

# AGENDA

## ASSEMBLY BUDGET SUBCOMMITTEE NO. 6 BUDGET PROCESS, OVERSIGHT AND PROGRAM EVALUATION

ASSEMBLYMEMBER PHIL TING, CHAIR

WEDNESDAY, APRIL 5, 2017  
4:00 P.M. - STATE CAPITOL ROOM 127

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ITEMS TO BE HEARD		
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## ITEMS TO BE HEARD

### 0860 STATE BOARD OF EQUALIZATION

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<b>ISSUE 1: DEPARTMENT OF FINANCE, FINAL REPORT: CALIFORNIA STATE BOARD OF EQUALIZATION</b>
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#### Panelists

##### **Department of Finance:**

Jennifer Whitaker, Chief, Office of State Audits and Evaluations  
Diana Antony, Manager, Office of State Audits and Evaluations

##### **Board of Equalization:**

Brenda Fleming, Acting Chief Deputy Director;  
Michele Pielsticker, Chief, Legislative and Research Division; and  
Edna Murphy, Deputy Director, Administration Department

<b>BACKGROUND</b>
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Beginning in 2015, Subcommittee 4 and the Committee on Revenue and Taxation Committee held a joint oversight committee hearing to discuss various issues related to the Board of Equalization (BOE). The joint hearing focused on Outreach and Compliance by various Board Members as well as the Cigarette Tax and Licensing Program.

The Cigarette Tax and Licensing Program focused on the administrative costs related to the General Fund and three special funds - the Breast Cancer fund, Prop 99, and Prop 10 - to fund the Cigarette and Tobacco Compliance Fund, created under AB 71 (Chapter 890, Statutes of 2003) and the role of the BOE to administer and collect the tax imposed on tobacco products in California.

Following up in 2016, Subcommittee 4 continued to focus on the following issues at the BOE:

- **Vacant Positions at the BOE** – The 2016-17 Budget included a new *Budget Transparency* line for all the department's budget, but the story at the BOE was of particular interest for the Subcommittee. Through the DOF budget transparency drill, light was shed on the high rate of vacant positions at the BOE. During last year's budget discussions, the BOE had 478 vacant positions. That number has since increased to over 600 positions.
- **Office Space for BOE members** – The BOE members currently occupy various locations throughout the downtown area, which has led to office space leases that cost the taxpayers about \$17,000 a month for each location.

- **Outreach and Public Relations.** Outreach and public relations varies among Board Members. The costs associated with these activities are not defined. In order to increase transparency and maintain accountability to the taxpayer, a closer look at the outreach and public relations activities of the Board should be examined.

As a result of the work by the Subcommittee, an Assembly Action plan, which was incorporated into the 2016 Budget Act, was created to ensure some policy changes were in place around the BOE. These policy changes included:

- Consolidate Board Members Offices into one location within a state-owned building.
- Require all of the office space procured by the Department of General Services for the BOE to follow the SAM standards related to state employee work space.
- Require the Department of Finance to Conduct an Audit of Sales and Use Tax collection activities along with the outreach and public relations expenditures.
- Require monthly staff vacant positions reporting to the Joint Legislative Budget Committee.

#### **DOF Audit.**

As part of the 2016 Budget Act, the Department of Finance, Office of State Audits and Evaluations, was required to evaluate BOE's Sales and Use Tax Program's activities, including, but not limited to, audits, collections, compliance enforcement, and outreach; BOE's taxpayer outreach and related activities; and BOE's corrective actions related to the State Controller's Office (SCO) Review. Here is a link to the report: <http://web1a.esd.dof.ca.gov/reports/reportPdfByName/Board%20of%20Equalization%20Evaluation%20March%202017>

A summary of some of the key findings are provided below:

- BOE had difficulty providing complete and accurate documentation in response to the evaluation inquires and in some instances various levels of management were not aware of and could not speak of district activities for which they held oversight responsibilities.
- Staff resource utilization practices have negatively impacted personnel and accounting records. Revenue generating positions were non-revenue generating activities, without Legislative or DOF approval.
- The External Affairs Department coordinates numerous aspects of the education and outreach program and the general policy is for board member offices to request certain outreach services through External Affairs. However, this policy is not consistently followed. The outreach activities have a limited nexus with BOE's administered tax programs and have increased in recent years. BOE has

not implemented budgets and cost tracking measures for these outreach activities, and has hired staff for these activities using practices to bypass the budgetary and legislative processes.

- BOE's supplemental annual reports submitted to the Legislature do not comply with the Budget Act reporting requirements. Due to the staff resource utilization practices noted in the report, the audit and collection's revenue and personnel costs are incorrect, which further skews the reported cost benefit ratios.

