

[Senate Bill 1172](#) (Beall)

Date: August 6, 2018 (Amended)

Program: Property Taxes

Sponsor: Author

Revenue and Taxation Code Section 408

Effective: January 1, 2019

Mark Durham (Chief) 916.319.9220

Glenna Schultz (Analyst) 916.274.3362

*This analysis is limited in scope to its property tax assessment related provisions.*

**Summary:** This bill, in part, allows the High-Speed Rail Authority to obtain or access otherwise confidential information held by the county assessor.

**Summary of Amendments:** Since our previous analysis, the amendment to this bill deletes a code section not related to property tax assessment and is outside the purview of the State Board of Equalization.

**Fiscal Impact Summary:** This bill would have no direct revenue impact.

**Existing Law:** Current law requires that assessors keep certain information confidential. Revenue and Taxation Code<sup>1</sup> section [408](#)(a) contains the general confidentiality rule for county assessors and provides that homeowners' exemption claims and any information and records in the assessor's office that are *not required* by law to be kept or prepared by the assessor are not public documents and not open to public inspection. In addition, sections [451](#) and [481](#) provide that all information requested by the assessor or furnished in the property statement and change in ownership information shall be "held secret" by the assessor.

Subdivision (b) of section 408 provides an exception to the general rule of confidentiality for certain governmental agencies or representatives. It requires that the assessor disclose information, furnish abstracts, or permit access to all records in his or her office to those agencies or representatives specified.

Generally, the assessor is prohibited from disclosing any document related to the business affairs of another taxpayer. However, the assessor must disclose "market data" to a taxpayer if the assessor based the assessment of that taxpayer's property using comparable sales. In providing market data on comparable sales to a taxpayer, however, the assessor is still statutorily prohibited from displaying any document related to the business affairs or property of those taxpayers who own the properties used as comparable sales.<sup>2</sup>

### **Proposed Law:**

**Access to Assessors' Records.** This bill adds the High-Speed Rail Authority (Authority) to the list of state agencies to whom the assessor must disclose information, furnish abstracts, or permit access to records. This bill requires that the Authority reimburse the assessor for any costs incurred whenever the assessor discloses information, furnishes abstracts, or permits access to records in his or her office.  
*Section 408(b)*

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<sup>1</sup> All statutory references are to the Revenue and Taxation Code, unless otherwise provided.

<sup>2</sup> Sections 408, [408.1](#), and [408.2](#).

*This staff analysis is provided to address various administrative, cost, revenue and policy issues;  
it is not to be construed to reflect or suggest the BOE's formal position.*

**Confidential Records.** This bill makes nonsubstantive changes to the prohibition on disclosing any document related to the business affairs or property of another taxpayer. *Sections 408(d) and (e)(3)*

**In General:** Revenue and Taxation Code sections 408-408.3 grant to both the public at large and assesses the rights to inspect specific types of information in the assessors' records. Certain information kept by an assessor's office that is open, public information includes: the assessment roll, which includes the assessed value, ownership, location of property, as well as a notation of which properties receive the homeowners' exemption;<sup>3</sup> assessment maps;<sup>4</sup> a list of all transfers of property in the last two years;<sup>5</sup> and information maintained on property characteristics, including year built, square footage, number of bedrooms and baths, property use codes, etc.<sup>6</sup> In addition, welfare exemption claims are open to public inspection.<sup>7</sup>

For the assessee or his/her representative, all information related to the appraisal and assessment of his/her own property, including audit and roll change information, must be disclosed.

**Mandated Confidential Information.** There are a number of laws that require certain information maintained by an assessor's office to be kept confidential. Generally, the assessor is prohibited from disclosing any document related to the business affairs of another taxpayer. However, the assessor must disclose "market data" to a taxpayer if the assessor based the assessment of that taxpayer's property using comparable sales. In providing market data on comparable sales to a taxpayer, however, the assessor is still statutorily prohibited from displaying any document related to the business affairs or property of those taxpayers who own the properties used as comparable sales.<sup>8</sup>

Certain documents filed by taxpayers are statutorily required to be kept confidential. These are the property statement, the change in ownership statement, and the homeowners' exemption, parent-child exclusion, and certain base year value transfer claim forms which include social security numbers.<sup>9</sup>

Access to confidential information may be disclosed to select persons. The assessor may provide "appraisal data" to other California assessors and is required to permit access to all records in his or her office to certain governmental agencies.

