Room 121, 450 N Street, Sacramento, at 9:30 a.m., or as soon thereafter as the matter may be heard, on April 28-30, 2015.

The proposed amendments clarify the current conflict of interest provisions applicable to county property tax assessment appeals.

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Please do not reply to this message.

Board Proceedings Division, MIC:80
Rick Bennion
Regulations Coordinator
Phone (916) 445-2130
Fax (916) 324-3984
Richard.Bennion@boe.ca.gov

Questions on the substance of the proposed regulatory action may be directed to:

Amy Cheung
California Institute for Regenerative Medicine
(415) 396-9100

The Notice of Proposed Regulatory Amendment, the Initial Statement of Reasons and any attachments, and the proposed text of the amendments and existing regulation are also available on CIRM's website, www.cirm.ca.gov.

Availability of Final Statement of Reasons:

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code Section 11346.9, subdivision (a), may be obtained from the contact person named above.

TITLE 18. BOARD OF EQUALIZATION

The State Board of Equalization Proposes to Adopt Amendments to California Code of Regulations, Title 18, Section 308.6, Application for Equalization by Member, Alternate Member, or Hearing Officer

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AUTHORITY

Government Code section 15606

REFERENCE

RTC sections 1612.7 and 1622.6

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Current Law

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In addition, prior to its repeal (discussed below), RTC section 1636.5 required an application filed by an assessment hearing officer in the county in which the officer serves, on the officer's own behalf or with the intention to represent the officer's spouse, parent, or child, to be heard in accordance with RTC section 1622.6.

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The draft amendments provided in Letter To Assessors 2012/036 suggested that an application "may only be referred to a county if there is an agreement for the referral between the two counties." The Tulare County Counsel's Office raised concerns that staff's suggested language may be interpreted as requiring a formal contract signed by each county's board of supervisors. Therefore, the Tulare County Counsel's Office suggested replacing staff's suggested language with the following: "Applications may only be referred to a county if that county's assessment appeals board has consented to accept the referral."

Staff agreed with the comment and incorporated the Tulare County Counsel's Office's proposed language into the second draft of staff's proposed amendments to Property Tax Rule 308.6, which was provided to interested parties in Formal Issue Paper 13-001. In addition, staff determined that a violation of RTC section 1624.1 would provide cause for the removal of a special assessment appeals board member under RTC section 1625. Therefore, the second draft of staff's proposed amendments to Property Tax Rule 308.6 provided that both RTC sections 1624.1 and 1624.2 are applicable to the "removal" of a special assessment appeals board member, rather than incorporating the provision regarding removal in the second sentence of RTC section 1624.2.

CACEO raised a concern regarding the revised language providing that "Applications may only be referred to a county if that county's assessment appeals board has consented to accept the referral" in a letter dated March 6, 2013. The letter explained that CACEO's intent in sponsoring AB 824 was to establish a procedure for referring applications under which "the only action or 'agreement' . . . was the 'agreement' between the two clerks involved" and recommended that staff's proposed amendments be revised to read as follows: "Applications may only be referred to a county if that county's clerk of the assessment appeals board has consented to accept the referral."

Staff subsequently accepted CACEO's recommended revision and a third draft of the proposed amendments to the rule, which incorporated CACEO's recommended revision, was sent to interested parties on September 29, 2014 (Letter To Assessors 2014/047). No interested parties raised any further concerns regarding the third draft. Therefore, Board staff prepared Formal Issue Paper 14-010, which recommended that the Board propose the adoption of staff's third draft of the amendments to Property Tax Rule 308.6, and submitted it to the Board for consideration at its January 21, 2015, Property Tax Committee meeting.

During its January 21, 2015, Property Tax Committee meeting, the Board determined that staff's recommended amendments were reasonably necessary to have the effect and accomplish the objective of making Property Tax Rule 308.6 consistent with the provisions of RTC sections 1612.7 and 1622.6, as modified by AB 824, deleting the reference to RTC section 1636.5, which was repealed by SB 1494, and clarifying that RTC sections 1624.1 and 1624.2 are applicable to the removal of a special assessment appeals board member. Therefore, the Board unanimously voted to propose the adoption of the recommended amendments.

The Board anticipates that the proposed amendments to Property Tax Rule 308.6 will promote fairness, increase openness and transparency in government, and

benefit members of assessment appeals boards and special alternate assessment appeals boards, assessment hearing officers, employees of the offices of the clerks of the boards of equalization and assessment appeals boards, the clerks themselves, employees of the county counsels, and the general public by providing more clarity as to the application of RTC sections 1612.7, 1622.6, 1624.1, and 1624.2.

The Board has performed an evaluation of whether the proposed amendments to Property Tax Rule 308.6 are inconsistent or incompatible with existing state regulations and determined that the proposed amendments are not inconsistent or incompatible with existing state regulations because there are no other Property Tax Rules that implement the RTC's conflict-of-interest provisions applicable to county property tax assessment appeals. In addition, the Board has determined that there are no comparable federal regulations or statutes to Property Tax Rule 308.6 or the proposed amendments to Property Tax Rule 308.6.

NO MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Property Tax Rule 308.6 will not impose a mandate on local agencies or school districts, including a mandate that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

NO COST OR SAVINGS TO ANY STATE AGENCY, LOCAL AGENCY, OR SCHOOL DISTRICT

The Board has determined that the adoption of the proposed amendments to Property Tax Rule 308.6 will result in no direct or indirect cost or savings to any state agency, cost to local agencies or school districts that is required to be reimbursed under part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code, other non-discretionary cost or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Board has made an initial determination that the adoption of the proposed amendments to Property Tax Rule 308.6 will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The adoption of the proposed amendments to Regulation 1533.2 may affect small business.

NO COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)

The Board has prepared the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1), and included it in the initial statement of reasons. The Board has determined that the adoption of the proposed amendments to Property Tax Rule 308.6 will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California. Furthermore, the Board has determined that the adoption of the proposed amendments to Property Tax Rule 308.6 will not affect the benefits of Property Tax Rule 308.6 to the health and welfare of California residents, worker safety, or the state's environment.

NO SIGNIFICANT EFFECT ON HOUSING COSTS

Adoption of the proposed amendments to Property Tax Rule 308.6 will not have a significant effect on housing costs.

DETERMINATION REGARDING ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Bradley M. Heller, Tax Counsel IV, by telephone at (916) 323-3091, by e-mail at Bradley.Heller@boe.ca.gov, or by mail at State Board of Equalization, Attn: Bradley M. Heller, MIC:82, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Rick Bennion, Regulations Coordinator, by telephone at (916) 445-2130, by fax at (916) 324-3984, by e-mail at Richard.Bennion@boe.ca.gov, or by mail at State Board of Equalization, Attn: Rick Bennion, MIC:80, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0080.

WRITTEN COMMENT PERIOD

The written comment period ends at 9:30 a.m. on April 28, 2015, or as soon thereafter as the Board begins the public hearing regarding the proposed amendments to Property Tax Rule 308.6 during the April 28-30, 2015, Board meeting. Written comments received by Mr. Rick Bennion at the postal address, email address, or fax number provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the proposed amendments to Property Tax Rule 308.6. The Board will only consider written comments received by that time.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an underline and strikeout version of the text of Property Tax Rule 308.6 illustrating the express terms of the proposed amendments and an initial statement of reasons for the adoption of the proposed amendments, which includes the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the proposed amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed amendments and the initial statement of reasons are also available on the Board's website at www.boe.ca.gov.

**SUBSTANTIALLY RELATED CHANGES
PURSUANT TO GOVERNMENT CODE
SECTION 11346.8**

The Board may adopt the proposed amendments to Property Tax Rule 308.6 with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the proposed amendments, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting amendments will be mailed to those interested parties who commented on the original proposed amendments orally or in writing or who asked to be informed of such changes. The text of the resulting amendments will also be available to the public from Mr. Bennion. The Board will consider written comments on the resulting amendments that are received prior to adoption.

**AVAILABILITY OF FINAL STATEMENT
OF REASONS**

If the Board adopts the proposed amendments to Property Tax Rule 308.6, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's website at www.boe.ca.gov.

**TITLE 22. EMERGENCY MEDICAL
SERVICES AUTHORITY**

**TITLE 22. SOCIAL SECURITY
DIVISION 9. PREHOSPITAL EMERGENCY
MEDICAL SERVICES
CHAPTER 13: EMS SYSTEM REGULATIONS
APPEAL PROCEEDINGS TO THE COMMISSION**

The Emergency Medical Services Authority (EMSA) proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

EMSA will conduct a public hearing on **April 27, 2015**. The hearing will begin at **2:00 p.m. and end at 4:00 p.m.** The hearing will be held at EMSA Headquarters located at 10901 Gold Center Drive, Suite 400, Rancho Cordova, CA 95670. EMSA requests that per-

sons making oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action, to EMSA. Comments may also be submitted by facsimile (FAX) at (915) 324-2875 or by e-mail to teri.harness@emsa.ca.gov. The written comment period closes at **4:00 p.m. on April 27, 2015**. EMSA will only consider comments received at EMSA Headquarters by that time. Submit comments to:

Teri Harness, Assistant Division Chief
EMS Systems Division
EMS Authority
10901 Gold Center Drive, Suite 400
Rancho Cordova, CA 95670

AUTHORITY AND REFERENCE

The Health and Safety Code (H&SC), Section 1797.107 authorizes EMSA to adopt the proposed regulations, which would implement, interpret, and make specific Section 1797.105(c) and (d) of the H&SC.

**INFORMATIVE DIGEST/ POLICY STATEMENT
OVERVIEW**

Existing law requires EMSA to review emergency medical services (EMS) plans received from local EMS agencies (LEMSAs). EMSA is required to either approve or disapprove the plan based on whether the plan meets specific requirements. LEMSAs are permitted to appeal an EMSA determination to the EMS Commission.

