



Government Finance & Administration Policy Committee
Meeting and Conference Call

Wednesday, April 4, 2018 — 4:00 p.m. – 5:00 p.m.

1100 K Street, Sacramento — 3rd Floor Conference Room

Call-in number — 1(800) 867-2581

Access Code — 9200747

Supervisor Erin Hannigan, Solano County, Chair
Supervisor Judy Morris, Trinity County, Co-Vice Chair
Supervisor Chuck Washington, Riverside County, Co-Vice Chair

I. Welcome and Introductions

Supervisor Erin Hannigan, Solano County, Chair
Supervisor Judy Morris, Trinity County, Co-Vice Chair
Supervisor Chuck Washington, Riverside County, Co-Vice Chair

II. People’s Initiative to Protect Proposition 13 Savings, Version 3 – ACTION ITEM

Speakers: Representative, Proponents (invited)
Representative, Opponents (invited)

III. Tax Fairness, Transparency, and Accountability Act of 2018 – ACTION ITEM

Speakers: Proponent, Eric Miethke, President and CEO, Capitol Law and Policy Inc.
Opponent, Dan Carrigg, Deputy Executive Director/Legislative Director,
League of California Cities; Bismarck Obando, Director of Legislative Affairs,
League of California Cities

IV. Closing Comments and Adjournment

Supervisor Erin Hannigan, Solano County, Chair
Supervisor Judy Morris, Trinity County, Co-Vice Chair
Supervisor Chuck Washington, Riverside County, Co-Vice Chair

This page intentionally blank to facilitate double-sided printing.

ATTACHMENTS

People’s Initiative to Protect Proposition 13 Savings, Version 3

- Attachment One Memo on the People’s Initiative to Protect Proposition 13 Savings, Version 3
- Attachment Two..... Full text of the People’s Initiative to Protect Proposition 13 Savings, Version 3
- Attachment Three..... Legislative Analyst’s Office Fiscal Analysis of the People’s Initiative to Protect Proposition 13 Savings, Version 3

Tax Fairness, Transparency, and Accountability Act of 2018

- Attachment Four..... Memo on Tax Fairness, Transparency, and Accountability Act of 2018
- Attachment Five..... Full text of the Tax Fairness, Transparency, and Accountability Act of 2018
- Attachment Six..... Legislative Analyst’s Office Fiscal Analysis of the Tax Fairness, Transparency, and Accountability Act of 2018

This page intentionally blank to facilitate double-sided printing.

Attachment One
Memo on the People's Initiative to Protect Proposition 13 Savings, Version 3

This page intentionally blank to facilitate double-sided printing.



1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327.7500

Facsimile
916.441.5507

April 4, 2018

To: Members, Government Finance and Administration Policy Committee

From: Dorothy Johnson, CSAC Legislative Representative
Tracy Sullivan, CSAC Legislative Analyst

Re: **2018 Ballot Initiative: People's Initiative to Protect Proposition 13 Savings – ACTION ITEM**

Recommendation. Staff recommends the Government Finance and Administration Policy Committee forward an “oppose” position to the Executive Committee in light of the fiscal impacts on counties and erosion of local control.

Summary.

The California Association of Realtors (CAR) is the lead proponent on an initiative that seeks to change the current parameters for base year value transfers by expanding the program in several ways. For counties, this could dramatically change residential property reassessments, creating annual revenue losses in the tens of millions for counties alone, with losses growing to exceed \$1 billion for local governments statewide.

Background.

Current Law

Under current law, base year transfers allow a homeowner to continue paying property taxes at the amount of their previous home and prevent the reassessment of their newly purchased or constructed home to full market value. They are able to their use their prior home’s Proposition 13 (1978) protected assessed value when purchasing a home of equal or lesser value. This privilege is currently granted to homeowners 55 years of age and older and also homeowners with a severe, permanent disability (regardless of age), as long as certain specifications are met related to date of purchase, place of primary residence, and other conditions.

Both properties must be located within the same county unless the county where the homeowner seeks to purchase their new residence has adopted an ordinance allowing intercounty transfers. Currently, 11 counties (Alameda, El Dorado, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Mateo, Santa Clara, Tuolumne, and Ventura) allow intercounty transfers pursuant to resolutions adopted by the Board of Supervisors in those counties. A homeowner can transfer their assessed value only once in their lifetime.¹

The program parameters were created through Proposition 60 (1986; established program), Proposition 90 (1988; permitted intercounty transfers with local approval), and Proposition 110 (1990; extended authority to homeowners with a severe, permanent disability).

¹ The only exception is when a person becomes disabled after receiving the tax relief for age; they may transfer the base year value a second time if disability.

How it Works

Generally, a home's value is established when it is purchased, constructed or undergoes a change in ownership under Proposition 13. Proposition 13 also offers that the maximum amount of any *ad valorem* tax on real property may not exceed 1% of the property's full cash value, as adjusted for inflation or 2% per year, whichever is lower. As a result, a homeowner who holds on to his or her home for a long period of time has a much lower property tax bill than someone who just recently purchased or built their home, even if the fair market values of both homes are similar. The base year value transfer allows the homeowner to continue paying property taxes at the amount of the previous residence and not the fair market value of the new residence.

Ballot Initiative Proposal vs. Current Law

The proposed initiative expands base year value transfers for homeowners 55 years and older and/or severely disabled as follows:

	Homeowner Eligibility	Residential Property Eligibility	Frequency	County to County Transfer
Current Law	Restricted to homeowners 55+ or severely disabled	Restricted to replacement properties of equal or lesser value	A once in a lifetime	Only if approved by Board of Supervisors
Proposed Initiative	Same	No value limit on replacement properties	Unlimited Transfer Opportunities	Permitted anywhere in the state, between any counties

Under the proposed initiative, if the new and old homes share the same market value, the assessed value of the new home would be the assessed value of the prior home. If the market value of the new home is higher than the prior home, the assessed value of the prior home would be adjusted upward. This adjusted value would be greater than the prior home's assessed value but less than the new home's market value. Conversely, if the market value of the new home is less than the prior home, the assessed value of the prior home would be adjusted downward. The Legislative Analyst's Office offers the following example to demonstrate the loss of property tax revenue based on adjusted assessments.

A couple has lived in their suburban home for 30 years. The home's assessed value is \$75,000 and could be sold for \$600,000. They are looking at two options:

Beach Home. The couple could buy a beach home for \$700,000. Under the measure, the assessed value of the beach home would be \$175,000: \$75,000 (assessed value of their prior home) plus \$100,000 (\$700,000 [the new home's market value] minus \$600,000 [the prior home's market value]).

