

[Senate Bill 447](#) (Nielsen)

Date: 04/18/17

Program: Property Taxes

Sponsor: [Rural County Representatives of California](#) (RCRC)

Revenue and Taxation Code Sections 1750-1755.1

Effective: January 1, 2018

Michele Pielsticker (Chief) 916.322.2376

Rose Marie Kinnee (Analyst) 916.445.6777

Summary: Allows participating counties to create a multi-county assessment appeals board.

Summary of Amendments: Since the previous analysis, the bill was amended to prohibit a county participating in a multi-county board from also operating a single-county board and make suggested technical changes.

Purpose: To allow those counties where the board of supervisors serves as the appeals board to pool resources and delegate the function to a multi-county appeals board.

Fiscal Impact Summary: No revenue impact.

Existing Law: The California Constitution allows the Legislature to authorize county boards of supervisors to create a joint appeals board to serve as the appeals board for each participating county. To date, the Legislature has not enacted the necessary statutory provisions to allow multi-county appeals boards.¹

Proposed Law: This bill allows the boards of supervisors of two or more counties to establish a multijurisdictional assessment appeals board (multi-county board) to equalize the valuation of taxable property within each participating county. Once established, each participating county may not continue to operate its own appeals board while the multi-county board exists.

- **Board Composition.** The multi-county board must have at least three members, with at least one member from each participating county. *§1753*
- **Member Eligibility.** Members must have at least five years of professional experience in California as a CPA or public accountant, licensed real estate broker, attorney, or accredited property appraiser, or a person may be appointed if the nominating member of the board of supervisors has reason to believe the person possesses competent property appraisal and taxation knowledge. Boards of supervisor members are ineligible to serve. *§1753.1(c); §1753.2*
- **Training.** The training requirements that currently apply to single-county appeals board members will apply to multi-county members. *§1753.1(c)*
- **Legal Actions.** Multi-county appeals board decisions appealed to the courts would be filed in the superior court for the county in which the property is located. *§1753.3*

Additionally, the enacting provisions address procedures to establish the multi-county board, withdraw from the multi-county board, and specify which county clerk will function as the lead county clerk. The bill provides that, unless specifically stated otherwise, existing laws and regulations for a single-county board would apply to a multi-county board.²

In General: The Constitution³ establishes in each county an independent body to hear property assessment related disputes between the county assessor and property taxpayers, commonly referred to as the appeals board. Either the county board of supervisors performs this duty directly meeting as

¹ Section 16 of Article XIII. Proposed Revision of Article XIII California Constitution, Report of the Constitutional Revision Task Force of Article XIII (1974), page 25. "Legislation under which this option could be exercised would have to be enacted before this passage would become operative."

² Laws: RTC Sections [1601-1645.5](#); Regulations: Property Tax Rules [301-326](#).

³ Article XIII, [Section 16](#).

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the "county board of equalization" or the county creates a separate "assessment appeals board" with members of the board of supervisors appointing persons to serve. Appeals boards act in a quasi-judicial capacity. The appeals board functions as a trial court with the superior court reviewing the board's decision when necessary.

In 17 counties, the boards of supervisors serve as the appeals board.⁴ In the remaining counties, the members appoint persons to serve.⁵ Appointment eligibility requires five years of professional experience in California in the following professions: CPA or public accountant, licensed real estate broker, attorney, or accredited⁶ property appraiser.⁷ However, in the 30 [counties with a population](#) under 200,000, a person can serve without meeting these requirements if the nominating member deems the person to have competent knowledge of property appraisal and taxation.⁸ The law prohibits former assessor office employees from serving for three years.⁹

The BOE publishes the [Assessment Appeals Manual](#) which includes detailed information specific to appeals boards.

Legislative Background: Article XIII's 1974 Constitutional Revision. The present language of Article XIII, Section 16 was adopted on November 5, 1974 through Proposition 8 (ACA 32). In pertinent part it reads:

Two or more county boards of supervisors may jointly create one or more assessment appeals boards which shall constitute the county board of equalization for each of the participating counties.

The Legislature shall provide for the procedure by which two or more county boards of supervisors may jointly create one or more assessment appeals boards.

The Report of the Constitutional Revision Task Force of Article XIII (1974) explains the constitutional revisions in detail. The explanatory comment on Section 16 states:

This revision makes only the following substantive changes in the local equalization portions of existing Article XIII, Sections 9 and 9.5:

1. It permits two or more county boards of supervisors to join in the creation of one or more assessment appeals boards to serve as the county board of equalization for each of the counties entering into such an arrangement. **Legislation under which this option could be exercised would have to be enacted before this passage would become operative.** [Emphasis added.]

In 1992, legislation to activate multi-county boards was pursued, as described below. It does not appear any other legislation has been introduced to date.

Appeal Referral to Multi-County Board. In 1992, SB 1831 (Thompson) would have allowed participating counties to refer select appeals to a multi-county board. At that time, a cable company appealed a change in ownership reassessment in 10 counties. The issue on appeal was the same in each county. Napa County, seeking to consolidate the issue for all the counties, sponsored legislation to allow a joint appeals board for all the affected counties. Supporters, primarily governmental entities, contended that a joint board would conserve resources, avoid duplication of identical questions of law and fact, result in consistent appeals outcomes, simplify and streamline the appeals process when one taxpayer has property in several counties, and provide cost

⁴ Alpine, Amador, Colusa, Del Norte, Glenn, Inyo, Kings, Lake, Mendocino, Modoc, Napa, Plumas, San Benito, Sierra, Tehama, Trinity, and Tuolumne.

⁵ RTC Section [1623.1](#).

