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AB-102 The Taxpayer Transparency and Fairness Act of 2017: California Department of Tax and Fee Administration: Office of Tax Appeals: State Board of Equalization. (2017-2018)

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Assembly Bill No. 102

CHAPTER 16

An act to amend and repeal Sections 15605.5, 15618.5, and 15623 of, to amend, repeal, and add Sections 12803.2 and 15609.5 of, to add Sections 15600 and 15601 to, and to add Part 8.7 (commencing with Section 15570) and Part 9.5 (commencing with Section 15670) to Division 3 of Title 2 of, the Government Code, and to amend, repeal, and add Section 20 of the Revenue and Taxation Code, relating to state government, making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 27, 2017. Filed with Secretary of State June 27, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 102, Committee on Budget. The Taxpayer Transparency and Fairness Act of 2017: California Department of Tax and Fee Administration: Office of Tax Appeals: State Board of Equalization.

(1) The California Constitution provides for the establishment of the State Board of Equalization and requires the board to consist of 5 voting members, consisting of the Controller and 4 members elected for 4-year terms by the voters of an equalization district. Existing constitutional law prescribes the board's duties, powers, and responsibilities regarding the review, equalization, or adjustment of property tax assessments; the measurement of county assessment levels and adjustment of secured local assessment rolls; the assessment of pipelines, flumes, canals, ditches, and aqueducts lying within 2 or more counties and of property 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; the assessment of taxes on insurers; and the assessment and collection of excise taxes on the manufacture, importation, and sale of alcoholic beverages in this state.

Existing statutory law prescribes the duties, powers, and responsibilities of the State Board of Equalization regarding the administration of various taxes and fees and generally makes the board responsible for administrative appeals relating to the collection of those taxes and fees and for the administrative appeals of state personal income taxes and corporation franchise and income taxes, which are administered by the Franchise Tax Board.

Under existing law, there is a motor vehicle fuel tax administered by the State Board of Equalization. Existing law, until July 1, 2019, requires the board to annually modify the motor vehicle fuel tax rate on a going-forward basis so that certain changes in that tax and sales and use taxes are revenue neutral.

Existing statutory law authorizes the State Board of Equalization to appoint its secretary and to prescribe and enforce the secretary's duties. Existing law authorizes the board to request the Governor to convert one civil service position of the board into an exempt position appointed by the Governor, obtain copies of licensee photographs from the Department of Motor Vehicles, and to conduct district investigations relating to the laws within the board's jurisdiction.

This bill would establish, in the Government Operations Agency, the California Department of Tax and Fee Administration and would place the department under the control of a director appointed by the Governor and subject to confirmation by the Senate. The bill would also authorize the Governor to appoint a chief deputy director and a chief counsel.

This bill would transfer to the California Department of Tax and Fee Administration the various duties, powers, and responsibilities of the State Board of Equalization relating to the administration of various taxes and fees except for those duties, powers, and responsibilities imposed or conferred upon the board by the California Constitution, as specified, and the duty to adjust the motor vehicle fuel tax rate for the 2018–19 fiscal year. The bill would, for these purposes, also provide for the transfer to the department 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 authorize the California Department of Tax and Fee Administration to adopt regulations, including emergency regulations, necessary or appropriate to carry out these provisions. The bill would authorize the department to conduct certain inspections and examinations related to the administration of the taxes and fees under its jurisdiction. The bill would prohibit the director, the chief deputy director, and the chief counsel from divulging information concerning the business affairs of companies reporting to the department and would make it a crime to violate this prohibition. By creating a new crime, the bill would impose a state-mandated local program.

This bill would rename the secretary of the State Board of Equalization as the executive director and would specify that the board retains the authority to appoint the executive director and prescribe and enforce his or her duties. The bill would require each member of the board elected by the voters of an equalization district to have only one office in Sacramento and one district office. The bill also would require each member of the board elected by the voters of an equalization district to have 2 staff persons who are exempt from civil service and other civil service staff persons, as specified. The bill would require board member procurements to be processed through the Department of General Services. The bill would repeal the authority of the board to request that the Governor convert one civil service position of the board into an exempt position, to obtain copies of licensee photographs from the Department of Motor Vehicles, and to conduct district investigations. The bill also would restrict ex parte communications in relation to a board adjudicatory proceeding.