Small Downtown Condo. The couple also could buy a downtown condo for

\$500,000. Under the measure, the assessed value of the condo would be \$62,500: \$75,000 (assessed value of their prior home) multiplied by 0.8 (\$500,000 [the new home's market value] divided by \$600,000 [the prior home's market value]).

Fiscal Impact

The Legislative Analyst's Office (LAO) estimates the resulting property tax losses would total hundreds of millions of dollars per year, with schools and other local governments (cities, counties, and special districts) losing \$150 million annually statewide. Over time, the losses would grow as established base year values move to additional properties, creating abnormally low tax bills based on prior assessment transfers. The LAO estimates property tax losses would total between \$1 billion to a few billion dollars per year (in today's dollars), with schools and other local governments each losing \$1 billion or more annually statewide.

CAR contends this estimate is inaccurate because it does not take into account the reassessment of the residence being sold and the uptick in home sales from seniors and those with a disability being able to carry forward their property tax base. The former property would be reassessed under normal practices and could arguably create greater property tax revenue than received under the long-time homeowner (unless it is being purchased by another individual who is eligible to use the base year value transfer program).

Policy Considerations.

The California County Platform, CSAC's adopted statement of the basic policies of concern and interest to California's counties, speaks directly against the changes presented by this initiative.

"Property Tax Revenue: Counties oppose erosion of the property tax base through unreimbursed exemptions to property taxes. The state should recognize that property tax revenues are a significant source of county discretionary funds. Any subventions to counties that are based upon property tax losses through state action should be adjusted for inflation annually." – Chapter 9, Financing County Services

CSAC has a well-established position to oppose the expansion of base year value transfers due to the fiscal impact on property taxes, an important discretionary revenue base that makes up approximately 20% of county revenue. The CAR legislative advocates have introduced three separate bills and corresponding constitutional amendments (see list below), all which failed, in the last three legislative sessions seeking to expand the program in a variety of ways including intercounty transfer authority statewide outside of Board of Supervisor approval and to homes of greater value, in addition to equal or lesser value.

The proponents argue that homeowners are being trapped in their existing homes because seniors and those with a disability, presumably those on a fixed income, cannot afford a higher property tax bill associated with a new home purchase. At the same time, a large stock of homes suitable for first-time homeowners is unavailable. Allowing homes

of greater value to be part of the program and transferring property tax bills across county lines ensure individuals can find a home that better meets their needs.

CSAC's historic opposition is based on the loss of revenue and loss of Board of Supervisors' authority to make decisions impacting their county.

Legislative Attempts to Expand the Base Year Value Program

SB 378 (Beall) & SCA 9 (Beall) – 2015, Held in Senate Appropriations Committee:

Would have allowed base year value transfers to properties of greater value than the current home, as well as equal or lesser value for seniors and those with a disability.

CSAC Position: Oppose Unless Amended to make it optional for counties (similar to Prop 90) and to have the state backfill local government property tax losses. This stance was taken due to the tremendous loss of general purpose revenue for local agencies that would result. [Link to the CSAC Letter.](#)

AB 2668 (Mullin) & ACA 12 (Mullin) – 2016, Held in Assembly Appropriations Committee: Would have allowed base year value transfers to properties of equal or greater value for seniors and those with a disability.

CSAC Position: Oppose Unless Amended to make it optional for counties (similar to Prop 90) and to have the state backfill local government property tax losses. This stance was taken due to the tremendous loss of general purpose revenue for local agencies that would result. [Link to the CSAC Letter.](#)

AB 1322 (Bocanegra) & ACA 7 (Bocanegra) – 2017, Held in Assembly Appropriations Committee: Would authorize intercounty base year values, regardless of whether the local board of supervisors has adopted an ordinance to deny or permit such transfers

CSAC Position: Oppose based on the fact that not only would general purpose revenues take a significant hit, but also because the measure would erode the local decision making process set in place by Prop 90. [Link to CSAC Letter.](#)

CSAC Ballot Initiative Review Process. In most instances, CSAC will only take a position on a relevant ballot measures after it qualifies for a scheduled election. However, in the event of an initiative having a direct impact on counties, earlier action may be taken.

Following referral by the CSAC Officers, the GF&A Policy Committee may recommend a position, including “No Position.” The recommendation will be forwarded to the CSAC Executive Committee to be acted upon and, if the motion is approved, then it will be forwarded to the CSAC Board of Directors for action before the November 2018 statewide election.

If “No Position” is recommended by the Committee, it will be forwarded to the Executive Committee as an informational item only. This will be subsequently forwarded to the Board of Directors as an informational item, unless the Executive Committee votes to take a “Support” or “Oppose” position.

Staff Contact. Please contact Dorothy Johnson at (916) 327-7500 Ext. 515 or djohnson@counties.org or Tracy Sullivan at (916) 327-7500 Ext 523 or tsullivan@counties.org.

Resources.

- 1) [Full Text of Ballot Initiative](#) (Attachment 2)
- 2) [Fiscal Analysis by Legislative Analyst's Office](#) (Attachment 3)

This page intentionally blank to facilitate double-sided printing.

Attachment Two
Full text of the People's Initiative to Protect Proposition 13 Savings, Version 3

This page intentionally blank to facilitate double-sided printing.



CALIFORNIA ASSOCIATION OF REALTORS®

August 9, 2017

RECEIVED

AUG 10 2017

Ashley Johansson, Initiative Coordinator
Office of the Attorney General
1300 I Street, 17th Floor
Sacramento, CA 95814

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: People's Initiative to Protect Proposition 13 Savings, Version 3 (17-0013)

Dear Ms. Johansson:

When we met with representatives of the Legislative Analyst's Office to discuss the fiscal analysis of the initiative that has been submitted by the California Association of REALTORS®, they identified an error in the initiative as drafted by Legislative Counsel.

The initiative specifies the method for calculating the base year value of the replacement property if the full cash value of the replacement property is equal to or less than the full cash value of the original property. The formula erroneously refers to "replacement" property when it should have referred to "original" property. The enclosed copy of Version 3 has been corrected; the correction is highlighted in yellow.

I respectfully request that the Attorney General prepare a title and summary for the amended language.

If you have any questions, please contact Christopher C. Carlisle, 1121 L Street, Suite 600, Sacramento, CA 95814; (916) 492-5200.