⁶ Accredited by a nationally recognized professional organization, the Office of Real Estate Appraisers, or the Board of Equalization.

⁷ RTC Section [1624.05](#).

⁸ RTC Section [1624](#).

⁹ RTC Section [1624.1](#).

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efficiency for government and taxpayers. Some industry representatives and taxpayer groups opposed the measure expressing concern that the joint board membership would be rigged against them.

At that time, opponents disagreed with the premise that joint boards could be used for specialized appeals, or groups of related appeals. Opponents claimed that such boards must act as the counties' board for all appeals. Amendments were made to that bill in an attempt to address that concern. This bill was held in the Senate Revenue and Taxation Committee.

Other legislation to allow cross-county pooling of resources is summarized below.

- **Joint-County Hearing Officers: Cross County Mining Properties.** In a similar vein, the law allows the appeal of issues related to contiguous mining and mineral property that crosses county borders to be heard by a panel of hearing officers from each county. (RTC Sections [1642-1645.5](#) SB 2295, Garamendi, Ch. 1480, Stats. 1988) However, the joint-hearing officers' decision in the appeal is not final. Either the assessor or the property owner can appeal the decision to each county's appeals board. But the law bestows a rebuttable presumption of correctness upon the joint-hearing officers' decision.
- **Conflict of Interest Appeals: Hearing by Another County.** In 2009, legislation was enacted to allow the established assessment appeals board of one county to hear and decide certain property tax assessment appeals filed in another county. This authorization was specific to appeals filed by persons having an employment-related association with the assessment appeals board, creating a conflict of interest. (RTC Section [1622.6](#), [AB 824](#), Harkey, Ch. 477, Stats. 2009) This legislation provided a cost-effective and efficient means for the neighboring counties of Los Angeles and Orange to use cross-county appeals boards rather than empanel a special board to hear these appeals.

Commentary:

1. **Effect of the bill.** This bill activates the constitutional provisions of Section 16 of Article XIII allowing counties to form multi-county assessment appeal boards.
2. **The April 18, 2017 amendments** prohibit a county participating in a multi-county board from concurrently running its own single-county board. This amendment intends to prevent parties from appeals board "forum shopping" by allowing only one operational appeals board at a time. The amendments also make minor technical suggestions noted in the prior analysis related to training requirements and filing court actions.
3. **Boards of Supervisors sit as the county board of equalization in seventeen counties.** The bill's sponsor, Rural County Representatives of California (RCRC), notes that in many of these low-population counties the primary reason the counties do not appoint assessment appeals boards is that finding qualified applicants to serve is a challenge. The sponsor states "while most county supervisors can fulfill their obligations as members of a local board of equalization, RCRC believes it is wise to maximize the use of assessment appeals boards given the complex nature of developing the county's property tax roll." They further note "by allowing counties to elect to participate in a multi-county assessment appeals board, SB 447 offers the opportunity for increased expertise in hearing taxpayer appeals." The sponsor states that SB 447 is a "common-sense approach to achieving economies of scale in county assessment appeals."
4. **Member eligibility: less stringent requirements.** RTC Section 1624's less stringent qualifications for members appointed by a county with a population under 200,000 would apply to qualifications required of members appointed to multi-county boards regardless of the participating county's population. (Proposed RTC Section 1753.1) Normally, RTC Section 1624.05 applies to counties with a population over 200,000 and requires specific occupational and experience-related qualifications, which RTC Section 1624 waives.

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5. **Any county could participate.** While the bill's impetus stems from those counties without appointed assessment appeals boards, any county, including those that currently appoint assessment appeals boards, could partner with another county to create a multi-county board.
6. **The bill's language requires that the multi-county board rule on all appeals from each participating county.** The bill uses the phrase "to equalize the valuation of taxable property within each participating county." (RTC Section 1752(a)) For example, two neighboring counties would run one "pooled" board to hear all appeals from both counties. Additionally, the bill expressly prohibits participating counties from operating their own board during the period the multi-county board exists. (RTC Section 1752(b))
7. **Other multi-county appeal scenarios.** Previously, interest in other ad hoc joint appeals boards has been expressed. For example, in 1992, as noted previously, legislation was introduced to allow select appeals on an identical issue to be consolidated and sent to a multi-county board. In recent years, a desire to have one appeal for certificated aircraft assessments made under the "lead county" provisions has been expressed; however, these provisions recently sunset and legislation on a single appeal at the county level was never introduced. Given that this bill appears to encompass all appeals for each participating county, it appears future legislation would be necessary to pursue multi-county boards that are more targeted.
8. **Appeals hearing location.** The bill is silent with respect to meeting locations. Some taxpayers may need to travel to a less convenient location in another county for their appeal.
9. **This bill freezes training and eligibility requirements to those in current law.** The bill keys eligibility and training requirements for multi-county members to these same requirements for single-county members as of January 1, 2017.
10. **Board of Supervisors sitting as appeals board.** On occasion, a conflict of interest charge is alleged against the board of supervisors sitting as the county board of equalization. The allegation is that the board of supervisors is inherently biased in deciding assessment appeals because the county benefits financially when the assessor wins. If counties that use their board of supervisors as the county board of equalization participated in joint boards comprised of members who do not sit on the board of supervisors, that criticism could be abated.
11. **Practical and cost-effective.** Given the constitutional authorization, the challenges faced by small or rural counties, and the inherent efficiency that joint-boards would offer, legislation to allow joint boards would give counties more practical options.
12. **BOE regulations.** Any regulation that this bill requires the BOE to enact or amend will take more than one year to become operative under current Administrative Procedure Act guidelines.

Costs: If enacted, the BOE would incur minor absorbable costs.

Revenue Impact: This bill has no direct revenue impact on state revenue.