Introduced by Assembly Member Nazarian

February 14, 2019

An act to amend Sections 15570.22, 15570.24, 15570.26, 15672, and 15674 of, to repeal Section 15600 of, and to add Section 15679.6 to, the Government Code, relating to taxation.

LEGISLATIVE COUNSEL’S DIGEST

AB 576, as amended, Nazarian. State tax agency—State Board of Equalization: transfer of duties.

The California Constitution establishes the State Board of Equalization, consisting of the Controller and 4 other members elected from districts, and provides for the election, recall, impeachment, filling of vacancies, and salaries and benefits of those board members elected from districts. The California Constitution vests the board with various powers, duties, and responsibilities related to the administration of taxes imposed on property, insurance, and alcoholic beverages.

Existing law establishes, in the Government Operations Agency, the California Department of Tax and Fee Administration (department) and transferred to the department the duty to administer various statutory taxes and fees that had previously been administered by the board. Under existing law, all laws prescribing the duties, powers, and responsibilities of the board to which the department succeeds, together with all lawful rules and regulations established under those laws, are expressly continued in force, including, but not limited to, existing processes and remedies available to a taxpayer or feepayer, such as settlement options and appeals processes. Existing law establishes the
Office of Tax Appeals (office) in state government and transferred to the office the duty to conduct appeals hearings for the various taxes and fees administered by the department and for the administrative appeals of state personal income taxes and corporation franchise and income taxes, which are administered by the Franchise Tax Board.

A proposed amendment to the California Constitution, Assembly Constitutional Amendment No. 2 of the 2019–20 Regular Session (ACA 2), would abolish the State Board of Equalization board and instead require the Legislature to create a state tax agency by statute for purposes of carrying out those powers, duties, and responsibilities previously vested in the State Board of Equalization board by the California Constitution and by statute. ACA No. 2 would authorize the Legislature to vest all powers, duties, and responsibilities in a single state tax agency or separately in multiple state tax agencies, and would deem the California Department of Tax and Fee Administration and the Office of Tax Appeals department and the office to be state tax agencies for purposes of these provisions and vest in those entities specified powers, duties, and responsibilities currently vested in the State Board of Equalization board.

This bill would state the intent of the Legislature to enact legislation that would implement ACA 2 by transferring the remaining powers, duties, and responsibilities of the board related to the administration of taxes imposed on property, insurance, and alcoholic beverages, and the duty to adjust the rate of motor vehicle fuel, to the department and the office, as provided. The bill would, for these purposes, also provide for the transfer to the department and the office of the board’s employees serving in civil service, the rights and property of the board, and the board’s funding, as provided.

This bill would become operative only if ACA 2 of the 2019–20 Regular Session is approved by the voters.


The people of the State of California do enact as follows:

SECTION 1. Section 15570.22 of the Government Code is amended to read:

15570.22. Except (a) (1) On and after July 1, 2017, and until the operative date of the act amending this paragraph, except as provided in subdivision (b) or (c) of Section 15600 and Part 9.5
(commencing with Section 15670), the department is the successor
to, and is vested with, all of the duties, powers, and responsibilities
of the board. All

(2) On and after the operative date of the act adding this
paragraph, except as provided in Part 9.5 (commencing with
Section 15670), the department is the successor to, and is vested
with, all of the duties, powers, and responsibilities of the board.

(b) All laws prescribing the duties, powers, and responsibilities
of the board to which the department succeeds, together with all
lawful rules and regulations established under those laws, are
expressly continued in force, including, but not limited to, existing
processes and remedies available to a taxpayer or feepayer such
as settlement options and appeals processes.

SEC. 2. Section 15570.24 of the Government Code is amended
to read:

15570.24. (a) Except as specified in Part 9.5 (commencing
with Section 15670), and unless the context clearly requires
otherwise, whenever any reference to the board appears in any
statute, regulation, or contract, or in any other code, with respect
to any of the functions transferred to the department pursuant to
Section 15570.22, it shall be deemed to refer to the department.

(b) Consistent with Section 15570.22, an action to which the
board is a party shall not abate by reason of this part but shall
continue in the name of the department, and the department shall
be substituted for the State Board of Equalization by the court
wherein the action is pending. The substitution shall in no way
affect the rights of the parties to the action.