Sincerely,

Alexander E. Creel
Senior Vice-President Governmental Affairs

Enclosure



REALTOR® — is a registered mark which identifies a professional in real estate who subscribes to a strict Code of Ethics as a member of the NATIONAL ASSOCIATION OF REALTORS®



This page intentionally blank to facilitate double-sided printing.

VERSION 3; with amendments

SECTION 1. This act shall be known, and shall be cited, as the People's Initiative to Protect Proposition 13 Savings.

SECTION 2. Section 2 of Article XIII A of the State Constitution is amended to read:

SEC. 2. (a) (1) The "full cash value" means the county assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real property not already assessed up to the 1975-76 full cash value may be reassessed to reflect that valuation. For purposes of this section, "newly constructed" does not include real property that is reconstructed after a disaster, as declared by the Governor, where the fair market value of the real property, as reconstructed, is comparable to its fair market value prior to the disaster. For purposes of this section, the term "newly constructed" does not include that portion of an existing structure that consists of the construction or reconstruction of seismic retrofitting components, as defined by the Legislature.

However, the

(2) On and after November 5, 1986, and until January 1, 2019, the Legislature may provide that, under appropriate circumstances and pursuant to definitions and procedures established by the Legislature, any person over the age of 55 years who resides in property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII and any implementing legislation may transfer the base year value of the property entitled to exemption, with the adjustments authorized by subdivision (b), to any replacement dwelling of equal or lesser value located within the same county and purchased or newly constructed by that person as his or her principal residence within two years of the sale of the original property. For

(3) (A) For purposes of this section, "any the following definitions shall apply:

(i) “Any person over the age of 55 years” includes a married couple one member of which is over the age of 55 years. ~~For purposes of this section,~~
~~“replacement~~

(ii) “Replacement dwelling” means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated. For purposes of this section, a two-dwelling unit shall be considered as two separate single-family dwellings. ~~This~~

(B) This paragraph shall apply to any replacement dwelling that was purchased or newly constructed on or after November 5, 1986.

~~In addition, the~~

(4) On and after November 9, 1988, and until January 1, 2019, the Legislature may authorize each county board of supervisors, after consultation with the local affected agencies within the county’s boundaries, to adopt an ordinance making the provisions of this subdivision relating to transfer of base year value also applicable to situations in which the replacement dwellings are located in that county and the original properties are located in another county within this State. For purposes of this paragraph, “local affected agency” means any city, special district, school district, or community college district that receives an annual property tax revenue allocation. This paragraph applies to any replacement dwelling that was purchased or newly constructed on or after the date the county adopted the provisions of this subdivision relating to transfer of base year value, but does not apply to any replacement dwelling that was purchased or newly constructed before November 9, 1988.

~~The~~

(5) On and after June 6, 1990, and until January 1, 2019, the Legislature may extend the provisions of this subdivision relating to the transfer of base year values from original properties to replacement dwellings of homeowners over the age of 55 years to severely disabled homeowners, but only with respect to those replacement dwellings purchased or newly constructed on or after the effective

date of this paragraph.

(6) (A) On and after January 1, 2019, subject to applicable procedures and definitions as provided by statute, the base year value of property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII of any person over 55 years of age or any severely disabled homeowner shall be transferred to any replacement dwelling, regardless of the number of prior transfers, the value of the replacement dwelling or whether the replacement dwelling is located within the same county, that is purchased or newly constructed by that person as his or her principal residence within two years of the sale of the original property.

(B) For purposes of this paragraph, the following shall apply:

(i) For any replacement dwelling of greater value and purchased or newly constructed by a person eligible to transfer the base year value of his or her original property, the base year value of the replacement dwelling shall be calculated by adding the difference between the full cash value of the original property and the full cash value of the replacement dwelling to the base year value of the original property.

(ii) For any replacement dwelling of equal or lesser value purchased or newly constructed by a person eligible to transfer the base year value of his or her original property, the base year value of the replacement dwelling shall be calculated by dividing the base year value of the original property by the full cash value of the original property, and multiplying the result by the full cash value of the replacement dwelling.

(b) The full cash value base may reflect from year to year the inflationary rate not to exceed 2 percent for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction, or may be reduced to reflect substantial damage, destruction, or other factors causing a decline in value.

(c) For purposes of subdivision (a), the Legislature may provide that the term "newly constructed" does not include any of the following:

(1) The construction or addition of any active solar energy system.

(2) The construction or installation of any fire sprinkler system, other fire extinguishing system, fire detection system, or fire-related egress improvement, as defined by the Legislature, that is constructed or installed after the effective date of this paragraph.

(3) The construction, installation, or modification on or after the effective date of this paragraph of any portion or structural component of a single- or multiple-family dwelling that is eligible for the homeowner's exemption if the construction, installation, or modification is for the purpose of making the dwelling more accessible to a severely disabled person.

(4) The construction, installation, removal, or modification on or after the effective date of this paragraph of any portion or structural component of an existing building or structure if the construction, installation, removal, or modification is for the purpose of making the building more accessible to, or more usable by, a disabled person.

(d) For purposes of this section, the term "change in ownership" does not include the acquisition of real property as a replacement for comparable property if the person acquiring the real property has been displaced from the property replaced by eminent domain proceedings, by acquisition by a public entity, or governmental action that has resulted in a judgment of inverse condemnation. The real property acquired shall be deemed comparable to the property replaced if it is similar in size, utility, and function, or if it conforms to state regulations defined by the Legislature governing the relocation of persons displaced by governmental actions. This subdivision applies to any property acquired after March 1, 1975, but affects only those assessments of that property that occur after the provisions of this subdivision take effect.

(e) (1) (A) Notwithstanding any other provision of this section, the Legislature shall provide that the base year value of property that is substantially damaged or destroyed by a disaster, as declared by the Governor, may be

transferred to comparable property within the same county that is acquired or newly constructed as a replacement for the substantially damaged or destroyed property.

~~(2)~~

(B) Except as provided in ~~paragraph (3)~~, subparagraph (C), this ~~subdivision~~ paragraph applies to any comparable replacement property acquired or newly constructed on or after July 1, 1985, until January 1, 2019, and to the determination of base year values for the 1985–86 fiscal year and fiscal years ~~thereafter~~. until the 2018–19 fiscal year.