The regulations proposed in this rulemaking action would establish the appeal procedures to the EMS Commission. All appeal hearings to the Commission would be conducted through the Administrative Procedure Act. An administrative law judge (ALJ), within the Office of Administrative Hearings (OAH), would evaluate evidence submitted by EMSA and the LEMSA. The ALJ would provide a recommendation to the Commission to either sustain the determination of EMSA, or overrule the determination of EMSA. The Commission would then vote on the proposed decision at the next regularly scheduled Commission meeting. The Commission's vote on the proposed decision would be limited to either adopt or not adopt the ALJ's proposed decision, or return the proposed decision to the OAH for re-hearing if the proposed decision is inconsistent with the regulations or statute.



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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Second District, San Francisco

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Third District, Los Angeles County

DIANE L. HARKEY
Fourth District, Orange County

BETTY T. YEE
State Controller

CYNTHIA BRIDGES
Executive Director

No. 2015/016

March 13, 2015

To Interested Parties:

**The State Board of Equalization Proposes to Adopt Amendments
to California Code of Regulations, Title 18, Section 308.6,
*Application for Equalization by Member, Alternate Member,
or Hearing Officer***

NOTICE IS HEREBY GIVEN that the State Board of Equalization (Board), pursuant to the authority vested in it by Government Code section 15606, proposes to adopt amendments to California Code of Regulations, title 18, section (Property Tax Rule) 308.6, *Application for Equalization by Member, Alternate Member, or Hearing Officer*. The proposed amendments to Property Tax Rule 308.6 implement, interpret, and make specific Revenue and Taxation Code (RTC) sections 1612.7 and 1622.6, by clarifying the current conflict of interest provisions applicable to county property tax assessment appeals, including specifying the individuals whose applications must be heard by an alternate assessment appeals board, and by establishing the procedures for a clerk of the local assessment appeals board to refer an assessment appeal application to an alternate assessment appeals board in another county. The proposed amendments also delete a reference to repealed RTC section 1636.5, and clarify that RTC sections 1624.1 and 1624.2 are applicable to the removal of a special assessment appeals board member.

PUBLIC HEARING

The Board will conduct a meeting in Room 121 at 450 N Street, Sacramento, California on April 28-30, 2015. The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board's Website at www.boe.ca.gov at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 9:30 a.m. or as soon thereafter as the matter may be heard on April 28, 29, or 30, 2015. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the proposed amendments to Property Tax Rule 308.6.

AUTHORITY

Government Code section 15606

REFERENCE

RTC sections 1612.7 and 1622.6

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current Law

The Board has a number of duties in regard to the administration of California's property tax. Under Government Code section 15606, subdivision (c), the Board is given the power and duty to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. In compliance with this duty, the Board has adopted Property Tax Rules 301 through 326 relative to the local equalization process, which is the process by which a county property tax assessment may be appealed to a local board of equalization or assessment appeals board by filing an application.

The Board adopted Property Tax Rule 308.6, pursuant to Government Code section 15606, in order to implement, interpret, and make specific the Revenue and Taxation Code's conflict of interest provisions applicable to county property tax assessment appeals.

Prior to 2009, RTC section 1612.7 required an application filed by an employee of the office of the clerk of an assessment appeals board in the county in which the individual is employed, on the employee's own behalf or with the intention to represent the employee's spouse, parent, or child in an assessment appeal, to be heard in accordance with RTC section 1622.6.

Prior to 2009, RTC section 1622.6 required an application filed by a member or alternate member of an assessment appeals board in the county in which the member serves, on the member's own behalf or with the intention to represent the member's spouse, parent, or child, to be heard by a special alternate assessment appeals board appointed by the superior court.

In addition, prior to its repeal (discussed below), RTC section 1636.5 required an application filed by an assessment hearing officer in the county in which the officer serves, on the officer's own behalf or with the intention to represent the officer's spouse, parent, or child, to be heard in accordance with RTC section 1622.6.

Assembly Bill No. 824 (Stats. 2009, ch. 477) (AB 824) repealed and reenacted RTC section 1612.7 and amended RTC section 1622.6 in order to:

- Add to and revise the statutory list of persons whose applications must be heard in accordance with the procedures in RTC section 1622.6 regarding hearings by special alternate assessment appeals boards appointed by the superior court;
- Grant clerks discretion to refer an application to an actively serving special alternate assessment appeals board in another California county in lieu of requesting that the superior court appoint a new special alternate assessment appeals board to hear the application in the clerk's county; and
- Specify the jurisdiction of special alternate assessment appeals boards to hear applications referred from other counties.

The August 19, 2009, Senate Floor Analysis of AB 824 explained that the California Association of Clerks and Election Officials (CACEO) sponsored the bill, and that the new procedures for clerks to refer an application to an actively serving special alternate assessment appeals board in another county are intended to "be voluntary for both [the referring and receiving] counties."

As a result of AB 824, RTC section 1612.7 currently requires applications filed by the following persons, in the counties in which they serve or are employed, on their own behalf or with the intention to represent their spouse, parent, or child, to be heard in accordance with RTC section 1622.6:

- A current member of an assessment appeals board or a current member of a special alternate assessment appeals board;
- A current assessment hearing officer;
- A current employee of the office of the clerk of the county board of equalization or assessment appeals board; and
- A current employee of the county counsel who advises the assessment appeals board or represents the assessor before the assessment appeals board.

As a result of AB 824, RTC section 1622.6 currently requires that such applications must be heard by a special alternate assessment appeals board either appointed by the superior court or consisting of three qualified special alternate assessment appeals board members in good standing in another California county.

Senate Bill No. 1494 (Stats. 2010, ch. 654) (SB 1494) subsequently repealed RTC section 1636.5 because similar provisions pertaining to hearing officers were added to RTC section 1612.7 by AB 824.

Property Tax Rule 308.6 reflects the conflict of interest provisions applicable to county property tax assessment appeals prior to the statutory changes made by AB 824 and SB 1494.

Furthermore, RTC section 1624.1 currently provides that "No person shall be qualified to be a member of an assessment appeals board who has, within the three years immediately preceding his or her appointment to that board, been an employee of an assessor's office." RTC section 1624.2 currently provides that "No member of an assessment appeals board shall knowingly

participate in any assessment appeal proceeding wherein the member has an interest in either the subject matter of or a party to the proceeding of such nature that it could reasonably be expected to influence the impartiality of his judgment in the proceeding. Violation of this section shall be cause for removal under Section 1625 of this code.” RTC section 1625 provides that “Any member of an assessment appeals board may be removed for cause by the board of supervisors.” And, Property Tax Rule 308.6, subdivision (d), currently provides that “Sections 1624.1 and 1624.2 of the Revenue and Taxation Code shall be applicable to the appointment of a special assessment appeals board member.”

Effect, Objective, and Benefits of the Proposed Amendments

Board staff in the Property and Special Taxes Department, County-Assessed Properties Division, initiated a project to amend Property Tax Rule 308.6 to reflect the changes to RTC sections 1612.7 and 1622.6 made by AB 824, delete the reference in the rule to section 1636.5, which was repealed by SB 1494, and incorporate the provision regarding removal in the second sentence of RTC section 1624.2. Interested parties were provided with staff’s proposed draft language for the amendments to the rule on August 28, 2012 (Letter To Assessors 2012/036), and invited to participate in the rulemaking effort.

The draft amendments provided in Letter To Assessors 2012/036 suggested that an application “may only be referred to a county if there is an agreement for the referral between the two counties.” The Tulare County Counsel’s Office raised concerns that staff’s suggested language may be interpreted as requiring a formal contract signed by each county’s board of supervisors. Therefore, the Tulare County Counsel’s Office suggested replacing staff’s suggested language with the following: “Applications may only be referred to a county if that county’s assessment appeals board has consented to accept the referral.”

Staff agreed with the comment and incorporated the Tulare County Counsel’s Office’s proposed language into the second draft of staff’s proposed amendments to Property Tax Rule 308.6, which was provided to interested parties in Formal Issue Paper 13-001. In addition, staff determined that a violation of RTC section 1624.1 would provide cause for the removal of a special assessment appeals board member under RTC section 1625. Therefore, the second draft of staff’s proposed amendments to Property Tax Rule 308.6 provided that both RTC sections 1624.1 and 1624.2 are applicable to the “removal” of a special assessment appeals board member, rather than incorporating the provision regarding removal in the second sentence of RTC section 1624.2.

CACEO raised a concern regarding the revised language providing that “Applications may only be referred to a county if that county’s assessment appeals board has consented to accept the referral” in a letter dated March 6, 2013. The letter explained that CACEO’s intent in sponsoring AB 824 was to establish a procedure for referring applications under which “the only action or ‘agreement’ . . . was the ‘agreement’ between the two clerks involved” and recommended that staff’s proposed amendments be revised to read as follows: “Applications may only be referred

to a county if that county's clerk of the assessment appeals board has consented to accept the referral."

Staff subsequently accepted CACEO's recommended revision and a third draft of the proposed amendments to the rule, which incorporated CACEO's recommended revision, was sent to interested parties on September 29, 2014 (Letter To Assessors 2014/047). No interested parties raised any further concerns regarding the third draft. Therefore, Board staff prepared Formal Issue Paper 14-010, which recommended that the Board propose the adoption of staff's third draft of the amendments to Property Tax Rule 308.6, and submitted it to the Board for consideration at its January 21, 2015, Property Tax Committee meeting.