This bill would make these provisions operative on July 1, 2017.

(2) This bill would establish in state government the Office of Tax Appeals and would place the office under the control of a director appointed by the Governor and subject to confirmation by the Senate. The bill would also authorize the Governor to appoint a chief deputy director and a chief counsel. The bill would transfer to the office the various duties, powers, and responsibilities of the State Board of Equalization necessary or appropriate to conduct appeals hearings, except for those duties, powers, and responsibilities imposed or conferred upon the board by the California Constitution, as specified. Within the office, the bill would establish tax appeals panels and would require each tax appeals panel to consist of 3 administrative law judges, as specified. The bill, on and after January 1, 2018, would require the tax appeals panels to conduct, and would prohibit the board from conducting, appeals hearings for those duties, powers, and responsibilities transferred to the office.

This bill would make these provisions operative on July 1, 2017.

(3) This bill would provide that its provisions are severable.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(5) This bill would appropriate \$5,000,000 from the General Fund to the Office of Tax Appeals for specified administrative costs, as provided.

(6) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known and may be cited as the Taxpayer Transparency and Fairness Act of 2017.

SEC. 2. The Legislature finds and declares all of the following:

(a) California taxpayers are entitled to a tax administration and appeals process that is fair, transparent, consistent, equitable, and impartial. Such a system is vital for both taxpayers and their businesses as well as the state's ability to pay for public services, including, but not limited to, education, health and human services, public safety, transportation, and the environment.

(b) One of the most fundamental aspects of a good tax system is a fair and efficient appeals process. Taxpayers deserve to have appeals considered by an independent, objective panel with sufficient expertise and a sole focus on tax issues. Any appeals forum must issue decisions in a transparent fashion, relying on well-established precedents in tax law, providing open public access and choice of representation, and building a record that both taxpayers and tax administration agencies can rely upon. It is the intent of the Legislature that an appeals forum also resolve matters on appeal on a timely basis, for taxpayers and tax administration agencies alike.

(c) The Legislature has passed various measures, commonly referred to as the Taxpayers' Bill of Rights, to ensure that California will continue to protect the rights, privacy, and property of California taxpayers and fee payers during the assessment and collection of taxes and fees and to promote clarity and proper application of the law. As part of those protections, a Taxpayers' Rights Advocate was established to be responsible for facilitating the resolution of taxpayer and fee payer complaints and problems.

(d) As evidenced by a legislatively mandated review of the State Board of Equalization, the Controller's audit of the board, the Legislative Analyst Office's analysis of the board, and ongoing examinations of the board by the Attorney General, the California State Auditor's Office, and the State Personnel Board, the board's operational culture severely impacts its ability to report accurate and reliable information to the public, the administration, and the Legislature.

(e) The State Board of Equalization's current practices support inappropriate interventions by board members in administrative and appeal-related activities, all of which have led to inconsistencies in operations, breakdowns in centralized processes, and activities contrary to state law and budgetary and legislative directives.

(f) The current operational environment has also led to numerous complaints concerning members of the State Board of Equalization and their staff's attempt to influence the audits, investigations, and collections activities of the board's civil service employees.

(g) The State Board of Equalization's civil service employees, who seek to professionally perform their duties according to the law, are handicapped in their efforts to fairly apply the law through the undue influence of elected board members and the staff of board members.

(h) The current system of routine interference by members of the State Board of Equalization or their staff effectively eliminates the board's executive director's ability to, and all of the board's upper management's ability to, effectively and efficiently operate the organization.

(i) Due to the State Board of Equalization's failure to focus on its core responsibilities, significant errors in the board's allocation of sales and use tax revenue among the state, cities, and counties continue to materialize and result in the inability to effectively plan for the provision of public services.

(j) In order to restore the public's trust in the system and provide a work environment that is free from undue influence, it is necessary to enact changes to the State Board of Equalization that put fairness, consistency, and transparency of the tax administration and appeals processes in the forefront.