~~(3)~~

(C) (i) In addition to the transfer of base year value of property within the same county that is permitted by ~~paragraph (1)~~, subparagraph (A), the Legislature may authorize each county board of supervisors to adopt, after consultation with affected local agencies within the county, an ordinance allowing the transfer of the base year value of property that is located within another county in the State and is substantially damaged or destroyed by a disaster, as declared by the Governor, to comparable replacement property of equal or lesser value that is located within the adopting county and is acquired or newly constructed within three years of the substantial damage or destruction of the original property as a replacement for that property. The scope and amount of the benefit provided to a property owner by the transfer of base year value of property pursuant to this paragraph shall not exceed the scope and amount of the benefit provided to a property owner by the transfer of base year value of property pursuant to subdivision (a). For purposes of this ~~paragraph~~, subparagraph, “affected local agency” means any city, special district, school district, or community college district that receives an annual allocation of ad valorem property tax revenues. This paragraph

(ii) This subparagraph applies to any comparable replacement property that is acquired or newly constructed as a replacement for property substantially

damaged or destroyed by a disaster, as declared by the Governor, occurring on or after October 20, 1991, and before January 1, 2019, and to the determination of base year values for the 1991–92 fiscal year and fiscal years thereafter. until the 2018–19 fiscal year.

(2) (A) Notwithstanding any other provision of this section, on and after January 1, 2019, the base year value of property that is substantially damaged or destroyed by a disaster, as declared by the Governor, shall be transferred to any property that is acquired or newly constructed as a replacement for the substantially damaged or destroyed property, regardless of whether that replacement property is comparable, as specified in paragraph (2) of subdivision (f), or whether the replacement property is located within the same county.

(B) For purposes of this paragraph, the following shall apply:

(i) For any replacement property of greater value and purchased or newly constructed by a person eligible to transfer the base year value of his or her original property, the base year value of the replacement property shall be calculated by adding the difference between the full cash value of the original property and the full cash value of the replacement property to the base year value of the original property.

(ii) For any replacement property of equal or lesser value purchased or newly constructed by a person eligible to transfer the base year value of his or her original property, the base year value of the replacement property shall be calculated by dividing the base year value of the original property by the full cash value of the original property, and multiplying the result by the full cash value of the replacement property.

(f) For the purposes of subdivision (e):

(1) Property is substantially damaged or destroyed if it sustains physical damage amounting to more than 50 percent of its value immediately before the disaster. Damage includes a diminution in the value of property as a result of restricted access caused by the disaster.

(2) Replacement property is comparable to the property substantially damaged or destroyed if it is similar in size, utility, and function to the property that it replaces, and if the fair market value of the acquired property is comparable to the fair market value of the replaced property prior to the disaster.

(g) For purposes of subdivision (a), the terms “purchased” and “change in ownership” do not include the purchase or transfer of real property between spouses since March 1, 1975, including, but not limited to, all of the following:

(1) Transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor.

(2) Transfers to a spouse that take effect upon the death of a spouse.

(3) Transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation.

(4) The creation, transfer, or termination, solely between spouses, of any coowner’s interest.

(5) The distribution of a legal entity’s property to a spouse or former spouse in exchange for the interest of the spouse in the legal entity in connection with a property settlement agreement or a decree of dissolution of a marriage or legal separation.

(h) (1) For purposes of subdivision (a), the terms “purchased” and “change in ownership” do not include the purchase or transfer of the principal residence of the transferor in the case of a purchase or transfer between parents and their children, as defined by the Legislature, and the purchase or transfer of the first one million dollars (\$1,000,000) of the full cash value of all other real property between parents and their children, as defined by the Legislature. This subdivision applies to both voluntary transfers and transfers resulting from a court order or judicial decree.

(2) (A) Subject to subparagraph (B), commencing with purchases or transfers that occur on or after the date upon which the measure adding this paragraph

becomes effective, the exclusion established by paragraph (1) also applies to a purchase or transfer of real property between grandparents and their grandchild or grandchildren, as defined by the Legislature, that otherwise qualifies under paragraph (1), if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of the purchase or transfer.

(B) A purchase or transfer of a principal residence shall not be excluded pursuant to subparagraph (A) if the transferee grandchild or grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1). The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (1), and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence, shall be included in applying, for purposes of subparagraph (A), the one-million-dollar (\$1,000,000) full cash value limit specified in paragraph (1).

(i) (1) Notwithstanding any other provision of this section, except as otherwise provided in paragraph (5), the Legislature shall provide with respect to a qualified contaminated property, as defined in paragraph (2), that either, but not both, of the following apply:

(A) (i) Subject to the limitation of clause (ii), on and after November 4, 1998, and until January 1, 2019, the base year value of the qualified contaminated property, as adjusted as authorized by subdivision (b), may be transferred to a replacement property that is acquired or newly constructed as a replacement for the qualified contaminated property, if the replacement real property has a fair market value that is equal to or less than the fair market value of the qualified contaminated property if that property were not contaminated and, except as otherwise provided by this clause, is located within the same county. The base year value of the qualified contaminated property may be transferred to a

replacement real property located within another county if the board of supervisors of that other county has, after consultation with the affected local agencies within that county, adopted a resolution authorizing an intercounty transfer of base year value as so described.

(ii) This subparagraph applies only to replacement property that is acquired or newly constructed within five years after ownership in the qualified contaminated property is sold or otherwise transferred.

(B) In the case in which the remediation of the environmental problems on the qualified contaminated property requires the destruction of, or results in substantial damage to, a structure located on that property, the term “new construction” does not include the repair of a substantially damaged structure, or the construction of a structure replacing a destroyed structure on the qualified contaminated property, performed after the remediation of the environmental problems on that property, provided that the repaired or replacement structure is similar in size, utility, and function to the original structure.

(2) For purposes of this subdivision, “qualified contaminated property” means residential or nonresidential real property that is all of the following:

(A) In the case of residential real property, rendered uninhabitable, and in the case of nonresidential real property, rendered unusable, as the result of either environmental problems, in the nature of and including, but not limited to, the presence of toxic or hazardous materials, or the remediation of those environmental problems, except where the existence of the environmental problems was known to the owner, or to a related individual or entity as described in paragraph (3), at the time the real property was acquired or constructed. For purposes of this subparagraph, residential real property is “uninhabitable” if that property, as a result of health hazards caused by or associated with the environmental problems, is unfit for human habitation, and nonresidential real property is “unusable” if that property, as a result of health hazards caused by or associated with the environmental problems, is unhealthy and unsuitable for occupancy.

(B) Located on a site that has been designated as a toxic or environmental hazard or as an environmental cleanup site by an agency of the State of California or the federal government.

(C) Real property that contains a structure or structures thereon prior to the completion of environmental cleanup activities, and that structure or structures are substantially damaged or destroyed as a result of those environmental cleanup activities.

