

# The 2021-22 Budget: State Board of Equalization

FEBRUARY 2021

## Background

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**Restrictions Imposed in 2017 Changed BOE's Hiring Process.** In 2017, the administration and the Legislature responded to the State Board of Equalization's (BOE) organizational problems with major actions, including:

- **Loss of Delegations From Department of Human Resources (CalHR).** In April 2017, Governor Brown suspended the authority that CalHR had delegated to BOE to make personnel decisions. With these delegations suspended, CalHR is heavily involved in BOE's hiring process.
- **New Organizational Structure.** Later in 2017, the Legislature passed two laws—AB 102 and AB 131—that transferred most of BOE's programs, budget, staff, and facilities to the newly created California Department of Tax and Fee Administration (CDTFA) and Office of Tax Appeals (OTA). Under this structure, BOE

relies upon CDTFA for most of its specialized administrative functions, including human resources (HR).

**COVID-19 Derailed Request to Return Delegations.** In November 2019, BOE submitted a formal request to the State Personnel Board (SPB) to consider restoring its HR delegations. The issue remains unresolved due to the COVID-19 emergency and related workload disruptions.

**BOE Has Had a High Vacancy Rate.** BOE's overall vacancy rate in 2017-18—the first fiscal year under the new organizational structure—was 14 percent, similar to many state departments. By 2019-20, the vacancy rate had grown to 32 percent. The most recent data available (September 1, 2020) indicate that BOE has 50.6 vacant positions—a vacancy rate of 26 percent.

## LAO Comments

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**Vacancies Have Had Negative Effects.** BOE has described many examples of negative consequences of its high vacancy rate, including:

- Outdated information in assessors' handbooks.
- Delays in approving claims for the welfare exemption.
- A backlog in the Legal Entity Ownership Program.
- A case management backlog for the Taxpayers' Rights Advocate.

**Governor's Proposed 2021-22 Appropriation 30 Percent Higher Than 2019-20 Spending.** Due primarily to the vacancies noted above, BOE spent just \$24.5 million of its \$31.3 million General Fund appropriation in 2019-20. The Governor's proposed 2021-22 appropriation for BOE is \$31.8 million—30 percent higher than the amount spent in 2019-20. At the same time, the Governor's proposal holds BOE's position authority constant at 192.6 positions. Implicitly, the proposed appropriation seems to anticipate a large decline in the vacancy rate.

### ***BOE Involved in Implementation of***

**Proposition 19.** In November 2020, voters passed [Proposition 19](#), which changes certain property tax rules pertaining to (1) inherited properties and (2) certain homeowners who move from one home to another. Prior to Proposition 19, the state already had special property tax rules for some of these situations, and BOE has an ongoing

workload (2.3 PYs) related to those rules. The substantial changes made by Proposition 19—and any forthcoming implementing statutes—will create additional one-time and ongoing workloads for BOE. Although the administration has presented the Legislature with a budget change proposal (BCP) for CDTFA's Proposition 19 implementation activities, it has not done so for BOE.

## **Questions for Legislature to Consider**

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***Why Has BOE Had So Many Vacancies?*** Our inquiries have not indicated a broad consensus among BOE, CDTFA, CalHR, and the Department of Finance regarding the main drivers of BOE's high vacancy rate. We suggest that the Legislature engage in further discussions with these entities regarding the sources of this problem and potential remedies for it.

***What Vacancy Rate Should We Expect in 2021-22?*** BOE's overall vacancy rate has declined noticeably from its 2019-20 peak. That said, the Governor's proposed 2021-22 appropriation would make sense only if the Legislature anticipates further large declines in the vacancy rate. We see no reason for the Legislature to appropriate funds that BOE cannot spend.

***What Resources Will BOE Need for Its Existing Duties?*** As noted above, BOE's vacancies—and the closely related underspending of its budgetary appropriation—have had a variety of negative effects. A 2021-22 appropriation that allows for some growth in actual spending could help BOE address some of these problems. That said, the problems do not seem severe enough to justify a 30 percent increase in spending.

***What Resources Will BOE Need for Proposition 19?*** Proposition 19 is another reason for the Legislature to allow for some growth in BOE's spending. In response to our inquiries, BOE has provided a Proposition 19 workload estimate roughly corresponding to 18 PYs in 2021-22, including 16 PYs ongoing. Proposition 19 undoubtedly creates new workload for BOE, particularly during the initial implementation period. That said, the ongoing portion of BOE's estimate

seems quite high given the 2.3 PY workload for existing laws in this area.

***How Can the Legislature Reassert Its Role in Determining BOE's Budget?*** The lack of a Proposition 19 BCP seems to suggest that BOE plans to cover the new workload by redirecting existing resources, with no augmentation or reduction to its budget. An exact match between the Proposition 19 workload and the resources available for redirection seems like a highly improbable coincidence. We suggest that the Legislature consider ways to compel the administration to provide more information and better justifications for its proposed appropriation for BOE. For example, the Legislature could consider a 2021-22 appropriation higher than \$24.5 million (the 2019-20 spending amount) but lower than \$31.8 million (the Governor's proposal). The administration could then submit a 2022-23 BCP justifying any proposed increases relative to 2021-22.

***Should the Legislature or the Administration Change BOE's Hiring Process?*** Our discussions with BOE and with the administration have raised a variety of potential explanations for BOE's struggles to fill its vacant positions. As the Legislature learns more about this problem, it could consider whether changes potentially could make BOE's hiring process more efficient. Possibilities include:

- ***Restore BOE's HR Delegations From CalHR?*** This administrative decision could have significant implications for a variety of legislative decisions regarding BOE. Accordingly, we encourage the Legislature to monitor the situation.

- ***Reconsider the Statutory Relationship Between BOE and CDTFA?*** As noted above, CDTFA currently performs various specialized administrative functions on behalf of BOE, including HR functions. We suggest that the

Legislature consider the advantages and disadvantages of having CDTFA play this role as compared to other options, such as the Department of General Services.

## **LAO Publications**

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This report was prepared by Seth Kerstein, and reviewed by Brian Uhler and Carolyn Chu. The Legislative Analyst's Office (LAO) is a nonpartisan office that provides fiscal and policy information and advice to the Legislature.