During its January 21, 2015, Property Tax Committee meeting, the Board determined that staff's recommended amendments were reasonably necessary to have the effect and accomplish the objective of making Property Tax Rule 308.6 consistent with the provisions of RTC sections 1612.7 and 1622.6, as modified by AB 824, deleting the reference to RTC section 1636.5, which was repealed by SB 1494, and clarifying that RTC sections 1624.1 and 1624.2 are applicable to the removal of a special assessment appeals board member. Therefore, the Board unanimously voted to propose the adoption of the recommended amendments.

The Board anticipates that the proposed amendments to Property Tax Rule 308.6 will promote fairness, increase openness and transparency in government, and benefit members of assessment appeals boards and special alternate assessment appeals boards, assessment hearing officers, employees of the offices of the clerks of the boards of equalization and assessment appeals boards, the clerks themselves, employees of the county counsels, and the general public by providing more clarity as to the application of RTC sections 1612.7, 1622.6, 1624.1, and 1624.2.

The Board has performed an evaluation of whether the proposed amendments to Property Tax Rule 308.6 are inconsistent or incompatible with existing state regulations and determined that the proposed amendments are not inconsistent or incompatible with existing state regulations because there are no other Property Tax Rules that implement the RTC's conflict of interest provisions applicable to county property tax assessment appeals. In addition, the Board has determined that there are no comparable federal regulations or statutes to Property Tax Rule 308.6 or the proposed amendments to Property Tax Rule 308.6.

NO MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Property Tax Rule 308.6 will not impose a mandate on local agencies or school districts, including a mandate that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

NO COST OR SAVINGS TO ANY STATE AGENCY, LOCAL AGENCY, OR SCHOOL DISTRICT

The Board has determined that the adoption of the proposed amendments to Property Tax Rule 308.6 will result in no direct or indirect cost or savings to any state agency, cost to local agencies or school districts that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, other non-discretionary cost or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Board has made an initial determination that the adoption of the proposed amendments to Property Tax Rule 308.6 will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The adoption of the proposed amendments to Regulation 1533.2 may affect small business.

NO COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)

The Board has prepared the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1), and included it in the initial statement of reasons. The Board has determined that the adoption of the proposed amendments to Property Tax Rule 308.6 will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California. Furthermore, the Board has determined that the adoption of the proposed amendments to Property Tax Rule 308.6 will not affect the benefits of Property Tax Rule 308.6 to the health and welfare of California residents, worker safety, or the state's environment.

NO SIGNIFICANT EFFECT ON HOUSING COSTS

Adoption of the proposed amendments to Property Tax Rule 308.6 will not have a significant effect on housing costs.

DETERMINATION REGARDING ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Bradley M. Heller, Tax Counsel IV, by telephone at (916) 323-3091, by e-mail at Bradley.Heller@boe.ca.gov, or by mail at State Board of Equalization, Attn: Bradley M. Heller, MIC:82, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0082.

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AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an underline and strikeout version of the text of Property Tax Rule 308.6 illustrating the express terms of the proposed amendments and an initial statement of reasons for the adoption of the proposed amendments, which includes the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the proposed amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento,

California. The express terms of the proposed amendments and the initial statement of reasons are also available on the Board's website at www.boe.ca.gov.

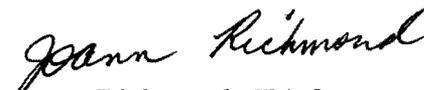
SUBSTANTIALLY RELATED CHANGES PURSUANT TO GOVERNMENT CODE SECTION 11346.8

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AVAILABILITY OF FINAL STATEMENT OF REASONS

If the Board adopts the proposed amendments to Property Tax Rule 308.6, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's website at www.boe.ca.gov.

Sincerely,


Joann Richmond, Chief
Board Proceedings Division

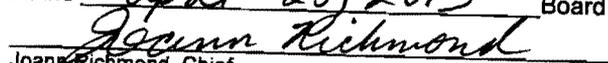
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STATE BOARD OF EQUALIZATION

BOARD APPROVED



At the April 28, 2015 Board Meeting


Joann Richmond, Chief
Board Proceedings Division

Initial Statement of Reasons for
Proposed Amendments to California Code of Regulations,
Title 18, Section 308.6, *Application for Equalization by Member,*
Alternate Member, or Hearing Officer

SPECIFIC PURPOSE, PROBLEM INTENDED TO BE ADDRESSED, NECESSITY,
AND ANTICIPATED BENEFIT

Current Law

The State Board of Equalization (Board) has a number of duties in regarding to the administration of California's property tax. Under Government Code section 15606, subdivision (c), the Board is given the power and duty to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. In compliance with this duty, the Board has adopted California Code of Regulations, title 18, sections (Property Tax Rules) 301 through 326 relative to the local equalization process, which is the process by which a county property tax assessment may be appealed to a local board of equalization or assessment appeals board by filing an application.

The Board adopted Property Tax Rule 308.6, *Application for Equalization by Member, Alternate Member, or Hearing Officer*, pursuant to Government Code section 15606, in order to implement, interpret, and make specific the Revenue and Taxation Code's conflict of interest provisions applicable to county property tax assessment appeals.

Prior to 2009, Revenue and Taxation Code (RTC) section 1612.7 required an application filed by an employee of the office of the clerk of an assessment appeals board in the county in which the individual is employed, on the employee's own behalf or with the intention to represent the employee's spouse, parent, or child in an assessment appeal, to be heard in accordance with RTC section 1622.6.

Prior to 2009, RTC section 1622.6 required an application filed by a member or alternate member of an assessment appeals board in the county in which the member serves, on the member's own behalf or with the intention to represent the member's spouse, parent, or child, to be heard by a special alternate assessment appeals board appointed by the superior court.

In addition, prior to its repeal (discussed below), RTC section 1636.5 required an application filed by an assessment hearing officer in the county in which the officer serves, on the officer's own behalf or with the intention to represent the officer's spouse, parent, or child, to be heard in accordance with RTC section 1622.6.

Assembly Bill No. 824 (Stats. 2009, ch. 477) (AB 824) repealed and reenacted RTC section 1612.7 and amended RTC section 1622.6 in order to:

- Add to and revise the statutory list of persons whose applications must be heard in accordance with the procedures in RTC section 1622.6 regarding hearings by special alternate assessment appeals boards appointed by the superior court;
- Grant clerks discretion to refer an application to an actively serving special alternate assessment appeals board in another California county in lieu of requesting that the superior court appoint a new special alternate assessment appeals board to hear the application in the clerk's county; and
- Specify the jurisdiction of special alternate assessment appeals boards to hear applications referred from other counties.

The August 19, 2009, Senate Floor Analysis of AB 824 explained that the California Association of Clerks and Election Officials (CACEO) sponsored the bill, and that the new procedures for clerks to refer an application to an actively serving special alternate assessment appeals board in another county are intended to "be voluntary for both [the referring and receiving] counties."

As a result of AB 824, RTC section 1612.7 currently requires applications filed by the following persons, in the counties in which they serve or are employed, on their own behalf or with the intention to represent their spouse, parent, or child, to be heard in accordance with RTC section 1622.6:

- A current member of an assessment appeals board or a current member of a special alternate assessment appeals board;
- A current assessment hearing officer;
- A current employee of the office of the clerk of the county board of equalization or assessment appeals board; and
- A current employee of the county counsel who advises the assessment appeals board or represents the assessor before the assessment appeals board.

As a result of AB 824, RTC section 1622.6 currently requires that such applications must be heard by a special alternate assessment appeals board either appointed by the superior court or consisting of three qualified special alternate assessment appeals board members in good standing in another California county.

Senate Bill No. 1494 (Stats. 2010, ch. 654) (SB 1494) subsequently repealed RTC section 1636.5 because similar provisions pertaining to hearing officers were added to RTC section 1612.7 by AB 824.

Property Tax Rule 308.6 reflects the conflict of interest provisions applicable to county property tax assessment appeals prior to the statutory changes made by AB 824 and SB 1494.

Furthermore, RTC section 1624.1 currently provides that “No person shall be qualified to be a member of an assessment appeals board who has, within the three years immediately preceding his or her appointment to that board, been an employee of an assessor’s office.” RTC section 1624.2 currently provides that “No member of an assessment appeals board shall knowingly participate in any assessment appeal proceeding wherein the member has an interest in either the subject matter of or a party to the proceeding of such nature that it could reasonably be expected to influence the impartiality of his judgment in the proceeding. Violation of this section shall be cause for removal under Section 1625 of this code.” RTC section 1625 provides that “Any member of an assessment appeals board may be removed for cause by the board of supervisors.” And, Property Tax Rule 308.6, subdivision (d), currently provides that “Sections 1624.1 and 1624.2 of the Revenue and Taxation Code shall be applicable to the appointment of a special assessment appeals board member.”

Specific Purpose, Problem Intended to be Addressed, Necessity, and Benefits of the Proposed Amendments

Board staff in the Property and Special Taxes Department, County-Assessed Properties Division, initiated a project to solve the problem of how to amend Property Tax Rule 308.6 to reflect the changes to RTC sections 1612.7 and 1622.6 made by AB 824, delete the reference in the rule to section 1636.5, which was repealed by SB 1494, and incorporate the provision regarding removal in the second sentence of RTC section 1624.2. Interested parties were provided with staff’s proposed draft language for the amendments to the rule on August 28, 2012 (Letter To Assessors 2012/036), and invited to participate in the rulemaking effort.

The Board received three written comments from interested parties in response to the draft amendments. The counties generally approved of the draft language. However, the draft amendments provided in Letter To Assessors 2012/036 suggested that an application “may only be referred to a county if there is an agreement for the referral between the two counties.” The Tulare County Counsel’s Office raised concerns that staff’s suggested language may be interpreted as requiring a formal contract signed by each county’s board of supervisors. Therefore, the Tulare County Counsel’s Office suggested replacing staff’s suggested language with the following: “Applications may only be referred to a county if that county’s assessment appeals board has consented to accept the referral.”

