

**RESOLUTION DEFINING THE POWERS AND DUTIES OF THE EXECUTIVE
OFFICER OF THE FRANCHISE TAX BOARD**

Regulation Section 17000.10 currently provides that, subject to the general supervision and direction of the Franchise Tax Board (Board) itself, all the powers and duties conferred upon the Franchise Tax Board itself may be exercised by the executive officer, except as specified. That grant of authority is not a relinquishment of any power or duty of the Board itself, but is instead an authorization for the executive officer to act on the Board's behalf.

To more clearly define the Board's delegation of authority, the following resolution is hereby adopted.

RESOLVED, that all of the authority hereby delegated is to be exercised under the general direction of the Board and in accordance with policies enunciated by the Board, and such delegation shall not constitute the relinquishment of any power, jurisdiction, or responsibility of the Board.

FURTHER RESOLVED, that except as to any duty, power or function that is (1) reserved by statute exclusively to the Board itself, or (2) expressly reserved by resolution of the Board to the Board itself, the authority granted to the executive officer shall include, but shall not be limited to, the following:

- (a) Execution of any and all personnel documents as the appointing power. Prior to the execution of such documents, the executive officer shall: (1) to the extent consistent with the provisions of Government Code section 15701, seek Board recommendation for all appointments of personnel to a Career Executive Assignment (CEA) level III or IV and chief counsel appointments. (Prior to making a recommendation, the Board members may interview candidates.); and (2) obtain Board approval for all position upgrades which result in a change of classification at the CEA level III or IV and higher before such requests are submitted to the California Department of Human Resources;
- (b) Execution of any and all budgetary and fiscal documents for and on behalf of the Board. Prior to the submission of the annual budget and/or any budget change proposals to the Government Operations Agency or the Department of Finance, the executive officer shall obtain the explicit approval of the Board in open public session. The executive officer may develop, without prior Board approval, budget change proposals resulting from newly enacted legislation within the ten day Department of Finance deadline. If the Board majority does not act or the Board vote results in a tie, the executive officer may submit the documents as proposed;
- (c) Development and execution of policies, regulations, strategic goals, and departmental legislative proposals, analyses, or recommendations to the Legislature. Prior to the release of any proposed regulation, departmental legislative proposal, or recommendation to the Legislature, the executive officer shall obtain the explicit approval of the Board in open public session;

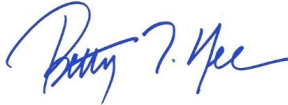
- (d) To defend in the name of the Board all suits brought against the Franchise Tax Board in conjunction with the Office of Attorney General. Prior to any appeal of a negative ruling of a court of original or appellate jurisdiction, the executive officer shall obtain explicit approval of the Board in open or closed session to pursue the appeal and the basis upon which the appeal will be sought unless a court imposed filing deadline precludes prior approval at a noticed Board meeting. Further, the Board shall expressly approve any official request for advice from the Office of Attorney General in the name of the Franchise Tax Board;

- (e) Execution of any and all contracts for materials, services, and supplies. The executive officer shall obtain Board approval before the department initiates any procurement activity which would result in the award of a contract exceeding \$2,000,000. The executive officer shall provide written notice to the Board of any procurement activity which would result in the award of a contract greater than \$1,000,000 and less than \$2,000,000.

- (f) Execution of any and all contracts with respect to capital facilities. Prior to the execution of any such contract, and/or prior to the submission of a Space Action Request (Form 9), or a State Regional Asset Management Survey with the Department of General Services, the executive officer shall obtain approval of the Board in open public session, or in closed session pursuant to law. The executive officer may approve the submission of said documents where the Department of General Services and/or newly enacted legislation impose deadlines that preclude the ability to obtain prior Board approval.

FURTHER RESOLVED, that in the absence of the executive officer, the authority vested in the executive officer by this resolution, or any other resolution of the Board adopted hereafter, shall be exercised by the executive officer's designee, or by the person named by the Board as acting executive officer.

This resolution hereby modifies, supersedes, and repeals Resolution 98-7.



9/26/2022

 Betty T. Yee, Chair, or
 Authorized Representative

 Date

 Malia M. Cohen, Member, or
 Authorized Representative

 Date

Gayle Miller

Gayle Miller, Member, or
Authorized Representative

9/26/22
Date

Date: September 26, 2022

Attested: 
Cristina Rubalcava, Board Liaison

Resolution: 2022-03