



STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
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August 28, 2012

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No. 2012/036

TO CLERKS OF THE BOARD,
COUNTY ASSESSORS,
COUNTY COUNSELS, AND
OTHER INTERESTED PARTIES:

AMENDMENTS TO PROPERTY TAX RULE 308.6,
APPLICATION FOR EQUALIZATION BY MEMBER, ALTERNATE MEMBER,
OR HEARING OFFICER

Assembly Bill 824 (Stats. 2009, ch. 477) made revisions to the Revenue and Taxation Code's conflict of interest provisions applicable to county property tax assessment appeals. Among other things, AB 824 repealed and reenacted Revenue and Taxation Code¹ sections 1612.7 and 1622.6 to:

- Add to and revise the statutory list of persons whose applications must be heard in accordance with the procedures in section 1622.6 regarding hearings by special alternate assessment appeals boards appointed by the superior court;
- Grant clerks discretion to refer an application to an actively serving special alternate assessment appeals board in another California county in lieu of requesting that the superior court appoint a new special alternate assessment appeals board to hear the application in the clerk's county; and
- Specify the jurisdiction of special alternate assessment appeals boards to hear applications referred from other counties.

In addition, Senate Bill 1494 (Stats. 2010, ch. 654) repealed section 1636.5 which applied to applications filed by assessment appeal hearing officers. Section 1636.5 was repealed because the provisions pertaining to hearing officers were amended into section 1612.7.

Therefore, Board staff is proposing to amend Property Tax Rule 308.6, *Application for Equalization by Member, Alternate Member, or Hearing Officer*, to incorporate these changes to the Revenue and Taxation Code, and prohibit a clerk from referring an application to another county unless there is an agreement between the two counties.

Enclosed is a draft of Rule 308.6 showing Board staff's proposed amendments to accommodate the provisions of AB 824 and SB 1984. Interested parties are encouraged to participate in the rulemaking process for this rule by submitting comments regarding the draft of the proposed

¹ All statutory references are to the Revenue and Taxation Code.

TO CLERKS, ASSESSOR, COUNTY
COUNSELS, INTERESTED
PARTIES

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amendments. Comments on the proposed draft should be submitted by October 12, 2012 to Ms. Glenna Schultz, glenna.schultz@boe.ca.gov, or mailed to the above address.

It is anticipated that Rule 308.6 will be presented to the Board later this year for approval to begin the official rulemaking process. All documents regarding this project will be posted on the Board's website at www.boe.ca.gov/proptaxes/otherprojects12.htm.

If you have questions regarding this project, you may contact Ms. Schultz at 916-274-3362.

Sincerely,

/s/ David J. Gau

David J. Gau,
Deputy Director
Property and Special Taxes Department

DJG:sk
Enclosure

1 **RULE 308.6. APPLICATIONS FOR EQUALIZATION BY MEMBER, ALTERNATE**
2 **MEMBER, OR HEARING OFFICER REQUIRED TO BE HEARD BY**
3 **ALTERNATE ASSESSMENT APPEALS BOARDS.**
4

5 *Authority Cited:* Section 15606, Government Code.

6 *Reference:* Sections 1612.7 and 1622.6-1636.5, Revenue and Taxation Code.
7

8 **(a) Applications Required to Be Heard by Alternate Assessment Appeals Boards.**

9 (1) The following An applications for equalization filed pursuant to sections 1603 or 1605
10 of the Revenue and Taxation Code by a member or alternate member of an assessment appeals
11 board or an appointed hearing officer shall be heard before an assessment appeals board panel
12 consisting of three by a special alternate assessment appeals board members consisting of three
13 persons appointed by order of the presiding judge of the superior court in the county in which the
14 applications is are filed-;

15 (A) An application filed by a person listed in paragraph (2) of this subdivision on his
16 or her own behalf in a county in which the person serves or is employed; and

17 (B) An application in which a person listed in paragraph (2) of this subdivision
18 represents his or her spouse, registered domestic partner, parent, or child that is filed or pending
19 in a county in which the person specified in paragraph (2) of this subdivision serves or is
20 employed.

21 (2) This paragraph includes:

22 (A) A current member of an assessment appeals board or any alternate member;

23 (B) A current assessment hearing officer;

24 (C) A current employee of the office of the clerk of the board of equalization or
25 assessment appeals board; and

26 (D) A current employee of the county counsel who advises the assessment appeals
27 board or represents the county assessor before the assessment appeals board.

28 **(b) Referral to An Alternate Assessment Appeals Board in Another County.** The clerk of
29 the board has discretion to refer an application for equalization described in subdivision (a) to an
30 actively serving special alternate assessment appeals board, consisting of three members who are
31 qualified and in good standing, in another California county, in lieu of having the superior court
32 appoint a special alternate assessment appeals board to hear the application. Applications may
33 only be referred to a county if there is an agreement for the referral between the two counties.

34 **(b) Subject Matter.**

35 (1) Except as provided in paragraph (2) of this subdivision, A a special alternate
36 assessment appeals board member may hear only the application or applications for equalization
37 set forth in the superior court order appointing such member.

Rule 308.6 (Contd.)

1 (2) If the clerk of the board refers an application or applications to an actively serving
2 assessment appeals board in another county pursuant to subdivision (b), the board may hear only
3 the application or applications set forth in the transmittal document prepared by the clerk of the
4 board of the county in which the application or applications were filed, in addition to the
5 application or applications referred to in paragraph (1) of this subdivision.

6 **(ed) Qualifications for Appointment.** Any person shall be eligible for appointment as a special
7 alternate assessment appeals board member who meets the qualifications set forth in
8 section 1624 of the Revenue and Taxation Code.

9 **(de) Restrictions on Appointment and Grounds for Removal.** Sections 1624.1 and 1624.2 of
10 the Revenue and Taxation Code shall be applicable to the appointment of a special assessment
11 appeals board member, and a violation of section 1624.2 of the Revenue and Taxation Code shall
12 be cause for the removal of a special assessment appeals board member.

13 *History:* Adopted June 13, 1974, effective June 14, 1974.
14 Amended December 17, 1975, effective January 25, 1976.
15 Amended October 6, 1999, effective April 22, 2000.
16 Amended February 13, 2001, effective February 13, 2001.