Staff agreed with the comment and incorporated the Tulare County Counsel’s Office’s proposed language into the second draft of staff’s proposed amendments to Property Tax Rule 308.6, which was provided to interested parties in Formal Issue Paper 13-001. In addition, staff determined that a violation of RTC section 1624.1 would provide cause for the removal of a special assessment appeals board member under RTC section 1625. Therefore, the second draft of staff’s proposed amendments to Property Tax Rule 308.6 provided that both RTC sections 1624.1 and 1624.2 are applicable to the “removal” of a special assessment appeals board member, rather than incorporating the provision regarding removal in the second sentence of RTC section 1624.2.

CACEO raised a concern regarding the revised language providing that “Applications may only be referred to a county if that county’s assessment appeals board has consented to accept the referral” in a letter dated March 6, 2013, from John McKibben, Chairman of CACEO’s BOE Rules Work Group. Mr. McKibben’s letter explained that CACEO’s intent in sponsoring AB 824 was to establish a procedure for referring applications under which “the only action or ‘agreement’ . . . was the ‘agreement’ between the two clerks involved.” His letter also recommended that staff’s proposed amendments be revised to read as follows: “Applications may only be referred to a county if that county’s clerk of the assessment appeals board has consented to accept the referral.”

Staff subsequently accepted CACEO’s recommended revision and a third draft of the proposed amendments to the rule, which incorporated CACEO’s recommended revision, was sent to interested parties on September 29, 2014 (Letter To Assessors 2014/047). No interested parties raised any further concerns regarding the third draft. Therefore, Board staff prepared Formal Issue Paper 14-010, which recommended that the Board propose the adoption of staff’s third draft of the amendments to Property Tax Rule 308.6, and submitted it to the Board for consideration at its January 21, 2015, Property Tax Committee meeting.

During its January 21, 2015, Property Tax Committee meeting, the Board determined that staff’s recommended amendments were reasonably necessary for the specific purpose of addressing the problem for which they are proposed, namely, making Property Tax Rule 308.6 consistent with the provisions of RTC sections 1612.7 and 1622.6, as modified by AB 824, deleting the reference to RTC section 1636.5, which was repealed by SB 1494, and clarifying that RTC sections 1624.1 and 1624.2 are applicable to the removal of a special assessment appeals board member. Therefore, the Board unanimously voted to propose the adoption of the recommended amendments.

The Board anticipates that the proposed amendments to Property Tax Rule 308.6 will promote fairness, increase openness and transparency in government, and benefit members of assessment appeals boards and special alternate assessment appeals boards, assessment hearing officers, employees of the offices of the clerks of the boards of equalization and assessment appeals boards, the clerks themselves, employees of the county counsels, and the general public by providing more clarity as to the application of RTC sections 1612.7, 1622.6, 1624.1, and 1624.2.

The proposed amendments to Property Tax Rule 308.6 were not mandated by federal law or regulations. There is no previously adopted or amended federal regulation that is identical to Property Tax Rule 308.6 or the proposed amendments to Property Tax Rule 308.6.

DOCUMENTS RELIED UPON

The Board relied upon Formal Issue Paper 14-010, the attachment to the issue paper, and the comments made during the Board’s discussion of the issue paper during its January

21, 2015, Property Tax Committee meeting in deciding to propose the amendments to Property Tax Rule 308.6 described above.

ALTERNATIVES CONSIDERED

The Board considered whether to begin the formal rulemaking process to adopt the proposed amendments to Property Tax Rule 308.6 at this time or, alternatively, whether to take no action at this time. The Board decided to begin the formal rulemaking process to adopt the proposed amendments at this time because the Board determined that the proposed amendments are reasonably necessary for the reasons set forth above.

The Board did not reject any reasonable alternative to the proposed amendments to Property Tax Rule 308.6 that would lessen any adverse impact the proposed action may have on small business or that would be less burdensome and equally effective in achieving the purposes of the proposed action. No reasonable alternative has been identified and brought to the Board's attention that would lessen any adverse impact the proposed action may have on small business, be more effective in carrying out the purposes for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

INFORMATION REQUIRED BY GOVERNMENT CODE SECTION 11346.2, SUBDIVISION (b)(5) AND ECONOMIC IMPACT ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)

The proposed amendments make Property Tax Rule 308.6 consistent with the repeal and reenactment of RTC 1612.7 and amendments made to RTC section 1622.6 by AB 824 and the repeal of RTC section 1636.5 by SB 1494. The proposed amendments to Property Tax Rule 308.6 clarify the conflict of interest provisions applicable to county property tax assessment appeals; specifically, with regards to appeals applications filed by: a current member of an assessment appeals board or alternate member; a current assessment hearing officer; a current employee of the office of the clerk of the board of equalization or assessment appeals board; and a current employee of the county counsel who advises the assessment appeals board or represents the county assessor before the assessment appeals board. The proposed amendments clarify the provisions for a clerk of the board to refer an assessment appeal application to a special alternate assessment appeals board in another county, and the clarification is consistent with both the Legislature's intent in enacting the provision and CACEO's intent in sponsoring the Legislature's enactment of the provision. In addition, the proposed amendments clarify that RTC sections 1624.1 and 1624.2 are applicable to the removal of a special assessment appeals board member.

As a result, the proposed amendments mainly clarify existing law and procedures regarding the use of special alternate assessment appeals boards in conflict of interest situations. The proposed amendments will not significantly change how appeals

applications are heard by special alternate assessment appeals boards or the clerks' discretion to refer appeals applications in the absence of the proposed amendments. And, the proposed amendments do not affect jobs or business in the state in any measurable way that is separate from whatever affect the repeal and reenactment of RTC 1612.7 and the amendments made to RTC section 1622.6 by AB 824 may have had on jobs or business. Therefore, the Board has determined that the proposed amendments to Property Tax Rule 308.6 are not a major regulation, as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000, because the Board has estimated that the proposed amendments will not have an economic impact on California business enterprises and individuals in an amount exceeding fifty million dollars (\$50,000,000) during any 12-month period.

Furthermore, based on these facts and all of the information in the rulemaking file, the Board has determined that the adoption of the proposed amendments to Property Tax Rule 308.6 will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

In addition, Property Tax Rule 308.6 does not regulate the health and welfare of California residents, worker safety, or the state's environment. Therefore, the Board has also determined that the adoption of the proposed amendments to Property Tax Rule 308.6 will not affect the benefit of Property Tax Rule 308.6 to the health and welfare of California residents, worker safety, or the state's environment.

The forgoing information also provides the factual basis for the Board's initial determination that the adoption of the proposed amendments to Property Tax Rule 308.6 will not have a significant adverse economic impact on business.

The proposed amendments may affect small businesses.

**Text of Proposed Amendments to
California Code of Regulations, Title 18, Section 308.6**

308.6. Applications for Equalization Required to Be Heard by Alternate Assessment Appeals Boards, by Member, Alternate Member, or Hearing Officer.

(a) Applications Required to Be Heard by Alternate Assessment Appeals Boards.

(1) The following ~~An~~ applications for equalization filed pursuant to sections 1603 or 1605 of the Revenue and Taxation Code ~~by a member or alternate member of an assessment appeals board or an appointed hearing officer~~ shall be heard ~~by a~~ before an assessment appeals board panel consisting of three special alternate assessment appeals board ~~members~~ consisting of three persons appointed by order of the presiding judge of the superior court in the county in which the applications ~~are~~ is filed;:-

(A) An application filed by a person listed in paragraph (2) of this subdivision in a county in which the person serves or is employed; and

(B) An application in which a person listed in paragraph (2) of this subdivision represents his or her spouse, registered domestic partner, parent, or child that is filed or pending in a county in which the person specified in paragraph (2) of this subdivision serves or is employed.

(2) This paragraph includes:

(A) A current member of an assessment appeals board or any alternate member;

(B) A current assessment hearing officer;

(C) A current employee of the office of the clerk of the board of equalization or assessment appeals board; and

(D) A current employee of the county counsel who advises the assessment appeals board or represents the county assessor before the assessment appeals board.

(b) Referral to An Alternate Assessment Appeals Board in Another County. The clerk of the board has discretion to refer an application for hearing to a special alternate assessment appeals board, convened to hear the application, consisting of three members who are qualified and in good standing in another California county, in lieu of having the superior court appoint a special alternate assessment appeals board to hear the application. Applications may only be referred to a county if that county's clerk of the assessment appeals board has consented to accept the referral.

(c) Subject Matter.

(1) A special alternate assessment appeals board member may hear only the application or applications for equalization set forth in the superior court order appointing such member.

(2) If the clerk of the board refers an application or applications to an actively serving assessment appeals board in another county pursuant to subdivision (b), the board may hear only the application or applications set forth in the transmittal document prepared by the clerk of the board of the county in which the application or applications were filed.

(de) Qualifications for Appointment. Any person shall be eligible for appointment as a special alternate assessment appeals board member who meets the qualifications set forth in section 1624 of the Revenue and Taxation Code.

(ed) Restrictions on Appointment and Grounds for Removal. Sections 1624.1 and 1624.2 of the Revenue and Taxation Code shall be applicable to the appointment and removal of a special assessment appeals board member.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 1612.7 and 1622.6 ~~and 1636.5~~, Revenue and Taxation Code.

Regulation History

Type of Regulation: Property Tax Rule

Rule: 308.6

Title: Application for Equalization by Member, Alternate Member, or Hearing Officer.

Preparation: Glenna Schultz

Legal Contact: Bradley Heller

Proposed amendments clarify the current conflict of interest provisions applicable to county property tax assessment appeals.