(c) (1) Consistent with paragraph (1) of subdivision (a) of
Section 15570.22, any permit, registration, or other authorization
issued by the board and in effect on June 30, 2017, shall be deemed
on and after July 1, 2017, to be a permit, registration, or other
authorization of the department.

(2) Consistent with paragraph (2) of subdivision (a) of Section
15570.22, any permit, registration, or other authorization issued
by the board and in effect on the day before the operative date of
the act adding this paragraph, shall be deemed on and after the
operative date of the act adding this paragraph, to be a permit,
registration, or other authorization of the department.

SEC. 3. Section 15570.26 of the Government Code is amended
to read:
15570.26. (a) (1) All employees serving in state civil service, including temporary employees, who are engaged in the performance of functions transferred to the department pursuant to paragraph (1) of subdivision (a) of Section 15570.22 are transferred to the department. The status, positions, and rights of those persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to positions the duties of which are vested in a position exempt from civil service. The personnel records of all transferred employees shall be transferred to the department.

(2) All employees serving in state civil service, including temporary employees, who are engaged in the performance of functions transferred to the department pursuant to paragraph (2) of subdivision (a) of Section 15570.22 are transferred to the department. The status, positions, and rights of those persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to positions the duties of which are vested in a position exempt from civil service. The personnel records of all transferred employees shall be transferred to the department.

(b) (1) Consistent with paragraph (1) of subdivision (a) of Section 15570.22, the department shall succeed to all of the rights and property of the board. The property of any office, agency, or other entity of state government related to functions transferred to the department is transferred to the department. If any doubt arises as to where that property is transferred, the Department of General Services shall determine where the property is transferred.

(2) Consistent with paragraph (2) of subdivision (a) of Section 15570.22, the department shall succeed to all of the rights and property of the board. The property of any office, agency, or other entity of state government related to functions transferred to the department is transferred to the department. If any doubt arises as to where that property is transferred, the Department of General Services shall determine where the property is transferred.

(c) (1) All unexpended balances of appropriations and other funds available for use in connection with any function or the administration of any law transferred to the department pursuant to paragraph (1) of subdivision (a) of Section 15570.22 shall be
transferred to the department for the use and for the purpose for which the appropriation was originally made or the funds were originally available. If there is any doubt as to where those balances and funds are transferred, the Department of Finance shall determine where the balances and funds are transferred.

(2) All unexpended balances of appropriations and other funds available for use in connection with any function or the administration of any law transferred to the department pursuant to paragraph (2) of subdivision (a) of Section 15570.22 shall be transferred to the department for the use and for the purpose for which the appropriation was originally made or the funds were originally available. If there is any doubt as to where those balances and funds are transferred, the Department of Finance shall determine where the balances and funds are transferred.

(d) Consistent with paragraph (1) of subdivision (a) of Section 15570.22, the department is subject to all the debts and liabilities of the board, other than those retained by the board in connection with its duties, powers, and responsibilities under subdivision (b) or (c) of Section 15600, as if the department had incurred them.

(2) Consistent with paragraph (2) of subdivision (a) of Section 15570.22, the department is subject to all the debts and liabilities of the board as if the department had incurred them.

SEC. 4. Section 15600 of the Government Code is repealed.

15600. (a) There is in state government the State Board of Equalization.
(b) The board shall continue to only have the following duties, powers, and responsibilities:
(1) The review, equalization, or adjustment of a property tax assessment pursuant to Section 11 of Article XIII of the California Constitution, and any duty, power, or responsibility conferred by statute on the board in connection with that review, equalization, or adjustment.
(2) The measurement of county assessment levels and adjustment of secured local assessment rolls pursuant to Section 18 of Article XIII of the California Constitution, and any duty, power, or responsibility conferred by statute on the board in connection with that measurement and adjustment.
(3) The assessment of pipelines, flumes, canals, ditches, and aqueducts lying within two or more counties and property except
franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the state, and companies transmitting or selling gas or electricity pursuant to Section 19 of Article XIII of the California Constitution, as well as the equalization of that assessment, and any duty, power, or responsibility conferred by statute on the board in connection with that assessment.

(4) The assessment of taxes on insurers pursuant to Section 28 of Article XIII of the California Constitution and any duty, power, or responsibility conferred by statute on the board in connection with that assessment and equalization.