(k) The California Constitution of 1879 created the State Board of Equalization and granted it constitutional powers to equalize property tax assessment practices across the state. Voters have subsequently expanded the board's constitutional powers to include the assessment of public utilities and the administration of other taxes. The board's successful administration of these constitutional duties is vital and necessary to the state's economy, taxpayer fairness, and the ability of state and local agencies to pay for public services.

(l) It is in the best interest of the taxpayers, their businesses, and the state to have members of the State Board of Equalization refocus the board's efforts toward its core constitutional responsibilities.

SEC. 3. Section 12803.2 of the Government Code is amended to read:

12803.2. (a) The Government Operations Agency shall consist of all of the following:

- (1) The Office of Administrative Law.
- (2) The Public Employees' Retirement System.
- (3) The State Teachers' Retirement System.
- (4) The State Personnel Board.
- (5) The California Victim Compensation Board.

(6) The Department of General Services.

(7) The Department of Technology.

(8) The Franchise Tax Board.

(9) The Department of Human Resources.

(b) The Government Operations Agency shall include the Department of FISCal upon the acceptance of the Financial Information System for California (FISCal) by the state, as determined by the Director of Finance, pursuant to Section 11890.

(c) The Government Operations Agency shall be governed by the Secretary of Government Operations pursuant to Section 12801. However, the Director of Human Resources shall report directly to the Governor on issues relating to labor relations.

(d) The Governor, upon the recommendation of the Secretary of Government Operations, may appoint up to three deputies for the secretary.

(e) This section shall remain in effect only until July 1, 2017, and as of that date is repealed.

SEC. 4. Section 12803.2 is added to the Government Code, to read:

12803.2. (a) The Government Operations Agency shall consist of all of the following:

(1) The Office of Administrative Law.

(2) The Public Employees' Retirement System.

(3) The State Teachers' Retirement System.

(4) The State Personnel Board.

(5) The California Victim Compensation Board.

(6) The Department of General Services.

(7) The Department of Technology.

(8) The Franchise Tax Board.

(9) The Department of Human Resources.

(10) The California Department of Tax and Fee Administration.

(b) The Government Operations Agency shall include the Department of FISCal upon the acceptance of the Financial Information System for California (FISCal) by the state, as determined by the Director of Finance, pursuant to Section 11890.

(c) The Government Operations Agency shall be governed by the Secretary of Government Operations pursuant to Section 12801. However, the Director of Human Resources shall report directly to the Governor on issues relating to labor relations.

(d) The Governor, upon the recommendation of the Secretary of Government Operations, may appoint up to three deputies for the secretary.

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

SEC. 5. Part 8.7 (commencing with Section 15570) is added to Division 3 of Title 2 of the Government Code, to read:

PART 8.7. California Department of Tax and Fee Administration
CHAPTER 1. Administration

15570. (a) There shall be established within state government, in the Government Operations Agency, the California Department of Tax and Fee Administration. The department's headquarters shall be in Sacramento.

(b) The department is under the control of a director. The Governor shall appoint the director, a chief deputy director, and a chief counsel, and these appointees shall hold office at the pleasure of the Governor. The appointment of the director shall be subject to confirmation by the Senate.

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

15570.2. Except as otherwise provided by this part or any other law, the department and the director shall have all of the duties, powers, and responsibilities applicable to state departments and heads of departments under Chapter 2 (commencing with Section 11150) of Part 1.

15570.4. The director may confer, in this state or elsewhere, either personally or through the department's staff, with officers or employees of this state, its political subdivisions, other states, their political subdivisions, or the United States, or those other persons as may be of assistance to the department in its work.

CHAPTER 2. Definitions

15570.20. For the purposes of this part, the following terms shall have the following meanings:

(a) "Board" means the State Board of Equalization.

(b) "Department" means the California Department of Tax and Fee Administration.

CHAPTER 3. Transfer of Duties, Powers, and Responsibilities

15570.22. 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 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.

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) Consistent with 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.

15570.26. (a) All employees serving in state civil service, including temporary employees, who are engaged in the performance of functions transferred to the department pursuant to 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) Consistent with 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) 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 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) 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.