History of Proposed Rule:

April 28-30, 2015	Public Hearing
March 13, 2015	OAL publication date; 45-day public comment period begins; Interested Parties mailing
March 2, 2015	Notice to OAL
January 21, 2015	Property Tax Committee, Board Authorized Publication (Vote 4-0)

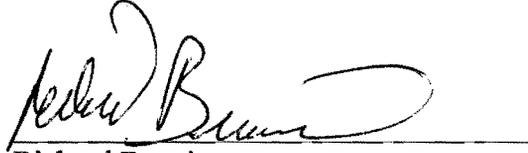
Support: NA

Oppose: NA

Statement of Compliance

The State Board of Equalization, in process of adopting Property Tax Rule 308.6, *Application for Equalization by Member, Alternate Member, or Hearing Officer*, did comply with the provision of Government Code section 11346.4(a)(1) through (4). A notice to interested parties was mailed on March 13, 2015, 46 days prior to the public hearing.

April 22, 2015

A handwritten signature in cursive script, appearing to read "Richard Bennion", written over a horizontal line.

Richard Bennion
Regulations Coordinator
State Board of Equalization

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PRESIDENT
Orange County

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**CALIFORNIA ASSOCIATION OF
CLERKS AND ELECTION OFFICIALS**

NEAL KELLEY, PRESIDENT

Orange County Registrar of Voters
1300-C South Grand Ave., Santa Ana, CA 92705
P.O. Box 11298, Santa Ana, CA 92711-1298
714-567-7600 * Fax 714-567-7627
E-Mail: neal.kelley@rov.ocgov.com
CACEO website: www.caceo58.org

April 7, 2015

Mr. Rick Bennion
Regulations Coordinator
State Board of Equalization
MIC: 80
P.O. Box 942879
Sacramento, CA 94279-0080

Via e-Mail to rbennion@boe.ca.gov

Dear Mr. Bennion:

**Property Tax Rule 308.6 – Application for Equalization by Member,
Alternate Member or Hearing Officer
SUPPORT**

The Clerk of the Board of Supervisors members of the California Association of Clerks and Election Officials (CACEO), strongly support your staff's proposed amendment to Rule 308.6, which will be before your Board at its April 28-30, 2015 meeting. We greatly appreciate the fine work done by your staff in drafting the proposed Rule and in working with stakeholders, including our organization. We urge your Board members to adopt the proposed amendments to the Rule, as drafted.

The proposed amended Rule accurately reflects changes to Revenue and Taxation Code Section 1622.6, as amended by AB 824 (Chapter 477 of the Statutes of 2009). It is entirely consistent with the intent of the members of our Association when we sponsored the bill.

The option for clerks to use sitting assessment appeals board members of another county in lieu of a new board appointed by the presiding judge of the county serves the best interests of all stakeholders in the process by expeditiously hearing and deciding qualified appeals, while protecting the integrity and transparency of the assessment appeals process. I want to stress that exercise of the option is purely voluntary on the part of not only the referring county, but perhaps more importantly, on the part of the receiving county, as well.

Since the bill's effective date, several counties successfully have availed themselves of this option. This method has been proven to be quick, effective, efficient, and has resulted in sound decisions made by experienced board members.

We respectfully request that you adopt Rule 308.6, as drafted.

Sincerely,

John McKibben, Chair
Board of Equalization Rules Work Group
California Association of Clerks and Election Officials



JEFFREY PRANG
Assessor

**OFFICE OF THE ASSESSOR
COUNTY OF LOS ANGELES**

500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2770
assessor.lacounty.gov
1(888) 807-2111



*Valuing People
and Property*

April 28, 2015

Mr. Rick Bennion, Regulations Coordinator
California State Board of Equalization
P.O. Box 942879
Sacramento, California 94279-0080

Dear Mr. Bennion:

**LETTER TO ASSESSOR (LTA) 2015/016
PROPOSAL TO ADOPT AMENDMENTS TO CALIFORNIA CODE OF
REGULATIONS, TITLE 18, SECTION 308.6, APPLICATION FOR EQUALIZATION BY
MEMBER, ALTERNATE MEMBER, OR HEARING OFFICER**

As requested, our office has reviewed the proposed amendments to the California Code of Regulations, Title 18, Section 308.6, *Application for Equalization by Member, Alternate member, or Hearing Officer*. We appreciate the opportunity to review and provide input.

The Los Angeles County Office of the Assessor approves the proposed amendments as written and does not have any recommendations at this time.

Should you have any questions, please feel free to contact Matthew Herrera at 213.974.1594 or at MHerrera@assessor.lacounty.gov.

Sincerely,

Dale Hough
Chief Appraiser
Assessment Services Division

DH: CA

c: Sharon Moller, Assistant Assessor
File - Appraisal Standards Section

BEFORE THE CALIFORNIA STATE BOARD OF EQUALIZATION

450 N STREET

SACRAMENTO, CALIFORNIA

REPORTER'S TRANSCRIPT

APRIL 28, 2015

F PUBLIC HEARING

F3 PROPOSED ADOPTION TO PROPERTY TAX RULE 308.6,
APPLICATION FOR EQUALIZATION BY MEMBER, ALTERNATE
MEMBER, OR HEARING OFFICER

REPORTED BY: Kathleen Skidgel

CSR NO. 9039

P R E S E N T

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For the Board
of Equalization:

Jerome E. Horton
Chairman

Sen. George Runner (Ret.)
Vice Chairman

Fiona Ma, CPA
Member

Diane L. Harkey
Member

Yvette Stowers
Appearing for Betty T.
Yee, State Controller
(per Government Code
Section 7.9)

Joann Richmond
Chief
Board Proceedings
Division

For Staff:

Bradley Heller
Tax Counsel IV
Legal Department

---oOo---

1 450 N STREET
2 SACRAMENTO, CALIFORNIA
3 APRIL 28, 2015

4 ---oOo---

5 MR. HORTON: Ms. Richmond.

6 MS. RICHMOND: Our next public hearing is
7 Item F3, Proposed Amendments to Property Tax Rule
8 308.6, Application for Equalization by Member,
9 Alternate Member, or Hearing Officer.

10 MR. HORTON: Welcome to the Board, Mr.
11 Heller. Please begin your presentation.

12 MR. HELLER: Thank you very much.

13 Again, I'm Bradley Heller from the Legal
14 Department. I'm here to request that the Board vote
15 to adopt the Proposed Amendments to Property Tax
16 Rule 308.6, Application for Equalization by Member,
17 Alternate Member, or Hearing Officer.

18 The proposed amendments clarify the current
19 conflict of interest provisions applicable to county
20 property tax assessment appeals and establish the
21 procedures for a clerk of the local assessment
22 appeals board to refer an assessment appeal
23 application to an alternate assessment appeal board
24 in another county.

25 And the Board has received letters
26 supporting the adoption of the proposed amendments
27 from John McKibben, the Chair of the California
28 Association of Clerks and Election Officials Board

1 of Equalization Rules Work Group; and Dale Hough,
2 Chief Appraiser for the Assessment Services Division
3 of the Los Angeles County Assessors Office.

4 MR. HORTON: Discussion, Members?

5 MR. RUNNER: Move adoption.

6 MR. Horton: Member Runner moves adoption
7 of staff --

8 MS. STOWERS: Second.

9 MR. HORTON: -- recommendation. Second by
10 Member Stowers.

11 Without objection, Members, such will be
12 the order.

13 Thank you, Mr. Heller.

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REPORTER'S CERTIFICATE

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State of California)
) ss
County of Sacramento)

I, KATHLEEN SKIDGEL, Hearing Reporter for the California State Board of Equalization certify that on April 28, 2015 I recorded verbatim, in shorthand, to the best of my ability, the proceedings in the above-entitled hearing; that I transcribed the shorthand writing into typewriting; and that the preceding pages 1 through 4 constitute a complete and accurate transcription of the shorthand writing.

Dated: May 4, 2015

Kathleen Skidgel

KATHLEEN SKIDGEL
Hearing Reporter



2015 MINUTES OF THE STATE BOARD OF EQUALIZATION

Tuesday April 28, 2015

F2 Proposed Adoption of Amendments to Regulation 1591, *Medicines and Medical Devices*

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding the proposed amendments clarifying the meaning of “approved by the United States Food and Drug Administration” and to include medical devices implanted in the human body to mark the location of a medical condition, such as breast tissue markers, in the definition of medicines (Exhibit 4.2).

Speakers were invited to address the Board, but there were none.

Action: Upon motion of Mr. Runner, seconded by Ms. Harkey and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board adopted the amendments to Regulation 1591, *Medicines and Medical Devices* as published.

F3 Proposed Amendments to Property Tax Rule 308.6, *Application for Equalization by Member, Alternate Member, or Hearing Officer*

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding the proposed amendments to clarify the current conflict of interest provisions applicable to county property tax assessment appeals (Exhibit 4.3).

Speakers were invited to address the Board, but there were none.

Action: Upon motion of Mr. Runner, seconded by Ms. Stowers and unanimously carried, Mr. Horton, Mr. Runner, Ms. Ma, Ms. Harkey and Ms. Stowers voting yes, the Board adopted the amendments to Property Tax Rule 308.6, *Application for Equalization by Member, Alternate Member, or Hearing Officer* as published.

[B] CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

B3 Todd Bentley and Kate Bentley, 593582

2004, \$132,041.00 Assessment

2005, \$206,508.00 Assessment

For Appellants:

Todd Bentley, Taxpayer

For Franchise Tax Board:

Natasha Page, Tax Counsel

Fred Campbell-Craven, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Appellant's Exhibit: Net Revenue of Amazon.com from 2004 to 2014 (Exhibit 4.4)

Issue: Whether appellants have shown that respondent Franchise Tax Board erroneously assessed additional tax based on the sourcing to California of income arising from appellant-husband's settlement of a lawsuit with his former employer.