(D) Stipulated by the lead governmental agency, with respect to the environmental problems or environmental cleanup of the real property, not to have been rendered uninhabitable or unusable, as applicable, as described in subparagraph (A), by any act or omission in which an owner of that real property participated or acquiesced.

(3) It shall be rebuttably presumed that an owner of the real property participated or acquiesced in any act or omission that rendered the real property uninhabitable or unusable, as applicable, if that owner is related to any individual or entity that committed that act or omission in any of the following ways:

(A) Is a spouse, parent, child, grandparent, grandchild, or sibling of that individual.

(B) Is a corporate parent, subsidiary, or affiliate of that entity.

(C) Is an owner of, or has control of, that entity.

(D) Is owned or controlled by that entity.

If this presumption is not overcome, the owner shall not receive the relief provided for in subparagraph (A) or (B) of paragraph (1). The presumption may be overcome by presentation of satisfactory evidence to the assessor, who shall not be bound by the findings of the lead governmental agency in determining whether the presumption has been overcome.

(4) This subdivision applies only to replacement property that is acquired or constructed on or after January 1, 1995, and to property repairs performed on or after that date.

(5) (A) Notwithstanding any other provision of this section, on and after January 1, 2019, and subject to the limitation of clause (ii) of subparagraph (A) of paragraph (1), the base year value of the qualified contaminated property shall be transferred to a replacement property that is acquired or newly constructed as a replacement for the qualified contaminated property, regardless of whether the replacement real property has a fair market value that is equal to or less than the fair market value of the qualified contaminated property if that property were not contaminated or whether the replacement property is located within the same county.

(B) For purposes of this paragraph, the following shall apply:

(i) For any replacement property of greater value and purchased or newly constructed by a person eligible to transfer the base year value of his or her original property pursuant to this clause, the base year value of the replacement property shall be calculated by adding the difference between the full cash value of the original property and the full cash value of the replacement property to the base year value of the original property.

(ii) For any replacement property of equal or lesser value purchased or newly constructed by a person eligible to transfer the base year value of his or her original property pursuant to this clause, the base year value of the replacement property shall be calculated by dividing the base year value of the original property by the full cash value of the original property, and multiplying the result by the full cash value of the replacement property.

(j) Unless specifically provided otherwise, amendments to this section adopted prior to November 1, 1988, are effective for changes in ownership that occur, and new construction that is completed, after the effective date of the amendment. Unless specifically provided otherwise, amendments to this section adopted after November 1, 1988, are effective for changes in ownership that occur, and new construction that is completed, on or after the effective date of the amendment.

SECTION 3. Section 69.5 of the Revenue and Taxation Code is amended to read:

69.5. (a) (1) Notwithstanding any other provision of law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, any person over the age of 55 years, or any severely and permanently disabled person, who resides in property that is eligible for the homeowners' exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 may transfer, subject to the conditions and limitations provided in this section, the base year value of that property to any replacement dwelling of equal or lesser value that is located within the same county and is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that the base year value of the original property shall not be transferred to the replacement dwelling until the original property is sold.

(2) Notwithstanding the limitation in paragraph (1) requiring that the original property and the replacement dwelling be located in the same county, this limitation shall not apply in any county in which the county board of supervisors, after consultation with local affected agencies within the boundaries of the county, adopts an ordinance making the provisions of paragraph (1) also applicable to situations in which replacement dwellings are located in that county and the original properties are located in another county within this state. The authorization contained in this paragraph shall be applicable in a county only if the ordinance adopted by the board of supervisors complies with all of the following requirements:

(A) It is adopted only after consultation between the board of supervisors and all other local affected agencies within the county's boundaries.

(B) It requires that all claims for transfers of base year value from original property located in another county be granted if the claims meet the applicable requirements of both subdivision (a) of Section 2 of Article XIII A of the California Constitution and this section.

(C) It requires that all base year valuations of original property located in another county and determined by its assessor be accepted in connection with the granting of

claims for transfers of base year value.

(D) It provides that its provisions are operative for a period of not less than five years.

(E) The ordinance specifies the date on and after which its provisions shall be applicable. However, the date specified shall not be earlier than November 9, 1988. The specified applicable date may be a date earlier than the date the county adopts the ordinance.

(b) In addition to meeting the requirements of subdivision (a), any person claiming the property tax relief provided by this section shall be eligible for that relief only if the following conditions are met:

(1) The claimant is an owner and a resident of the original property either at the time of its sale, or at the time when the original property was substantially damaged or destroyed by misfortune or calamity, or within two years of the purchase or new construction of the replacement dwelling.

(2) The original property is eligible for the homeowners' exemption, as the result of the claimant's ownership and occupation of the property as his or her principal residence, either at the time of its sale, or at the time when the original property was substantially damaged or destroyed by misfortune or calamity, or within two years of the purchase or new construction of the replacement dwelling.

(3) At the time of the sale of the original property, the claimant or the claimant's spouse who resides with the claimant is at least 55 years of age, or is severely and permanently disabled.

(4) At the time of claiming the property tax relief provided by subdivision (a), the claimant is an owner of a replacement dwelling and occupies it as his or her principal place of residence and, as a result thereof, the property is currently eligible for the homeowners' exemption or would be eligible for the exemption except that the property is already receiving the exemption because of an exemption claim filed by the previous owner.

(5) The original property of the claimant is sold by him or her within two years

of the purchase or new construction of the replacement dwelling. For purposes of this paragraph, the purchase or new construction of the replacement dwelling includes the purchase of that portion of land on which the replacement building, structure, or other shelter constituting a place of abode of the claimant will be situated and that, pursuant to paragraph (3) of subdivision (g), constitutes a part of the replacement dwelling.

(6) Except as otherwise provided in paragraph (2) of subdivision (a), the replacement dwelling, including that portion of land on which it is situated that is specified in paragraph (5), is located entirely within the same county as the claimant's original property.