15570.28. The department shall provide the board with administrative and personnel services.

15570.30. The Department of Finance shall make the final determination of the budgetary and accounting transactions and treatments to ensure the proper implementation of the transfer of duties, powers, and responsibilities from the board to the department pursuant to this part.

CHAPTER 4. Regulations

15570.40. (a) The department may adopt regulations as necessary or appropriate to carry out the purposes of this part.

(b) Chapter 3.5 (commencing with Section 11340) of Part 1 shall not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the department.

(c) Until January 1, 2019, the adoption and readoption of emergency regulations to carry out the department's duties, powers, and responsibilities pursuant to this part shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare for purposes of Sections 11346.1 and 11349.6, and the department is hereby exempted from the requirement that it describe facts showing the need for immediate action and from review of the emergency regulations by the Office of Administrative Law.

15570.42. Pursuant to Section 6253, the department shall adopt regulations to establish procedures and guidelines to access public records. These regulations shall facilitate maximum public accessibility to the department's public records. These regulations shall specifically identify and describe the types of public records pertaining to the tax and the fee programs administered by the department.

CHAPTER 5. Procedures

15570.60. For good cause shown, the department may extend for not more than 30 days the time fixed for filing any report required by it.

15570.62. The department, whenever it deems it necessary to ensure voluntary compliance with the due dates prescribed by law for submission of any remittance, claim for credit or refund, document, return, or other information delivered to the department through the United States mail or through a bona fide commercial delivery service, may establish a uniform policy for the acceptance of the remittance, claim for credit or refund, document, return, or other information in cases where the cancellation mark stamped upon the envelope containing the remittance, claim for credit or refund, document, return, or other information shows a date after the date specified in law. This policy shall not be construed as an extension of the prescribed time limits for remitting payments, filing claims for refund or credit, submitting documents, returns, or other information.

15570.64. The department may sell copies of compilations of the tax and fee laws of the state, maps, and other documents.

CHAPTER 6. Inspections and Examinations

15570.80. The department may require anybody having knowledge of the business of any person who is subject to its jurisdiction, or having the custody of the books, accounts, and papers of that person, to attend before it and bring with him or her for inspection any books, accounts, or papers of that person in his or her possession and under his or her control, and to testify under oath touching any matter relating to the organization or business of that person.

15570.82. The director may examine the books, accounts, and papers of all persons required to report to him or her, or having knowledge of the affairs of those required to report.

15570.84. (a) The director, chief deputy director, or any person who has at any time obtained any knowledge described below from any of the foregoing officers shall not divulge or make known in any manner not provided by law, any of the following items of information concerning the business affairs of companies reporting to the department:

(1) Any information concerning the business affairs of any company that is gained during an examination of its books and accounts or in any other manner, and is not required by law to be reported to the department.

(2) Any information, other than the assessment and the amount of taxes or fees levied, obtained by the department in accordance with law from any company other than one for which that information is required by law to be made public.

(3) Any particular item of information relating to the disposition of its earnings contained in the report of a quasi-public corporation that the corporation, by written communication specifying the items and presented at the time when it files its report, requests to be treated as confidential.

(b) Nothing in this section shall be construed as preventing examination of these records and reports by law enforcement agencies, grand juries, boards of supervisors, or their duly authorized agents, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine these records and reports.

(c) The Governor may authorize examination of these records and reports by other state officers. In that event, the information obtained by these persons shall not be made public. The Governor, however, may direct that any of the information referred to in this section shall be made public.

(d) Successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information as to the items described in this section and any unpaid tax or fee amount or any tax or fee amounts required to be

collected, interest, and penalties.

(e) Any violation of this section is a misdemeanor and punishable by a fine not to exceed one thousand dollars (\$1,000), or by imprisonment not to exceed six months, or both, at the discretion of the court.

CHAPTER 7. Operative Date

15570.100. This part shall become operative on July 1, 2017.

SEC. 6. Section 15600 is added to the Government Code, immediately preceding Section 15601, to read:

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, 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.