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-80
916-445-2130 • FAX 916-324-3984
www.boe.ca.gov

SEN. GEORGE RUNNER (RET.)
First District, Lancaster

FIONA MA, CPA
Second District, San Francisco

JEROME E. HORTON
Third District, Los Angeles County

DIANE L. HARKEY
Fourth District, Orange County

BETTY T. YEE
State Controller

CYNTHIA BRIDGES
Executive Director

March 13, 2015

To Interested Parties:

**The State Board of Equalization Proposes to Adopt Amendments
to California Code of Regulations, Title 18, Section 308.6,
*Application for Equalization by Member, Alternate Member,
or Hearing Officer***

NOTICE IS HEREBY GIVEN that the State Board of Equalization (Board), pursuant to the authority vested in it by Government Code section 15606, proposes to adopt amendments to California Code of Regulations, title 18, section (Property Tax Rule) 308.6, *Application for Equalization by Member, Alternate Member, or Hearing Officer*. The proposed amendments to Property Tax Rule 308.6 implement, interpret, and make specific Revenue and Taxation Code (RTC) sections 1612.7 and 1622.6, by clarifying the current conflict of interest provisions applicable to county property tax assessment appeals, including specifying the individuals whose applications must be heard by an alternate assessment appeals board, and by establishing the procedures for a clerk of the local assessment appeals board to refer an assessment appeal application to an alternate assessment appeals board in another county. The proposed amendments also delete a reference to repealed RTC section 1636.5, and clarify that RTC sections 1624.1 and 1624.2 are applicable to the removal of a special assessment appeals board member.

PUBLIC HEARING

The Board will conduct a meeting in Room 121 at 450 N Street, Sacramento, California on April 28-30, 2015. The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board's Website at www.boe.ca.gov at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 9:30 a.m. or as soon thereafter as the matter may be heard on April 28, 29, or 30, 2015. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the proposed amendments to Property Tax Rule 308.6.

AUTHORITY

Government Code section 15606

REFERENCE

RTC sections 1612.7 and 1622.6

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current Law

The Board has a number of duties in regard to the administration of California's property tax. Under Government Code section 15606, subdivision (c), the Board is given the power and duty to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. In compliance with this duty, the Board has adopted Property Tax Rules 301 through 326 relative to the local equalization process, which is the process by which a county property tax assessment may be appealed to a local board of equalization or assessment appeals board by filing an application.

The Board adopted Property Tax Rule 308.6, pursuant to Government Code section 15606, in order to implement, interpret, and make specific the Revenue and Taxation Code's conflict of interest provisions applicable to county property tax assessment appeals.

Prior to 2009, RTC section 1612.7 required an application filed by an employee of the office of the clerk of an assessment appeals board in the county in which the individual is employed, on the employee's own behalf or with the intention to represent the employee's spouse, parent, or child in an assessment appeal, to be heard in accordance with RTC section 1622.6.

Prior to 2009, RTC section 1622.6 required an application filed by a member or alternate member of an assessment appeals board in the county in which the member serves, on the member's own behalf or with the intention to represent the member's spouse, parent, or child, to be heard by a special alternate assessment appeals board appointed by the superior court.

In addition, prior to its repeal (discussed below), RTC section 1636.5 required an application filed by an assessment hearing officer in the county in which the officer serves, on the officer's own behalf or with the intention to represent the officer's spouse, parent, or child, to be heard in accordance with RTC section 1622.6.

Assembly Bill No. 824 (Stats. 2009, ch. 477) (AB 824) repealed and reenacted RTC section 1612.7 and amended RTC section 1622.6 in order to:

- Add to and revise the statutory list of persons whose applications must be heard in accordance with the procedures in RTC section 1622.6 regarding hearings by special alternate assessment appeals boards appointed by the superior court;
- Grant clerks discretion to refer an application to an actively serving special alternate assessment appeals board in another California county in lieu of requesting that the superior court appoint a new special alternate assessment appeals board to hear the application in the clerk's county; and
- Specify the jurisdiction of special alternate assessment appeals boards to hear applications referred from other counties.

The August 19, 2009, Senate Floor Analysis of AB 824 explained that the California Association of Clerks and Election Officials (CACEO) sponsored the bill, and that the new procedures for clerks to refer an application to an actively serving special alternate assessment appeals board in another county are intended to "be voluntary for both [the referring and receiving] counties."

As a result of AB 824, RTC section 1612.7 currently requires applications filed by the following persons, in the counties in which they serve or are employed, on their own behalf or with the intention to represent their spouse, parent, or child, to be heard in accordance with RTC section 1622.6:

- A current member of an assessment appeals board or a current member of a special alternate assessment appeals board;
- A current assessment hearing officer;
- A current employee of the office of the clerk of the county board of equalization or assessment appeals board; and
- A current employee of the county counsel who advises the assessment appeals board or represents the assessor before the assessment appeals board.

As a result of AB 824, RTC section 1622.6 currently requires that such applications must be heard by a special alternate assessment appeals board either appointed by the superior court or consisting of three qualified special alternate assessment appeals board members in good standing in another California county.

Senate Bill No. 1494 (Stats. 2010, ch. 654) (SB 1494) subsequently repealed RTC section 1636.5 because similar provisions pertaining to hearing officers were added to RTC section 1612.7 by AB 824.

Property Tax Rule 308.6 reflects the conflict of interest provisions applicable to county property tax assessment appeals prior to the statutory changes made by AB 824 and SB 1494.

Furthermore, RTC section 1624.1 currently provides that "No person shall be qualified to be a member of an assessment appeals board who has, within the three years immediately preceding his or her appointment to that board, been an employee of an assessor's office." RTC section 1624.2 currently provides that "No member of an assessment appeals board shall knowingly

participate in any assessment appeal proceeding wherein the member has an interest in either the subject matter of or a party to the proceeding of such nature that it could reasonably be expected to influence the impartiality of his judgment in the proceeding. Violation of this section shall be cause for removal under Section 1625 of this code.” RTC section 1625 provides that “Any member of an assessment appeals board may be removed for cause by the board of supervisors.” And, Property Tax Rule 308.6, subdivision (d), currently provides that “Sections 1624.1 and 1624.2 of the Revenue and Taxation Code shall be applicable to the appointment of a special assessment appeals board member.”

Effect, Objective, and Benefits of the Proposed Amendments

Board staff in the Property and Special Taxes Department, County-Assessed Properties Division, initiated a project to amend Property Tax Rule 308.6 to reflect the changes to RTC sections 1612.7 and 1622.6 made by AB 824, delete the reference in the rule to section 1636.5, which was repealed by SB 1494, and incorporate the provision regarding removal in the second sentence of RTC section 1624.2. Interested parties were provided with staff’s proposed draft language for the amendments to the rule on August 28, 2012 (Letter To Assessors 2012/036), and invited to participate in the rulemaking effort.

The draft amendments provided in Letter To Assessors 2012/036 suggested that an application “may only be referred to a county if there is an agreement for the referral between the two counties.” The Tulare County Counsel’s Office raised concerns that staff’s suggested language may be interpreted as requiring a formal contract signed by each county’s board of supervisors. Therefore, the Tulare County Counsel’s Office suggested replacing staff’s suggested language with the following: “Applications may only be referred to a county if that county’s assessment appeals board has consented to accept the referral.”

Staff agreed with the comment and incorporated the Tulare County Counsel’s Office’s proposed language into the second draft of staff’s proposed amendments to Property Tax Rule 308.6, which was provided to interested parties in Formal Issue Paper 13-001. In addition, staff determined that a violation of RTC section 1624.1 would provide cause for the removal of a special assessment appeals board member under RTC section 1625. Therefore, the second draft of staff’s proposed amendments to Property Tax Rule 308.6 provided that both RTC sections 1624.1 and 1624.2 are applicable to the “removal” of a special assessment appeals board member, rather than incorporating the provision regarding removal in the second sentence of RTC section 1624.2.

CACEO raised a concern regarding the revised language providing that “Applications may only be referred to a county if that county’s assessment appeals board has consented to accept the referral” in a letter dated March 6, 2013. The letter explained that CACEO’s intent in sponsoring AB 824 was to establish a procedure for referring applications under which “the only action or ‘agreement’ . . . was the ‘agreement’ between the two clerks involved” and recommended that staff’s proposed amendments be revised to read as follows: “Applications may only be referred

to a county if that county's clerk of the assessment appeals board has consented to accept the referral."

Staff subsequently accepted CACEO's recommended revision and a third draft of the proposed amendments to the rule, which incorporated CACEO's recommended revision, was sent to interested parties on September 29, 2014 (Letter To Assessors 2014/047). No interested parties raised any further concerns regarding the third draft. Therefore, Board staff prepared Formal Issue Paper 14-010, which recommended that the Board propose the adoption of staff's third draft of the amendments to Property Tax Rule 308.6, and submitted it to the Board for consideration at its January 21, 2015, Property Tax Committee meeting.

During its January 21, 2015, Property Tax Committee meeting, the Board determined that staff's recommended amendments were reasonably necessary to have the effect and accomplish the objective of making Property Tax Rule 308.6 consistent with the provisions of RTC sections 1612.7 and 1622.6, as modified by AB 824, deleting the reference to RTC section 1636.5, which was repealed by SB 1494, and clarifying that RTC sections 1624.1 and 1624.2 are applicable to the removal of a special assessment appeals board member. Therefore, the Board unanimously voted to propose the adoption of the recommended amendments.

The Board anticipates that the proposed amendments to Property Tax Rule 308.6 will promote fairness, increase openness and transparency in government, and benefit members of assessment appeals boards and special alternate assessment appeals boards, assessment hearing officers, employees of the offices of the clerks of the boards of equalization and assessment appeals boards, the clerks themselves, employees of the county counsels, and the general public by providing more clarity as to the application of RTC sections 1612.7, 1622.6, 1624.1, and 1624.2.

