



Board of Equalization cases are open to public

By George Runner

A recent *Sacramento Bee* editorial names me as "leading the opposition" to Assembly Bill 2323. This measure, which could cost taxpayers more than a million dollars, would require the Board of Equalization to publish opinions in all tax appeals cases involving disputes greater than \$500,000.

I can't speak for other opponents, but I for one believe the board should publish more opinions. In fact, I've made motions to do just that. But I also believe the legislation currently being proposed is overkill with unintended consequences for taxpayers.

Published decisions set precedent and clarify gray areas of the law. Most board decisions – and most lower court decisions for that matter – do not fall into this category. For instance, the California Courts of Appeal publishes less than 10 percent of its cases. Most cases hinge on the facts of the specific case, not the interpretation of the law.

Publishing numerous cases, as the board did years ago, could be just as bad as publishing too few. That's because the important precedential cases could become more difficult for the public to find.

And just because a case isn't published does not mean it is secret or somehow unavailable to the public. The board is completely transparent and our decisions are made openly in public. All board meetings and committee proceedings are live-streamed and archived on our official website. Anyone wondering about a particular case can easily watch the case from start to finish.

Further, the board distributes its decisions to legal publishers for inclusion in online legal research sites like Lexis and Westlaw.

That's not to say there isn't room for improvements to help taxpayers better understand board decisions.

I've asked the board's legal staff to research and prepare a report on the history of published board decisions. Once we better understand the reasons why we publish fewer decisions today, we can determine which improvements would truly benefit taxpayers.

Rather than use a million-dollar sledgehammer to crack a nut, let's identify the true problem and develop a solution that makes sense for the public and for the taxpayers who foot the bill.

By reviewing all cases – not just those above an arbitrary dollar amount – we can determine when publishing will provide helpful clarity for taxpayers.

This flexible approach saves resources and will avoid needless confusion.