

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

354A



FROM: Executive Office

SUBMITTAL DATE:
March 30, 2012

SUBJECT: Assembly Bill 1590 (Campos)

RECOMMENDED MOTION: That the Board of Supervisors oppose AB 1590 (unless amended), which would require the imposition of Brown Act requirements on meetings such as Assessment Appeals Boards.

BACKGROUND: The California Association of Clerks and Election Officials oppose Assembly Bill 1590 (Campos), which would include in the definition of "legislative body" contained in Government Code Section 54952 assessment appeals boards, thus making these quasi-judicial bodies subject to the Ralph M. Brown Act. The measure has been referred to your Assembly Local Government Committee.

(Continued on next page.)

Alex Gann

ALEX GANN
Principal Management Analyst

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011/12

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE
BY: *Christopher M. Hans*
County Executive Office Signature Christopher M. Hans

- Policy
- Policy
- Consent
- Consent

Department Recommendation:
Per Executive Office:

Prev. Agn. Ref.: | **District:** ALL | **Agenda Number:**

3.6

Departmental Concurrence

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

FORM 11: Assembly Bill 1590 (Campos); Oppose unless amended

DATE: March 30, 2012

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BACKGROUND continued: Assembly Bill 1590 would inappropriately apply the provisions and requirements of the Ralph M. Brown Act to county boards of equalization and assessment appeals boards. The Brown Act was intended to ensure that the public has access to the meetings of various types of local legislative bodies that legislate, develop public policy, and oversee the operations of local government agencies, such as governing bodies (school board, board of supervisors, city council, special district board of directors), standing committees of governing bodies, and advisory bodies that advise governing bodies in policy making, etc., i.e. legislative bodies that participate in governing, even if indirectly. Assessment appeals boards do none of these things. Assessment appeals boards have no legislative or executive functions, duties or powers; and they have no influence on public policy. The Brown Act was not intended to govern the actions of the courts or of bodies whose function is purely adjudicatory, such as county boards of equalization, including assessment appeals boards, which are established by the California Constitution whose sole function is to equalize the property tax roll. These bodies do not legislate, they adjudicate. Assessment appeals boards have no authority to establish policies, procedures or rules affecting any form of governance.

Assessment appeals boards operate very much like courts. By law, assessment appeals boards provide the parties with notice of the hearing 45 days in advance. However, the parties often request to come off calendar right up until the day of the hearing. In order for the board to insure that it continues to have a full day's calendar, the clerk will back-fill the vacated portions of the calendar with the appeals of other parties who are willing to go forward on short-notice with appeals that are subject to stipulations between the assessor and the taxpayer, and other types of cases where the parties largely have resolved their disagreement and are willing to go forward in order to close out the case. This flexibility is vital to county's ability to timely resolve assessment appeals within the statutorily required two-year deadline. This is especially important now, when the assessment appeal rate has increased four-fold due to the decline in the real estate market.

This measure would also force assessment appeals boards to comply with numerous provisions of the Brown Act which are irrelevant to the assessment appeals process. Among those provisions is the requirement that the public be allowed to speak on any item contained on the board's calendar. However, the courts have long recognized that a county board of equalization acts in a judicial capacity and can make its orders only on the basis of legal evidence. The law requires the board to weigh evidence brought forward by the parties of interest. Any information that might be provided by a member of the public during a public comment period properly could not be considered by the board, rendering such comments pointless. Furthermore, this practice would delay taxpayers from obtaining relief through expeditious hearings and would slow the process even further and would place the boards in even greater jeopardy of defaulting on their two year decision deadline.

Under existing law contained in the Revenue and Taxation Code governing equalization, the public is properly and adequately served by permitting the public to attend hearings of the board and providing information relating to the hearings and the boards decisions pursuant to the California Public Records Act. To impose the additional restrictions and requirements contained in the Brown Act is improper and harmful to the assessment appeal process and to taxpayers who seek prompt tax relief.