The Board has performed an evaluation of whether the proposed amendments to Property Tax Rule 308.6 are inconsistent or incompatible with existing state regulations and determined that the proposed amendments are not inconsistent or incompatible with existing state regulations because there are no other Property Tax Rules that implement the RTC's conflict of interest provisions applicable to county property tax assessment appeals. In addition, the Board has determined that there are no comparable federal regulations or statutes to Property Tax Rule 308.6 or the proposed amendments to Property Tax Rule 308.6.

NO MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Property Tax Rule 308.6 will not impose a mandate on local agencies or school districts, including a mandate that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

NO COST OR SAVINGS TO ANY STATE AGENCY, LOCAL AGENCY, OR SCHOOL DISTRICT

The Board has determined that the adoption of the proposed amendments to Property Tax Rule 308.6 will result in no direct or indirect cost or savings to any state agency, cost to local agencies or school districts that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, other non-discretionary cost or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Board has made an initial determination that the adoption of the proposed amendments to Property Tax Rule 308.6 will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The adoption of the proposed amendments to Regulation 1533.2 may affect small business.

NO COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)

The Board has prepared the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1), and included it in the initial statement of reasons. The Board has determined that the adoption of the proposed amendments to Property Tax Rule 308.6 will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California. Furthermore, the Board has determined that the adoption of the proposed amendments to Property Tax Rule 308.6 will not affect the benefits of Property Tax Rule 308.6 to the health and welfare of California residents, worker safety, or the state's environment.

NO SIGNIFICANT EFFECT ON HOUSING COSTS

Adoption of the proposed amendments to Property Tax Rule 308.6 will not have a significant effect on housing costs.

DETERMINATION REGARDING ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Bradley M. Heller, Tax Counsel IV, by telephone at (916) 323-3091, by e-mail at Bradley.Heller@boe.ca.gov, or by mail at State Board of Equalization, Attn: Bradley M. Heller, MIC:82, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Rick Bennion, Regulations Coordinator, by telephone at (916) 445-2130, by fax at (916) 324-3984, by e-mail at Richard.Bennion@boe.ca.gov, or by mail at State Board of Equalization, Attn: Rick Bennion, MIC:80, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0080.

WRITTEN COMMENT PERIOD

The written comment period ends at 9:30 a.m. on April 28, 2015, or as soon thereafter as the Board begins the public hearing regarding the proposed amendments to Property Tax Rule 308.6 during the April 28-30, 2015, Board meeting. Written comments received by Mr. Rick Bennion at the postal address, email address, or fax number provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the proposed amendments to Property Tax Rule 308.6. The Board will only consider written comments received by that time.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an underline and strikeout version of the text of Property Tax Rule 308.6 illustrating the express terms of the proposed amendments and an initial statement of reasons for the adoption of the proposed amendments, which includes the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the proposed amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento,

California. The express terms of the proposed amendments and the initial statement of reasons are also available on the Board's website at www.boe.ca.gov.

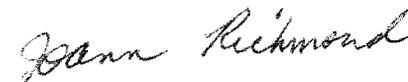
SUBSTANTIALLY RELATED CHANGES PURSUANT TO GOVERNMENT CODE SECTION 11346.8

The Board may adopt the proposed amendments to Property Tax Rule 308.6 with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the proposed amendments, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting amendments will be mailed to those interested parties who commented on the original proposed amendments orally or in writing or who asked to be informed of such changes. The text of the resulting amendments will also be available to the public from Mr. Bennion. The Board will consider written comments on the resulting amendments that are received prior to adoption.

AVAILABILITY OF FINAL STATEMENT OF REASONS

If the Board adopts the proposed amendments to Property Tax Rule 308.6, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's website at www.boe.ca.gov.

Sincerely,


Joann Richmond, Chief
Board Proceedings Division

JR:reb

Initial Statement of Reasons for
Proposed Amendments to California Code of Regulations,
Title 18, Section 308.6, *Application for Equalization by Member,*
Alternate Member, or Hearing Officer

SPECIFIC PURPOSE, PROBLEM INTENDED TO BE ADDRESSED, NECESSITY,
AND ANTICIPATED BENEFIT

Current Law

The State Board of Equalization (Board) has a number of duties in regarding to the administration of California's property tax. Under Government Code section 15606, subdivision (c), the Board is given the power and duty to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. In compliance with this duty, the Board has adopted California Code of Regulations, title 18, sections (Property Tax Rules) 301 through 326 relative to the local equalization process, which is the process by which a county property tax assessment may be appealed to a local board of equalization or assessment appeals board by filing an application.

The Board adopted Property Tax Rule 308.6, *Application for Equalization by Member, Alternate Member, or Hearing Officer*, pursuant to Government Code section 15606, in order to implement, interpret, and make specific the Revenue and Taxation Code's conflict of interest provisions applicable to county property tax assessment appeals.

Prior to 2009, Revenue and Taxation Code (RTC) section 1612.7 required an application filed by an employee of the office of the clerk of an assessment appeals board in the county in which the individual is employed, on the employee's own behalf or with the intention to represent the employee's spouse, parent, or child in an assessment appeal, to be heard in accordance with RTC section 1622.6.

Prior to 2009, RTC section 1622.6 required an application filed by a member or alternate member of an assessment appeals board in the county in which the member serves, on the member's own behalf or with the intention to represent the member's spouse, parent, or child, to be heard by a special alternate assessment appeals board appointed by the superior court.

In addition, prior to its repeal (discussed below), RTC section 1636.5 required an application filed by an assessment hearing officer in the county in which the officer serves, on the officer's own behalf or with the intention to represent the officer's spouse, parent, or child, to be heard in accordance with RTC section 1622.6.

Assembly Bill No. 824 (Stats. 2009, ch. 477) (AB 824) repealed and reenacted RTC section 1612.7 and amended RTC section 1622.6 in order to:

- Add to and revise the statutory list of persons whose applications must be heard in accordance with the procedures in RTC section 1622.6 regarding hearings by special alternate assessment appeals boards appointed by the superior court;
- Grant clerks discretion to refer an application to an actively serving special alternate assessment appeals board in another California county in lieu of requesting that the superior court appoint a new special alternate assessment appeals board to hear the application in the clerk's county; and
- Specify the jurisdiction of special alternate assessment appeals boards to hear applications referred from other counties.

The August 19, 2009, Senate Floor Analysis of AB 824 explained that the California Association of Clerks and Election Officials (CACEO) sponsored the bill, and that the new procedures for clerks to refer an application to an actively serving special alternate assessment appeals board in another county are intended to "be voluntary for both [the referring and receiving] counties."

As a result of AB 824, RTC section 1612.7 currently requires applications filed by the following persons, in the counties in which they serve or are employed, on their own behalf or with the intention to represent their spouse, parent, or child, to be heard in accordance with RTC section 1622.6:

- A current member of an assessment appeals board or a current member of a special alternate assessment appeals board;
- A current assessment hearing officer;
- A current employee of the office of the clerk of the county board of equalization or assessment appeals board; and
- A current employee of the county counsel who advises the assessment appeals board or represents the assessor before the assessment appeals board.

As a result of AB 824, RTC section 1622.6 currently requires that such applications must be heard by a special alternate assessment appeals board either appointed by the superior court or consisting of three qualified special alternate assessment appeals board members in good standing in another California county.

Senate Bill No. 1494 (Stats. 2010, ch. 654) (SB 1494) subsequently repealed RTC section 1636.5 because similar provisions pertaining to hearing officers were added to RTC section 1612.7 by AB 824.

Property Tax Rule 308.6 reflects the conflict of interest provisions applicable to county property tax assessment appeals prior to the statutory changes made by AB 824 and SB 1494.

Furthermore, RTC section 1624.1 currently provides that “No person shall be qualified to be a member of an assessment appeals board who has, within the three years immediately preceding his or her appointment to that board, been an employee of an assessor’s office.” RTC section 1624.2 currently provides that “No member of an assessment appeals board shall knowingly participate in any assessment appeal proceeding wherein the member has an interest in either the subject matter of or a party to the proceeding of such nature that it could reasonably be expected to influence the impartiality of his judgment in the proceeding. Violation of this section shall be cause for removal under Section 1625 of this code.” RTC section 1625 provides that “Any member of an assessment appeals board may be removed for cause by the board of supervisors.” And, Property Tax Rule 308.6, subdivision (d), currently provides that “Sections 1624.1 and 1624.2 of the Revenue and Taxation Code shall be applicable to the appointment of a special assessment appeals board member.”

Specific Purpose, Problem Intended to be Addressed, Necessity, and Benefits of the Proposed Amendments

Board staff in the Property and Special Taxes Department, County-Assessed Properties Division, initiated a project to solve the problem of how to amend Property Tax Rule 308.6 to reflect the changes to RTC sections 1612.7 and 1622.6 made by AB 824, delete the reference in the rule to section 1636.5, which was repealed by SB 1494, and incorporate the provision regarding removal in the second sentence of RTC section 1624.2. Interested parties were provided with staff’s proposed draft language for the amendments to the rule on August 28, 2012 (Letter To Assessors 2012/036), and invited to participate in the rulemaking effort.

The Board received three written comments from interested parties in response to the draft amendments. The counties generally approved of the draft language. However, the draft amendments provided in Letter To Assessors 2012/036 suggested that an application “may only be referred to a county if there is an agreement for the referral between the two counties.” The Tulare County Counsel’s Office raised concerns that staff’s suggested language may be interpreted as requiring a formal contract signed by each county’s board of supervisors. Therefore, the Tulare County Counsel’s Office suggested replacing staff’s suggested language with the following: “Applications may only be referred to a county if that county’s assessment appeals board has consented to accept the referral.”