(5) The assessment and collection of excises 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.

(c) 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) 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.

(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.

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

(f) 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.

(g) (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.

(h) 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.

(i) 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.

(j) All board member procurements shall be processed through the Department of General Services.

(k) (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.

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

SEC. 7. Section 15601 is added to the Government Code, immediately preceding Section 15602, to read:

15601. For purposes of this part, the term "secretary" means "executive director."

SEC. 8. Section 15605.5 of the Government Code is amended to read:

15605.5. (a) Notwithstanding any other law, but consistent with Section 4 of Article VII of the California Constitution and Section 12010.5, each member of the State Board of Equalization elected by district may request that the Governor convert one civil service position of the board to be exempt from civil service and serve as an administrative assistant at or below the nonsupervisory exempt salary level P2A, who shall be appointed by and shall serve at the pleasure of the Governor.

(b) This section shall remain in effect only until July 1, 2017, and as of that date is repealed.

SEC. 9. Section 15609.5 of the Government Code is amended to read:

15609.5. (a) Notwithstanding Section 11425.10, Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 do not apply to the board.

(b) This section shall remain in effect only until July 1, 2017, and as of that date is repealed.

SEC. 10. Section 15609.5 is added to the Government Code, to read:

15609.5. (a) Notwithstanding Section 11425.10 and except as specified in subdivision (b), Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 do not apply to the board.

(b) Ex parte communications shall be restricted as provided in Article 7 (commencing with Section 11430.10) of Chapter 4.5 of Part 1.

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

SEC. 11. Section 15618.5 of the Government Code is amended to read:

15618.5. (a) Notwithstanding Section 1808.5 of the Vehicle Code, the board, as a board, individually, or through its staff, may obtain copies of fullface engraved pictures or photographs of licensees directly from the Department of Motor Vehicles for the purposes of enforcing the Revenue and Taxation Code.

(b) This section shall remain in effect only until July 1, 2017, and as of that date is repealed.

SEC. 12. Section 15623 of the Government Code is amended to read:

15623. (a) Each member of the State Board of Equalization elected by the voters of an equalization district shall investigate the administration, enforcement, and operation within the district from which he is elected of all laws, the administration and enforcement of which are vested in the board.

Each such member may appoint a deputy to assist him in the performance of his duties under this section. The deputy shall be so appointed as to be exempt from civil service under paragraph (6), subdivision (a), Section 4, Article XXIV of the Constitution, and not otherwise.

(b) This section shall remain in effect only until July 1, 2017, and as of that date is repealed.

SEC. 13. Part 9.5 (commencing with Section 15670) is added to Division 3 of Title 2 of the Government Code, to read:

PART 9.5. Office of Tax Appeals

15670. (a) There shall be established in state government the Office of Tax Appeals.

(b) The office is under the control of a director. The Governor shall appoint the director, chief deputy director, and chief counsel of the office. The appointment of the director is subject to confirmation by the Senate.

(c) Within the office there shall be tax appeals panels. Each tax appeals panel shall consist of three administrative law judges designated by the director of the office. Each administrative law judge shall satisfy both of the following:

(1) Possess both of the following qualifications:

(A) Active membership in the State Bar of California for at least five years immediately preceding his or her designation to a tax appeals panel.

(B) Knowledge and experience with regard to the administration and operation of the tax and fee laws of the United States and of this state.

(2) Subscribe to the Code of Judicial Ethics adopted by the Supreme Court pursuant to subdivision (m) of Section 18 of Article VI of the California Constitution for the conduct of judges.

15671. For purposes of this part, the following terms shall have the following meanings:

(a) "Appeal" means any of the following:

(1) A petition, including, but not limited to, a petition for redetermination, petition for reassessment, petition for reconsideration of successor liability, or petition for rehearing.

(2) Administrative protest.

(3) Claim, including a claim for refund.

(4) Appeal from an action of the Franchise Tax Board.

(5) Application, including, but not limited to, an application for administrative hearing.

(6) Any other item that may be scheduled for a hearing, including, but not limited to, requests for relief of taxes, fees, interest, or penalties.

(b) "Office" means the Office of Tax Appeals.

