

CALIFORNIA ASSOCIATION OF CLERKS AND ELECTION OFFICIALS



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September 16, 2021

VIA E-MAIL

The Honorable Antonio Vazquez, Chair
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-007

Dear Chairperson Vazquez:

DISCUSSION OF POSSIBLE AMENDMENTS TO REVENUE AND TAXATION CODE 155 Item K.1.b. September 21, 2021 Agenda

Members of the California Association of Clerks and Election Officials (CACEO) offer their stakeholder views on the issue of amending Revenue and Taxation Code (RTC) section 155 and submit proposed legislative language for the State Board of Equalization's consideration. Our letter is based in part on the State Board's Issue Paper 2021-002, dated August 25, 2021.

RTC section 155 currently authorizes the State Board to extend the deadline for up to 30 days (40 days in case of public calamity) for any statutory act required of the county assessor or county board. The statute does not include acts by taxpayers. The "division" referred to in RTC section 155 is Division 1 of the Revenue and Taxation Code, which is divided into 15 Parts, encompassing RTC sections 50 through 5911. Division 1 is entitled and governs "Property Taxation." This division title, in fact, covers more than the local assessment process and the equalization of local assessments. Certain "Parts" within Division 1 govern aspects of property taxation over which the Board does not exercise authority. (See Gov. Code. section 15600 for the scope of the Board's duties, powers, and responsibilities.) This includes, for example, Part 5, which governs the collection of property taxes and Part 6, which governs tax sales. (See Page 2 of 5 of your Board's Issue Paper No. 21-002, presented at the 8/25/21 SBOE meeting.) The State Board has never historically had statutory or constitutional oversight authority and responsibility over all aspects of the local property tax system, and it does not have that authority now.

Officium Populi – Office of the People

Item K1b
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RTC section 155 currently states as follows:

The time fixed in this division for the performance of any act by the assessor or county board may be extended by the board or its executive director for not more than 30 days, or, in the case of public calamity, 40 days. If an extension of time is granted, the executive director of the board shall give written notice thereof to the county auditor, county tax collector, and the officer or county board to whom the extension is granted. The executive director shall inform the board at its next regular meeting of any action with respect to extensions taken by him or her. There shall be the same extension of time for any act of the board dependent on the act for which time was extended.

State Board members on July 27, 2021 discussed the possibility of a legislative amendment to RTC section 155 as conceptually being more an extension of the 30- and 40-day time periods contained in the current statute than as a legislative initiative intended to change the nature of relief to be granted under the code section. The matter was to be taken up again at your Board's meeting of August 25, 2021.

CACEO members concur with the original approach expressed by your Board that legislative amendments should focus on the problem that the current 40-day relief offered by section 155 is insufficient and that your Board should have the statutory authority to grant longer time extensions during a calamity.

We favor this conservative approach for a number of reasons:

- First, the current COVID pandemic (dating back to February and March of 2020) indicates that "moment in time" emergencies such as floods or fires are not the only types of emergencies or public calamities that can occur.
- Second, disease pandemics in particular can last for an extended period of time and cause disruptions in the assessment appeal process for much longer than anticipated or desired by the county boards and the parties.
- Third, extending the time periods for taxpayers affecting deadlines and time periods in other Parts of Division 1 of the Revenue and Taxation Code regarding the overall property tax administration creates confusion and administrative difficulties as well as negatively impacting the available resources of local governments.
- Fourth, the local property tax "system" is a system involving multiple county departments (the county assessor, the county auditor-controller, the county treasurer-tax collector and the assessment appeals board). Each of these county offices (and the AABs) has a separate and distinct set of statutes and functions within the Revenue and Taxation Code with obligations on both the government and taxpayers. The State Board of Equalization has limited or no jurisdiction over

several of these county offices and statutory schemes within the Revenue and Taxation Code as noted by the Board's attorneys in Issue Paper No. 21-002 on August 25, 2021, page 2 of 5. In particular, Parts 5 (the collection of taxes by the Treasurer-Tax Collector), 6 (tax sales conducted by the Treasurer-Tax Collector), 7 (the redemption process to stop tax sales of delinquent property owners' land by the Treasurer-Tax Collector), 7.5 (the administration of tax certificates by the Treasurer-Tax Collector), 8 (the distribution of tax monies collected by the Auditor-Controller), and 9 (the corrections, cancellations and refunds of tax monies by the Auditor-Controller) within Division 1 are beyond the statutory or constitutional jurisdiction and expertise of the Board and its staff.

A broad grant of authority to extend taxpayer filing periods or other binding obligations as suggested in the August 25, 2021 issue paper (2021-002) will make the county government's administration of this complex system -- in its entirety -- even more difficult and complex than it is in the best of times. This is not only an undesirable situation for local governments, but equally negative for taxpayers who seek and deserve efficient and effective government services even in times of stress.

For these reasons, CACEO members respectfully request that the State Board of Equalization consider the proposed language below for use in amending RTC section 155 rather than the RTC section 155 options presented for initial discussion at the August 25, 2021 Board meeting. As administrators of the county assessment appeal programs, we believe that our proposed approach is a constructive one that would permit county assessment appeals boards -- the quasi-judicial arm of the county boards of supervisors under the state's constitution -- to seek appropriate extension of deadlines affecting clerks and county boards in order to be able to continue to function effectively in times of calamity, such as COVID-19.

The time fixed in this division for the performance of any act by the assessor or county board may be extended by the board or its executive director upon request by the assessor or county board for not more than 30 60 days, or, in the case of public calamity, not more than 40 days one calendar year. If an extension of time is granted, the executive director of the board shall give written notice thereof to the county auditor, county tax collector, and the officer or county board to whom the extension is granted. The executive director shall inform the board at its next regular meeting of any action with respect to extensions taken by him or her. There shall be the same board extension of time for any act of the board dependent on the act for which time was extended. The board may also authorize multiple extensions of time for public calamities as needed under the circumstances of the particular public calamity. [Amended language underlined or lined out.]

We look forward to discussing this proposal further at your Board's September 21, 2021 meeting.

Very truly yours,



John McKibben, Chair
CACEO Assessment Appeals Work Group

JM:bb

c: Hon. Ted Gaines
Hon. Malia Cohen
Hon. Mike Schaefer
Hon. Betty T. Yee
Yvette Stowers, Deputy State Controller
Brenda Fleming, Executive Director
Henry Nanjo, Chief Counsel
David Yeung, Deputy Director, Property Tax Department

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