Assessment appeals hearings before the assessment appeals board are statutorily required to be open to the public except that deliberations may be held in private. A taxpayer may request the appeals board to close a portion of the hearing if evidence is to be presented that relates to trade secrets which, if disclosed, would be detrimental to the business interests of the owner of the trade secrets.<sup>10</sup>

## Commentary:

1. **California High-Speed Rail Authority.** The California High-Speed Rail Authority is responsible for planning, designing, building and operation of the first high-speed rail system in the nation. California high-speed rail will connect the mega-regions of the state, contribute to economic development and a cleaner environment, create jobs and preserve agricultural and protected

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<sup>3</sup> Sections 408.2, [602](#), and [1602](#).

<sup>4</sup> Section [327](#).

<sup>5</sup> Section 408.1.

<sup>6</sup> Section [408.3](#).

<sup>7</sup> Section 408; *Gallagher v. Boller* (1964) 231 Cal.App.2d 482.

<sup>8</sup> Sections 408, [408.1](#), and [408.2](#).

<sup>9</sup> Sections 408.2, 451, 481.

<sup>10</sup> Section [1605.4](#).

lands. By 2029, the system will run from San Francisco to the Los Angeles basin in under three hours at speeds capable of over 200 miles per hour. The system will eventually extend to Sacramento and San Diego, totaling 800 miles with up to 24 stations. In addition, the Authority is working with regional partners to implement a state-wide rail modernization plan that will invest billions of dollars in local and regional rail lines to meet the state's 21<sup>st</sup> century transportation needs.<sup>11</sup>

2. **Summary of Amendments.** The **August 6, 2018** amendment deletes a code section not related to property tax assessment. The **June 18, 2018** amendments add provisions related to the High-Speed Rail Authority, including a provision that would allow the Authority access to assessors' records.
3. **Acquisition of Property via Eminent Domain.** Existing law created the High-Speed Rail Authority with specified powers and duties relative to development and implementation of a high-speed train system, including acquisition of rights-of-way through purchase and eminent domain. The High-Speed Rail Authority seeks access to assessors' records to help accurately estimate fair market value when acquiring real property for the high-speed rail project.
4. **Property Owner Displaced by Government Action.** California's system of property taxation values property at its 1975 fair market value, with annual increases limited to the inflation rate, as measured by the California Consumer Price Index, or two percent, whichever is less, until the property changes ownership or is newly constructed. At the time of the ownership change or completion of new construction, the value of the property for property tax purposes is reassessed based on current market value (called the "base year value"). Thereafter, the base year value is subject to annual increases for inflation. This value is referred to as the "factored base year value." Property owners who are displaced from property by governmental action may transfer the taken property's factored base year value to comparable replacement property, allowing the property owner to keep paying property taxes on the same assessed value as they previously paid.<sup>12</sup>
5. **Related Legislation.** [Assembly Bill 2425](#) (Berman) also proposes to amend section 408 to require assessors to transmit information, documents, or records by mail or in electronic format, if available. [Senate Bill 1307](#) (Galgiani), which also amends section 408 to allow the High-Speed Rail Authority to obtain or access otherwise confidential information held by the county assessor, was held in the Senate.

**Costs:** The BOE would incur some minor absorbable costs in informing and advising county assessors, the public, and staff of the change in law.

**Revenue Impact:** This bill would have no direct revenue impact.

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<sup>11</sup> <http://www.hsr.ca.gov/>.

<sup>12</sup> Section [68](#) and Property Tax Rule [462.500](#).