(5) The assessment and collection of excise taxes on the manufacture, importation, and sale of alcoholic beverages in this state pursuant to Section 22 of Article XX of the California Constitution, and any duty, power, or responsibility conferred by statute on the board in connection with that assessment and collection.

(6) The administration of the welfare exemption provided by Section 214 of the Revenue and Taxation Code and the veterans’ organization exemption provided by Section 215.1 of the Revenue and Taxation Code, including issuing an organizational clearance certificate and reviewing assessors’ administration of those exemptions as required pursuant to Sections 254.5 and 254.6 of the Revenue and Taxation Code.

(7) The responsibility for receiving a change in ownership statement required to be filed due to a change in control or a change in ownership of a corporation, partnership, limited liability company, or other legal entity pursuant to Sections 480.1 and 480.2, respectively, of the Revenue and Taxation Code.

(8) The administration of Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, commonly known as the Tax-Rate Area System.

(e) The board shall retain the duty to adjust the rate of the motor vehicle fuel tax pursuant to subdivision (b) of Section 7360 of the Revenue and Taxation Code for the 2018–19 fiscal year.

(d) (1) In order to ensure a seamless transition from the State Board of Equalization to the Office of Tax Appeals in the conduct of appeals hearings on and after January 1, 2018, pursuant to Part 9.5 (commencing with Section 15670), the State Board of Equalization, consistent with subdivision (b) of Section 15674;
shall continue to have the legal authority to hear, determine, decide, or take any other action with respect to an appeal, as defined in subdivision (a) of Section 15671, regarding matters for which the duties, powers, and responsibilities are transferred to the Office of Tax Appeals pursuant to Section 15672, only if both of the following are satisfied:

(A) The hearing, determination, decision, or any other action with respect to an appeal is placed on the calendar of a meeting of the State Board of Equalization to be held before January 1, 2018.

(B) The appeal is heard, determined, decided, or is otherwise final before January 1, 2018.

(2) On and after January 1, 2018, the State Board of Equalization shall have no legal authority to, and shall not, regarding matters for which the duties, powers, and responsibilities are transferred to the Office of Tax Appeals pursuant to Section 15672, conduct an appeals hearing, make a determination, issue or publish a decision on an appeal, or take any other action with respect to an appeal heard at a meeting of the State Board of Equalization before January 1, 2018, for which the State Board of Equalization’s hearing, determination, decision, or any other action is, for any reason, not final before January 1, 2018.

(e) (1) (A) The board shall retain all employees serving in state civil service, including temporary employees, who are engaged in the performance of functions described in subdivision (b). The status, positions, and rights of those persons shall not be affected by their retention and shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to positions the duties of which are vested in a position exempt from civil service.

(B) Notwithstanding subparagraph (A), all employees serving in state civil service, including temporary employees, who are engaged in the performance of functions described in paragraphs (6), (7), or (8) of subdivision (b) that were transferred to the California Department of Tax and Fee Administration pursuant to Section 15570.26 shall be transferred back to the board. The status, positions, and rights of those persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to positions the duties of which are vested in a position exempt from civil service. The personnel records of
all employees transferred pursuant to this subparagraph shall be transferred to the board.

(C) The board shall succeed to all the rights and property of the California Department of Tax and Fee Administration that relate to the performance of functions described in paragraphs (6), (7), and (8) of subdivision (b) and all those related rights and property shall be transferred back to the board. The Department of General Services shall determine where the property is transferred, if necessary.

(2) The board also may employ civil service staff persons to carry out the duties, powers, and responsibilities described in subdivision (b) as approved by the Legislature through the budget.

(3) The board shall retain the authority to appoint an executive director and prescribe and enforce his or her duties pursuant to Section 15604.

(f) Each member of the board elected by the voters of an equalization district shall have only one office in Sacramento and one district office.

(g) Each board member elected by the voters of an equalization district shall have a staff consisting of two staff persons who are exempt from civil service pursuant to Section 4 of Article VII of the California Constitution and any other civil service positions approved by the Legislature through the budget.

(h) (1) A board member shall have no authority to appoint, remove, discipline, assign, reassign, promote, demote, or issue orders to any employee of the board, including, but not limited to, the career executive assignment positions and other noncivil service managers.