(7) The claimant has not previously been granted, as a claimant, the property tax relief provided by this section, except that this paragraph shall not apply to any person who becomes severely and permanently disabled subsequent to being granted, as a claimant, the property tax relief provided by this section for any person over the age of 55 years. In order to prevent duplication of claims under this section within this state, county assessors shall report quarterly to the State Board of Equalization that information from claims filed in accordance with subdivision (f) and from county records as is specified by the board necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and social security numbers of claimants and their spouses and the identity and location of the replacement dwelling to which the claim applies. The information may be required in the form of data processing media or other media and in a format that is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

(c) The property tax relief provided by this section shall be available if the original property or the replacement dwelling, or both, of the claimant includes, but is not limited to, either of the following:

(1) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development. If the unit or lot

constitutes the original property of the claimant, the assessor shall transfer to the claimant's replacement dwelling only the base year value of the claimant's unit or lot and his or her share in any common area reserved as an appurtenance of that unit or lot. If the unit or lot constitutes the replacement dwelling of the claimant, the assessor shall transfer the base year value of the claimant's original property only to the unit or lot of the claimant and any share of the claimant in any common area reserved as an appurtenance of that unit or lot.

(2) A manufactured home or a manufactured home and any land owned by the claimant on which the manufactured home is situated. For purposes of this paragraph, "land owned by the claimant" includes a pro rata interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(A) If the manufactured home or the manufactured home and the land on which it is situated constitutes the claimant's original property, the assessor shall transfer to the claimant's replacement dwelling either the base year value of the manufactured home or the base year value of the manufactured home and the land on which it is situated, as appropriate. If the manufactured home dwelling that constitutes the original property of the claimant includes an interest in a resident-owned mobilehome park, the assessor shall transfer to the claimant's replacement dwelling the base year value of the claimant's manufactured home and his or her pro rata portion of the real property of the park. No transfer of base year value shall be made by the assessor of that portion of land that does not constitute a part of the original property, as provided in paragraph (4) of subdivision (g).

(B) If the manufactured home or the manufactured home and the land on which it is situated constitutes the claimant's replacement dwelling, the assessor shall transfer the base year value of the claimant's original property either to the manufactured home or the manufactured home and the land on which it is situated, as appropriate. If the manufactured home dwelling that constitutes the replacement dwelling of the claimant includes an interest in a resident-owned mobilehome park, the assessor shall transfer the base year value of the claimant's original property to the manufactured home of

the claimant and his or her pro rata portion of the park. No transfer of base year value shall be made by the assessor to that portion of land that does not constitute a part of the replacement dwelling, as provided in paragraph (3) of subdivision (g).

This subdivision shall be subject to the limitations specified in subdivision (d).

(d) The property tax relief provided by this section shall be available to a claimant who is the coowner of the original property, as a joint tenant, a tenant in common, a community property owner, or a present beneficiary of a trust subject to the following limitations:

(1) If a single replacement dwelling is purchased or newly constructed by all of the coowners and each coowner retains an interest in the replacement dwelling, the claimant shall be eligible under this section whether or not any or all of the remaining coowners would otherwise be eligible claimants.

(2) If two or more replacement dwellings are separately purchased or newly constructed by two or more coowners and more than one coowner would otherwise be an eligible claimant, only one coowner shall be eligible under this section. These coowners shall determine by mutual agreement which one of them shall be deemed eligible.

(3) If two or more replacement dwellings are separately purchased or newly constructed by two coowners who held the original property as community property, only the coowner who has attained the age of 55 years, or is severely and permanently disabled, shall be eligible under this section. If both spouses are over 55 years of age, they shall determine by mutual agreement which one of them is eligible.

In the case of coowners whose original property is a multiunit dwelling, the limitations imposed by paragraphs (2) and (3) shall only apply to coowners who occupied the same dwelling unit within the original property at the time specified in paragraph (2) of subdivision (b).

(e) Upon the sale of original property, the assessor shall determine a new base year value for that property in accordance with subdivision (a) of Section 2 of Article XIII A of the California Constitution and Section 110.1, whether or not a replacement

dwelling is subsequently purchased or newly constructed by the former owner or owners of the original property.

This section shall not apply unless the transfer of the original property is a change in ownership that either (1) subjects that property to reappraisal at its current fair market value in accordance with Section 110.1 or 5803 or (2) results in a base year value determined in accordance with this section, Section 69, or Section 69.3 because the property qualifies under this section, Section 69, or Section 69.3 as a replacement dwelling or property.

(f) (1) A claimant shall not be eligible for the property tax relief provided by this section unless the claimant provides to the assessor, on a form that shall be designed by the State Board of Equalization and that the assessor shall make available upon request, the following information:

(A) The name and social security number of each claimant and of any spouse of the claimant who is a record owner of the replacement dwelling.

(B) Proof that the claimant or the claimant's spouse who resided on the original property with the claimant was, at the time of its sale, at least 55 years of age, or severely and permanently disabled. Proof of severe and permanent disability shall be considered a certification, signed by a licensed physician and surgeon of appropriate specialty, attesting to the claimant's severely and permanently disabled condition. In the absence of available proof that a person is over 55 years of age, the claimant shall certify under penalty of perjury that the age requirement is met. In the case of a severely and permanently disabled claimant either of the following shall be submitted:

(i) A certification, signed by a licensed physician or surgeon of appropriate specialty that identifies specific reasons why the disability necessitates a move to the replacement dwelling and the disability-related requirements, including any locational requirements, of a replacement dwelling. The claimant shall substantiate that the replacement dwelling meets disability-related requirements so identified and that the primary reason for the move to the replacement dwelling is to satisfy those requirements. If the claimant, or the claimant's spouse or guardian, so declares under penalty of

perjury, it shall be rebuttably presumed that the primary purpose of the move to the replacement dwelling is to satisfy identified disability-related requirements.

(ii) The claimant's substantiation that the primary purpose of the move to the replacement dwelling is to alleviate financial burdens caused by the disability. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move is to alleviate the financial burdens caused by the disability.

(C) The address and, if known, the assessor's parcel number of the original property.

(D) The date of the claimant's sale of the original property and the date of the claimant's purchase or new construction of a replacement dwelling.

(E) A statement by the claimant that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

(F) Any claim under this section shall be filed within three years of the date the replacement dwelling was purchased or the new construction of the replacement dwelling was completed subject to subdivision (k) or (m).

(2) A claim for transfer of base year value under this section that is filed after the expiration of the filing period set forth in subparagraph (F) of paragraph (1) shall be considered by the assessor, subject to all of the following conditions:

(A) Any base year value transfer granted pursuant to that claim shall apply commencing with the lien date of the assessment year in which the claim is filed.

(B) The full cash value of the replacement property in the assessment year described in subparagraph (A) shall be the base year value of the real property in the assessment year in which the base year value was transferred, factored to the assessment year described in subparagraph (A) for both of the following:

(i) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.

(ii) Any subsequent new construction occurring with respect to the subject real property that does not qualify for property tax relief pursuant to the criteria set forth

in subparagraphs (A) and (B) of paragraph (4) of subdivision (h).