Staff agreed with the comment and incorporated the Tulare County Counsel’s Office’s proposed language into the second draft of staff’s proposed amendments to Property Tax Rule 308.6, which was provided to interested parties in Formal Issue Paper 13-001. In addition, staff determined that a violation of RTC section 1624.1 would provide cause for the removal of a special assessment appeals board member under RTC section 1625. Therefore, the second draft of staff’s proposed amendments to Property Tax Rule 308.6 provided that both RTC sections 1624.1 and 1624.2 are applicable to the “removal” of a special assessment appeals board member, rather than incorporating the provision regarding removal in the second sentence of RTC section 1624.2.

CACEO raised a concern regarding the revised language providing that “Applications may only be referred to a county if that county’s assessment appeals board has consented to accept the referral” in a letter dated March 6, 2013, from John McKibben, Chairman of CACEO’s BOE Rules Work Group. Mr. McKibben’s letter explained that CACEO’s intent in sponsoring AB 824 was to establish a procedure for referring applications under which “the only action or ‘agreement’ . . . was the ‘agreement’ between the two clerks involved.” His letter also recommended that staff’s proposed amendments be revised to read as follows: “Applications may only be referred to a county if that county’s clerk of the assessment appeals board has consented to accept the referral.”

Staff subsequently accepted CACEO’s recommended revision and a third draft of the proposed amendments to the rule, which incorporated CACEO’s recommended revision, was sent to interested parties on September 29, 2014 (Letter To Assessors 2014/047). No interested parties raised any further concerns regarding the third draft. Therefore, Board staff prepared Formal Issue Paper 14-010, which recommended that the Board propose the adoption of staff’s third draft of the amendments to Property Tax Rule 308.6, and submitted it to the Board for consideration at its January 21, 2015, Property Tax Committee meeting.

During its January 21, 2015, Property Tax Committee meeting, the Board determined that staff’s recommended amendments were reasonably necessary for the specific purpose of addressing the problem for which they are proposed, namely, making Property Tax Rule 308.6 consistent with the provisions of RTC sections 1612.7 and 1622.6, as modified by AB 824, deleting the reference to RTC section 1636.5, which was repealed by SB 1494, and clarifying that RTC sections 1624.1 and 1624.2 are applicable to the removal of a special assessment appeals board member. Therefore, the Board unanimously voted to propose the adoption of the recommended amendments.

The Board anticipates that the proposed amendments to Property Tax Rule 308.6 will promote fairness, increase openness and transparency in government, and benefit members of assessment appeals boards and special alternate assessment appeals boards, assessment hearing officers, employees of the offices of the clerks of the boards of equalization and assessment appeals boards, the clerks themselves, employees of the county counsels, and the general public by providing more clarity as to the application of RTC sections 1612.7, 1622.6, 1624.1, and 1624.2.

The proposed amendments to Property Tax Rule 308.6 were not mandated by federal law or regulations. There is no previously adopted or amended federal regulation that is identical to Property Tax Rule 308.6 or the proposed amendments to Property Tax Rule 308.6.

DOCUMENTS RELIED UPON

The Board relied upon Formal Issue Paper 14-010, the attachment to the issue paper, and the comments made during the Board’s discussion of the issue paper during its January

21, 2015, Property Tax Committee meeting in deciding to propose the amendments to Property Tax Rule 308.6 described above.

ALTERNATIVES CONSIDERED

The Board considered whether to begin the formal rulemaking process to adopt the proposed amendments to Property Tax Rule 308.6 at this time or, alternatively, whether to take no action at this time. The Board decided to begin the formal rulemaking process to adopt the proposed amendments at this time because the Board determined that the proposed amendments are reasonably necessary for the reasons set forth above.

The Board did not reject any reasonable alternative to the proposed amendments to Property Tax Rule 308.6 that would lessen any adverse impact the proposed action may have on small business or that would be less burdensome and equally effective in achieving the purposes of the proposed action. No reasonable alternative has been identified and brought to the Board's attention that would lessen any adverse impact the proposed action may have on small business, be more effective in carrying out the purposes for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

INFORMATION REQUIRED BY GOVERNMENT CODE SECTION 11346.2, SUBDIVISION (b)(5) AND ECONOMIC IMPACT ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)

The proposed amendments make Property Tax Rule 308.6 consistent with the repeal and reenactment of RTC 1612.7 and amendments made to RTC section 1622.6 by AB 824 and the repeal of RTC section 1636.5 by SB 1494. The proposed amendments to Property Tax Rule 308.6 clarify the conflict of interest provisions applicable to county property tax assessment appeals; specifically, with regards to appeals applications filed by: a current member of an assessment appeals board or alternate member; a current assessment hearing officer; a current employee of the office of the clerk of the board of equalization or assessment appeals board; and a current employee of the county counsel who advises the assessment appeals board or represents the county assessor before the assessment appeals board. The proposed amendments clarify the provisions for a clerk of the board to refer an assessment appeal application to a special alternate assessment appeals board in another county, and the clarification is consistent with both the Legislature's intent in enacting the provision and CACEO's intent in sponsoring the Legislature's enactment of the provision. In addition, the proposed amendments clarify that RTC sections 1624.1 and 1624.2 are applicable to the removal of a special assessment appeals board member.

As a result, the proposed amendments mainly clarify existing law and procedures regarding the use of special alternate assessment appeals boards in conflict of interest situations. The proposed amendments will not significantly change how appeals

applications are heard by special alternate assessment appeals boards or the clerks' discretion to refer appeals applications in the absence of the proposed amendments. And, the proposed amendments do not affect jobs or business in the state in any measurable way that is separate from whatever affect the repeal and reenactment of RTC 1612.7 and the amendments made to RTC section 1622.6 by AB 824 may have had on jobs or business. Therefore, the Board has determined that the proposed amendments to Property Tax Rule 308.6 are not a major regulation, as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000, because the Board has estimated that the proposed amendments will not have an economic impact on California business enterprises and individuals in an amount exceeding fifty million dollars (\$50,000,000) during any 12-month period.

Furthermore, based on these facts and all of the information in the rulemaking file, the Board has determined that the adoption of the proposed amendments to Property Tax Rule 308.6 will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

In addition, Property Tax Rule 308.6 does not regulate the health and welfare of California residents, worker safety, or the state's environment. Therefore, the Board has also determined that the adoption of the proposed amendments to Property Tax Rule 308.6 will not affect the benefit of Property Tax Rule 308.6 to the health and welfare of California residents, worker safety, or the state's environment.

The forgoing information also provides the factual basis for the Board's initial determination that the adoption of the proposed amendments to Property Tax Rule 308.6 will not have a significant adverse economic impact on business.

The proposed amendments may affect small businesses.

**Text of Proposed Amendments to
California Code of Regulations, Title 18, Section 308.6**

308.6. Applications for Equalization Required to Be Heard by Alternate Assessment Appeals Boards.~~by Member, Alternate Member, or Hearing Officer.~~

(a) Applications Required to Be Heard by Alternate Assessment Appeals Boards.

~~(1) The following An~~ applications for equalization filed pursuant to sections 1603 or 1605 of the Revenue and Taxation Code ~~by a member or alternate member of an assessment appeals board or an appointed hearing officer~~ shall be heard ~~by a~~ before an assessment appeals board panel consisting of three special alternate assessment appeals board members consisting of three persons appointed by order of the presiding judge of the superior court in the county in which the applications are is filed:-

(A) An application filed by a person listed in paragraph (2) of this subdivision in a county in which the person serves or is employed; and

(B) An application in which a person listed in paragraph (2) of this subdivision represents his or her spouse, registered domestic partner, parent, or child that is filed or pending in a county in which the person specified in paragraph (2) of this subdivision serves or is employed.

(2) This paragraph includes:

(A) A current member of an assessment appeals board or any alternate member;

(B) A current assessment hearing officer;

(C) A current employee of the office of the clerk of the board of equalization or assessment appeals board; and

(D) A current employee of the county counsel who advises the assessment appeals board or represents the county assessor before the assessment appeals board.

(b) Referral to An Alternate Assessment Appeals Board in Another County. The clerk of the board has discretion to refer an application for hearing to a special alternate assessment appeals board, convened to hear the application, consisting of three members who are qualified and in good standing in another California county, in lieu of having the superior court appoint a special alternate assessment appeals board to hear the application. Applications may only be referred to a county if that county's clerk of the assessment appeals board has consented to accept the referral.

(c) Subject Matter.

(1) A special alternate assessment appeals board member may hear only the application or applications for equalization set forth in the superior court order appointing such member.

(2) If the clerk of the board refers an application or applications to an actively serving assessment appeals board in another county pursuant to subdivision (b), the board may hear only the application or applications set forth in the transmittal document prepared by the clerk of the board of the county in which the application or applications were filed.

(de) Qualifications for Appointment. Any person shall be eligible for appointment as a special alternate assessment appeals board member who meets the qualifications set forth in section 1624 of the Revenue and Taxation Code.

(ed) Restrictions on Appointment and Grounds for Removal. Sections 1624.1 and 1624.2 of the Revenue and Taxation Code shall be applicable to the appointment and removal of a special assessment appeals board member.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 1612.7 and 1622.6 ~~and 1636.5~~, Revenue and Taxation Code.

Regulation History

Type of Regulation: Property Tax Rule

Rule: 308.6

Title: Application for Equalization by Member, Alternate Member, or Hearing Officer.

Preparation: Glenna Schultz

Legal Contact: Bradley Heller

Proposed amendments clarify the current conflict of interest provisions applicable to county property tax assessment appeals.

History of Proposed Rule:

April 28-30, 2015	Public Hearing
March 13, 2015	OAL publication date; 45-day public comment period begins; Interested Parties mailing
March 2, 2015	Notice to OAL
January 21, 2015	Property Tax Committee, Board Authorized Publication (Vote 4-0)

Support: NA

Oppose: NA