### **Constitutional and Statutory Authorities for the BOE.**

The Summary Document of Constitutional and Statutory Authorities of the State Board of Equalization are shown as Attachment 1 to this agenda (see attached).

#### **STAFF COMMENTS**

Over the past two weeks, two Board members have publically asked for outside help to restore the agency. Board member Fiona Ma on Monday, March 27, 2017, sent a letter to Governor Jerry Brown asking him to appoint a public trustee to oversee the agency, while State Controller Betty Yee, requested on Friday, March 31, 2017, that the lawmakers should strip the BOE of much of its authority and create new state department to manage the tax and fee programs.

The Legislature has the power to make any statutory changes without having to appoint a public trustee. The questions the subcommittee may wish to consider are the following:

- Whether the Legislature needs to revisit the constitutional and statutory authorities currently granted to the Board members.
- How should the Board act separately from the agency?
- What should the structure of the agency look like given the systemic problems currently facing the BOE?
- What timeline should any actions related to the BOE be taken, end of June or end of session? How much time will be adequate to develop a thoughtful approach to BOE changes?

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**Staff Recommendation: Hold Open.**

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**8860 DEPARTMENT OF FINANCE**

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**ISSUE 2: ZERO-BASED BUDGETING**

The Department of Finance will present their Zero-Based Budgeting effort.

**BACKGROUND**

The Department of Finance has recently established a Mission-Based budgeting project to conduct additional oversight of state departments. This project reflects an evolution of recent efforts to improve the oversight of state departments.

The 2016 Budget included \$500,000 for the Department of Finance to begin a zero-based budgeting effort. The Assembly has explored efforts to use alternative budgeting practices as an oversight tool in past years, including a zero-based budgeting review of the University of California in 2016; and the performance-based budgeting review of Caltrans and the Department of Motor Vehicles in 2011.

Governor Brown issued Executive Order B-11-13 on December 8, 2011, requiring the Department of Finance to begin using budgetary tools, such as zero-based budgeting, to cut state spending and improve operational efficiency. Since that time, the Department of Finance has engaged in several zero-based budgeting efforts in various departments and programs including the Department of Public Health, Department of Industrial Relations, Caltrans, and the Public Utilities Commission. The Department has observed from these efforts that because the mission, function, and structure of state departments vary so greatly, there is no "one-size fits all" approach that works for conducting reviews.

The Department of Finance has evolved the oversight approach towards a broader "mission-based" approach that considers the statutory and regulatory mission of each department and compares the use of existing resources to those requirements. The effort will use 4 existing positions at the Department of Finance, which will conduct reviews by leveraging the assistance of Department of Finance staff with expertise in the department subject to review.

**STAFF COMMENTS**

The Subcommittee has expressed an interest in zero-based budgeting as an oversight tool in the budget process. The "Mission-Based" approach may be a natural complement to such an effort. The Subcommittee may wish to consider the following questions:

1. Should the Assembly incorporate the work of Department of Finance in its oversight efforts?
2. How can the Department of Finance's Mission-Based project be incorporated into the normal budget oversight process? During normal subcommittee hearings or with stand-alone hearings?
3. Should the Assembly seek to influence or direct the Mission-Based project's workplan? If so, how?
4. Does the Mission-Based project substitute for efforts the Assembly wished to undertake regarding zero-based budgeting, or should the Assembly have its own stand-alone review process that compliments or parallels the Department of Finance effort?

**ISSUE 3: ACR 40****ASSEMBLY COMMITTEE ON BUDGET**

Phil Ting, Chair

**ACR 40 (Ting)** – As Introduced March 21, 2017**SUBJECT:** Legislative oversight of state agency budgets: zero-based budgeting**SUMMARY:** Expresses Legislative Intent to use Zero-Based Budgeting and Mission-Based Budgeting in budget oversight efforts.**FISCAL EFFECT:** None.

**COMMENTS:** This resolution reflects the continued efforts by the Assembly Budget Committee to improve oversight efforts by adopting alternative budgeting practices to enhance the accountability of state programs. As stated in the resolution, 17 states currently use a zero-based budgeting effort as a management and budgetary tool. The Assembly has piloted a zero-based budgeting effort in 2016 with some success. This resolution intends to take these efforts to scale by making this review more systematic so that all major departments are subject to review over time.

The Department of Finance has begun a mission-based budget review project to continue their process of looking at department programs in-depth to compliment the review they currently undertake during the normal budget process. As this effort gets underway, this resolution contemplates leveraging that effort as part of the Assembly's oversight effort—either by using the information from the review reports for oversight directly, or complementing this review with additional zero-based budgeting analysis.

**REGISTERED SUPPORT / OPPOSITION:****Support**

None on file.

**Opposition**

None on file.

**Analysis Prepared by:** Christian Griffith / BUDGET