(g) For purposes of this section:

(1) "Person over the age of 55 years" means any person or the spouse of any person who has attained the age of 55 years or older at the time of the sale of the original property.

(2) "Base year value of the original property" means its base year value, as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property is sold by the claimant, or in the case where the original property has been substantially damaged or destroyed by misfortune or calamity and the owner does not rebuild on the original property, determined as of the date immediately prior to the misfortune or calamity.

If the replacement dwelling is purchased or newly constructed after the transfer of the original property, "base year value of the original property" also includes any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the sale of the original property. The base year or years used to compute the "base year value of the original property" shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

(3) "Replacement dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of a replacement dwelling includes only that area of reasonable size that is used as a site for a residence, and "land owned by the claimant" includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate replacement dwelling. For

purposes of this paragraph, “area of reasonable size that is used as a site for a residence” includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site. For purposes of this paragraph, “land owned by the claimant” includes an ownership interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(4) “Original property” means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of the original property includes only that area of reasonable size that is used as a site for a residence, and “land owned by the claimant” includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate original property. For purposes of this paragraph, “area of reasonable size that is used as a site for a residence” includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site. For purposes of this paragraph, “land owned by the claimant” includes an ownership interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(5) “Equal or lesser value” means that the amount of the full cash value of a replacement dwelling does not exceed one of the following:

(A) One hundred percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed prior to the date of the sale of the original property.

(B) One hundred and five percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the first year following the date of the sale of the original property.

(C) One hundred and ten percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within

the second year following the date of the sale of the original property.

For the purposes of this paragraph, except as otherwise provided in paragraph (4) of subdivision (h), if the replacement dwelling is, in part, purchased and, in part, newly constructed, the date the “replacement dwelling is purchased or newly constructed” is the date of purchase or the date of completion of construction, whichever is later.

(6) “Full cash value of the replacement dwelling” means its full cash value, determined in accordance with Section 110.1, as of the date on which it was purchased or new construction was completed, and after the purchase or the completion of new construction.

(7) “Full cash value of the original property” means, either:

(A) Its new base year value, determined in accordance with subdivision (e), without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(B) In the case where the original property has been substantially damaged or destroyed by misfortune or calamity and the owner does not rebuild on the original property, its full cash value, as determined in accordance with Section 110, immediately prior to its substantial damage or destruction by misfortune or calamity, as determined by the county assessor of the county in which the property is located, without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(8) “Sale” means any change in ownership of the original property for consideration.

(9) "Claimant" means any person claiming the property tax relief provided by this section. If a spouse of that person is a record owner of the replacement dwelling, the spouse is also a claimant for purposes of determining whether in any future claim filed by the spouse under this section the condition of eligibility specified in paragraph (7) of subdivision (b) has been met.

(10) "Property that is eligible for the homeowners' exemption" includes property that is the principal place of residence of its owner and is entitled to exemption pursuant to Section 205.5.

(11) "Person" means any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind. "Person" includes an individual who is the present beneficiary of a trust.

(12) "Severely and permanently disabled" means any person described in subdivision (b) of Section 74.3.

(13) For the purposes of this section, property is "substantially damaged or destroyed by misfortune or calamity" if either the land or the improvements sustain physical damage amounting to more than 50 percent of either the land's or the improvement's full cash value immediately prior to the misfortune or calamity. Damage includes a diminution in the value of property as a result of restricted access to the property where the restricted access was caused by the misfortune or calamity and is permanent in nature.

(h) (1) Upon the timely filing of a claim described in subparagraph (F) of paragraph (1) of subdivision (f), the assessor shall adjust the new base year value of the replacement dwelling in conformity with this section. This adjustment shall be made as of the latest of the following dates:

(A) The date the original property is sold.

(B) The date the replacement dwelling is purchased.

(C) The date the new construction of the replacement dwelling is completed.

(2) Any taxes that were levied on the replacement dwelling prior to the filing of the claim on the basis of the replacement dwelling's new base year value, and any

allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that the taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

(3) Notwithstanding Section 75.10, Chapter 3.5 (commencing with Section 75) shall be utilized for purposes of implementing this subdivision, including adjustments of the new base year value of replacement dwellings acquired prior to the sale of the original property.

(4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if both of the following conditions are met:

(A) The new construction is completed within two years of the date of the sale of the original property and the owner notifies the assessor in writing of completion of the new construction within six months after completion.

(B) The fair market value of the new construction on the date of completion, plus the full cash value of the replacement dwelling on the date of acquisition, is not more than the full cash value of the original property as determined pursuant to paragraph (7) of subdivision (g) for purposes of granting the original claim.

(i) Any claimant may rescind a claim for the property tax relief provided by this section and shall not be considered to have received that relief for purposes of paragraph (7) of subdivision (b), and the assessor shall grant the rescission, if a written notice of rescission is delivered to the office of the assessor as follows:

(1) A written notice of rescission signed by the original filing claimant or claimants is delivered to the office of the assessor in which the original claim was filed.

(2) (A) Except as otherwise provided in this paragraph, the notice of rescission is delivered to the office of the assessor before the date that the county first issues, as a result of relief granted under this section, a refund check for property taxes imposed upon the replacement dwelling. If granting relief will not result in a refund of property

taxes, then the notice shall be delivered before payment is first made of any property taxes, or any portion thereof, imposed upon the replacement dwelling consistent with relief granted under this section. If payment of the taxes is not made, then notice shall be delivered before the first date that those property taxes, or any portion thereof, imposed upon the replacement dwelling, consistent with relief granted under this section, are delinquent.

(B) Notwithstanding any other provision in this division, any time the notice of rescission is delivered to the office of the assessor within six years after relief was granted, provided that the replacement property has been vacated as the claimant's principal place of residence within 90 days after the original claim was filed, regardless of whether the property continues to receive the homeowners' exemption. If the rescission increases the base year value of a property, or the homeowners' exemption has been incorrectly allowed, appropriate escape assessments or supplemental assessments, including interest as provided in Section 506, shall be imposed. The limitations periods for any escape assessments or supplemental assessments shall not commence until July 1 of the assessment year in which the notice of rescission is delivered to the office of the assessor.

(3) The notice is accompanied by the payment of a fee as the assessor may require, provided that the fee shall not exceed an amount reasonably related to the estimated cost of processing a rescission claim, including both direct costs and developmental and indirect costs, such as costs for overhead, personnel, supplies, materials, office space, and computers.