15672. Except as provided in subdivision (b) or (c) 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.

15673. The office's headquarters shall be in Sacramento. A hearing office shall be located in Sacramento, Fresno, and Los Angeles.

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

(1) On or after January 1, 2018, conduct appeals.

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

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

(b) On or after January 1, 2018, the State Board of Equalization shall not conduct appeals, except as provided in subdivision (b) or (c) of Section 15600.

15675. The office shall publish a written opinion for each appeal decided by each tax appeals panel. The written opinion shall be published within 100 days after the date upon which a tax appeals panel's decision becomes final.

15676. A person may be represented on an appeal by any authorized person or persons, at least 18 years of age, of the person's choosing, including, but not limited to, an attorney, appraiser, accountant, bookkeeper, employee, business associate, or other

person.

15677. The person filing the appeal may appeal the decision of the tax appeals panel to the superior court in accordance with the law imposing the tax or fee. The standard of judicial review to be applied by the superior court shall be review de novo.

15678. (a) A member of the State Board of Equalization shall not represent a person before a tax appeals panel before one year after the expiration of the member's term on the board or one year after separation from the board.

(b) The staff of a member of the State Board of Equalization shall not represent a person before a tax appeals panel before one year after separation from employment with that member.

15679. (a) (1) By January 1, 2018, the office shall adopt regulations as necessary or appropriate to carry out the purposes of this part. Any rule or regulation adopted pursuant to this section may be by adoption of an emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1.

(2) Until January 1, 2019, the adoption and readoption of emergency regulations by the office to carry out the office's duties, powers, and responsibilities pursuant to this part shall be deemed to be an emergency and necessary for the immediate preservation of public peace, health and safety, or general welfare for purposes of Sections 11346.1 and 11349.6 and the office is hereby exempted from the requirement that it describe facts showing the need for immediate action and from review of the emergency regulations by the Office of Administrative Law.

(3) To the extent possible, regulations adopted to carry out the purposes of paragraph (2) of subdivision (c) of Section 15670 shall be consistent with all of the following:

(A) The procedures established by the Commission on Judicial Performance for regulating activities of state judges.

(B) The gift, honoraria, and travel restrictions on legislators contained in the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

(C) The Model State Administrative Tax Tribunal Act dated August 2006 adopted by the American Bar Association.

(b) Chapter 3.5 (commencing with Section 11340) of Part 1 shall not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the office.

15680. This part shall become operative on July 1, 2017.

SEC. 14. Section 20 of the Revenue and Taxation Code is amended to read:

20. (a) "Board" means the State Board of Equalization.

(b) This section shall remain in effect only until July 1, 2017, and as of that date is repealed.

SEC. 15. Section 20 is added to the Revenue and Taxation Code, to read:

20. (a) Except as otherwise provided in subdivisions (b) and (c), and notwithstanding any other law, "board" means the California Department of Tax and Fee Administration.

(b) Unless the context requires otherwise, as used in this code or any other code, "board," with respect to an appeal, means the Office of Tax Appeals if the authority to handle appeals has been transferred from the State Board of Equalization to the Office of Tax Appeals pursuant to Part 9.5 (commencing with Section 15670) of Division 3 of Title 2 of the Government Code.

(c) Unless the context requires otherwise, as used in this code or any other code, "board" means the State Board of Equalization where the State Board of Equalization has retained authority pursuant to subdivision (b) or (c) of Section 15600.

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

SEC. 16. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 17. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 18. (a) A sum of five million dollars (\$5,000,000) from the General Fund is hereby appropriated to the Office of Tax Appeals for the administrative costs to implement Part 9.5 (commencing with Section 15670) of Division 3 of Title 2 of the Government Code.

(b) Upon receipt of a written request from the director of the Office of Tax Appeals, the Director of Finance or his or her designee may, not sooner than 30 days after providing written notification to the Joint Legislative Budget Committee, augment the amount appropriated in subdivision (a) by authorizing the transfer of funds from the amount appropriated in Item 0860-001-0001 of Section 2.00 of the Budget Act of 2017.

SEC. 19. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.