

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY MAY 15, 2012

AMENDED IN ASSEMBLY MAY 1, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2323

Introduced by Assembly Member Perea

February 24, 2012

An act to add Section 40 to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2323, as amended, Perea. State Board of Equalization: administration: opinions.

The California Constitution establishes the State Board of Equalization, and existing law prescribes its various powers and duties with respect to various taxes and fees, including administration, assessment, and collection and prescribes its functions with respect to property taxes. The State Board of Equalization is the appellate body for disputes arising under franchise and income tax laws, it decides disputes arising under tax and fee laws administered by the board, and it decides specified petitions and applications arising under property tax laws.

This bill would require the board to publish and make available on its Internet Web site a written formal opinion, a written memorandum opinion, or a written summary decision for each decision *of the board, as specified*, in which the amount in controversy is \$500,000 or more,

within ~~90~~ 120 days of the date upon which the board rendered its decision. This bill would require each published opinion or decision to contain specified information.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 40 is added to the Revenue and Taxation
 2 Code, to read:
 3 40. (a) (1) The board shall publish on its Internet Web site a
 4 written formal opinion, a written memorandum opinion, or a
 5 written summary decision for each decision of the board in which
 6 the amount in controversy is five hundred thousand dollars
 7 (\$500,000) or more, within ~~90~~ 120 days of the date upon which
 8 the board rendered its decision.
 9 (2) *A decision of the board shall not include consent calendar*
 10 *actions taken by the board.*
 11 (b) Each formal opinion, memorandum opinion, and summary
 12 decision as described in subdivision (a) shall include all of the
 13 following:
 14 (1) Findings of fact.
 15 (2) The legal issue or issues presented.
 16 (3) Applicable law.
 17 (4) Analysis.
 18 (5) Disposition.
 19 (6) Names of adopting board members.
 20 (c) (1) A board member may submit a dissenting opinion setting
 21 forth his or her rationale for disagreeing with the memorandum
 22 opinion or formal opinion.
 23 (2) A board member may submit a concurring opinion setting
 24 forth the board member’s rationale for agreeing with the result
 25 reached in the memorandum opinion or formal opinion, if different
 26 than the rationale set forth in the memorandum opinion or formal
 27 opinion.
 28 (3) A dissenting opinion and a concurring opinion shall be
 29 published in the same manner as prescribed in subdivision (a) for
 30 a formal opinion or memorandum opinion.
 31 (d) A formal opinion or memorandum opinion adopted by the
 32 board may be cited as precedent in any matter or proceeding before

- 1 the board, unless the opinion has been depublished, overruled, or
- 2 superseded. A summary decision may not be cited as precedent in
- 3 any matter or proceeding before the board.

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