(2) The executive director shall be solely responsible for selecting persons for career executive assignment positions and other noncivil service managers for the board.

(i) A board member shall not modify or approve a budget change proposal for the board or the California Department of Tax and Fee Administration. The executive director shall modify or approve all budget change proposals for the board.

(j) A board member shall not interfere with or influence the process of the board’s or the California Department of Tax and Fee Administration’s legislative analyses, revenue analyses, or any other form of technical assistance requested by the Governor or the Legislature.
(k) All board member procurements shall be processed through
the Department of General Services.

(l) (1) A member of the board shall not represent a person in a
hearing before the board before one year after the expiration of
the member’s term on the board or one year after separation from
the board:

(2) The staff of a member of the board shall not represent a
person in a hearing before the board before one year after
separation from employment with that member.

(m) This section shall become operative on July 1, 2017.

SEC. 5. Section 15672 of the Government Code is amended to
read:

15672. (a) Except—

(1) Until the operative date of the act
amending this paragraph, except as provided in subdivision (b)
of Section 15600, the office is the successor to, and is vested with,
all of the duties, powers, and responsibilities of the State Board of
Equalization necessary or appropriate to conduct appeals hearings.

(2) On and after the operative date of the act adding this
paragraph, the office is the successor to, and is vested with, all of
the duties, powers, and responsibilities of the State Board of
Equalization necessary or appropriate to conduct appeals hearings.

(b) The tax appeals panels and the appeals hearings conducted
by the tax appeals panels under this part shall not be construed to
be, or to be conducted by, a tax court.

SEC. 6. Section 15674 of the Government Code is amended to
read:

15674. (a) The tax appeals panels shall do all of the following:

(1) (A) On or after January 1, 2018, conduct all appeals
hearings for those duties, powers, and responsibilities transferred
pursuant to paragraph (1) of subdivision (a) of Section
15672.

(B) On or after the operative date of the act adding this
subparagraph, conduct all appeals hearings for those duties,
powers, and responsibilities transferred to the office pursuant to
paragraph (2) of subdivision (a) of Section 15672

(2) Issue a written opinion for each appeal decided.

(3) Except as otherwise provided in this part, conduct all appeals
hearings and proceedings under the Administrative Procedure Act.

(b) On or after January 1, 2018, and until the operative date of
the act amending this subdivision, the State Board of Equalization
shall not conduct appeals or take any other action with respect to
an appeal, except as provided in subdivision (b) of Section 15600
and consistent with subdivision (d) of Section 15600.

SEC. 7. Section 15679.6 is added to the Government Code, to
read:

15679.6. (a) All employees serving in state civil service,
including temporary employees, who are engaged in the
performance of functions transferred to the office pursuant to
paragraph (2) of subdivision (a) of Section 15672 are transferred
to the office. The status, positions, and rights of those persons shall
not be affected by their transfer and shall continue to be retained
by them pursuant to the State Civil Service Act (Part 2
(commencing with Section 18500) of Division 5), except as to
positions the duties of which are vested in a position exempt from
civil service. The personnel records of all transferred employees
shall be transferred to the office.

(b) Consistent with paragraph (2) of subdivision (a) of Section
15672, the office shall succeed to all of the rights and property of
the State Board of Equalization. The property of any office, agency,
or other entity of state government related to functions transferred
to the office is transferred to the office. If any doubt arises as to
where that property is transferred, the Department of General
Services shall determine where the property is transferred.

(c) All unexpended balances of appropriations and other funds
available for use in connection with any function or the
administration of any law transferred to the office pursuant to
paragraph (2) of subdivision (a) of Section 15672 shall be
transferred to the office for the use and for the purpose for which
the appropriation was originally made or the funds were originally
available. If there is any doubt as to where those balances and
funds are transferred, the Department of Finance shall determine
where the balances and funds are transferred.

SEC. 8. This act shall become operative only if Assembly
Constitutional Amendment No. 2 of the 2019–20 Regular Session
is approved by the voters.

SECTION 1. It is the intent of the Legislature to enact
legislation that would implement the proposed amendment to the
California Constitution by Assembly Constitutional Amendment
No. 2 of the 2019–20 Regular Session.