(j) (1) With respect to the transfer of base year value of original properties to replacement dwellings located in the same county, this section, except as provided in paragraph (3) or (4), shall apply to any replacement dwelling that is purchased or newly constructed on or after November 6, 1986.

(2) With respect to the transfer of base year value of original properties to replacement dwellings located in different counties, except as provided in paragraph (4), this section shall apply to any replacement dwelling that is purchased or newly

constructed on or after the date specified in accordance with subparagraph (E) of paragraph (2) of subdivision (a) in the ordinance of the county in which the replacement dwelling is located, but shall not apply to any replacement dwelling which was purchased or newly constructed before November 9, 1988.

(3) With respect to the transfer of base year value by a severely and permanently disabled person, this section shall apply only to replacement dwellings that are purchased or newly constructed on or after June 6, 1990.

(4) The amendments made to subdivision (e) by the act adding this paragraph shall apply only to replacement dwellings under Section 69 that are acquired or newly constructed on or after October 20, 1991, and shall apply commencing with the 1991–92 fiscal year.

(k) (1) In the case in which a county adopts an ordinance pursuant to paragraph (2) of subdivision (a) that establishes an applicable date which is more than three years prior to the date of adoption of the ordinance, those potential claimants who purchased or constructed replacement dwellings more than three years prior to the date of adoption of the ordinance and who would, therefore, be precluded from filing a timely claim, shall be deemed to have timely filed a claim if the claim is filed within three years after the date that the ordinance is adopted. This paragraph may not be construed as a waiver of any other requirement of this section.

(2) In the case in which a county assessor corrects a base year value to reflect a pro rata change in ownership of a resident-owned mobilehome park that occurred between January 1, 1989, and January 1, 2002, pursuant to paragraph (4) of subdivision (b) of Section 62.1, those claimants who purchased or constructed replacement dwellings more than three years prior to the correction and who would, therefore, be precluded from filing a timely claim, shall be deemed to have timely filed a claim if the claim is filed within three years of the date of notice of the correction of the base year value to reflect the pro rata change in ownership. This paragraph may not be construed as a waiver of any other requirement of this section.

(3) This subdivision does not apply to a claimant who has transferred his or her

replacement dwelling prior to filing a claim.

(4) The property tax relief provided by this section, but filed under this subdivision, shall apply prospectively only, commencing with the lien date of the assessment year in which the claim is filed. There shall be no refund or cancellation of taxes prior to the date that the claim is filed.

(l) No escape assessment may be levied if a transfer of base year value under this section has been erroneously granted by the assessor pursuant to an expired ordinance authorizing intercounty transfers of base year value.

(m) (1) The amendments made to subdivisions (b) and (g) of this section by Chapter 613 of the Statutes of 2001 shall apply:

(A) With respect to the transfer of base year value of original properties to replacement dwellings located in the same county, to any replacement dwelling that is purchased or newly constructed on or after November 6, 1986.

(B) With respect to the transfer of base year value of original properties to replacement dwellings located in different counties, to any replacement dwelling that is purchased or newly constructed on or after the date specified in accordance with subparagraph (E) of paragraph (2) of subdivision (a) in the ordinance of the county in which the replacement dwelling is located, but not to any replacement dwelling that was purchased or newly constructed before November 9, 1988.

(C) With respect to the transfer of base year value by a severely and permanently disabled person, to replacement dwellings that are purchased or newly constructed on or after June 6, 1990.

(2) The property tax relief provided by this section in accordance with this subdivision shall apply prospectively only commencing with the lien date of the assessment year in which the claim is filed. There shall be no refund or cancellation of taxes prior to the date that the claim is filed.

(n) A claim filed under this section is not a public document and is not subject to public inspection, except that a claim shall be available for inspection by the claimant or the claimant's spouse, the claimant's or the claimant's spouse's legal representative,

the trustee of a trust in which the claimant or the claimant's spouse is a present beneficiary, and the executor or administrator of the claimant's or the claimant's spouse's estate.

(o) The amendments made to this section by the act adding this subdivision shall apply commencing with the lien date for the 2012–13 fiscal year.

(p) This section shall remain effect only until January 1, 2019, and as of that date is repealed.

SECTION 4. Section 69.5 is added to the Revenue and Taxation Code, to read:

69.5. (a) (1) Notwithstanding any other law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, the base year value of property that is eligible for the homeowners' exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 of any person over 55 years of age or any severely disabled person, subject to the procedures provided in this section, shall be transferred to any replacement dwelling, regardless of the value of the replacement dwelling or whether the replacement dwelling is located within the same county, that is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that the base year value of the original property shall not be transferred to the replacement dwelling until the original property is sold.

(2) For purposes of calculating the base year value of a replacement dwelling, the following shall apply:

(A) For any replacement dwelling of greater value and purchased or newly constructed by a person eligible to transfer the base year value of his or her original property within two years of the sale of the original property, the base year value of the replacement dwelling shall be calculated by adding the difference between the full cash value of the original property and the full cash value of the replacement dwelling to the base year value of the original property.

(B) For any replacement dwelling of equal or lesser value purchased or newly constructed by a person eligible to transfer the base year value of his or her original

property within two years of the sale of the original property, the base year value of the replacement dwelling shall be calculated by dividing the base year value of the original property by the full cash value of the original property, and multiplying the result by the full cash value of the replacement dwelling.

(b) In addition to meeting the requirements of subdivision (a), any person entitled to the property tax relief provided by this section shall be eligible for that relief only if the following conditions are met:

(1) The person is an owner and a resident of the original property either at the time of its sale, or at the time when the original property was substantially damaged or destroyed by misfortune or calamity, or within two years of the purchase or new construction of the replacement dwelling.

(2) The original property is eligible for the homeowners' exemption, as the result of the person's ownership and occupation of the property as his or her principal residence, either at the time of its sale, or at the time when the original property was substantially damaged or destroyed by misfortune or calamity, or within two years of the purchase or new construction of the replacement dwelling.

(3) At the time of the sale of the original property, the person or his or her spouse who resides with the person is at least 55 years of age, or is severely and permanently disabled.

(4) At the time of filing for the property tax relief provided by subdivision (a), the person is an owner of a replacement dwelling and occupies it as his or her principal place of residence and, as a result thereof, the property is currently eligible for the homeowners' exemption or would be eligible for the exemption except that the property is already receiving the exemption because of an exemption filed by the previous owner.

(5) The original property of the person is sold by him or her within two years of the purchase or new construction of the replacement dwelling. For purposes of this paragraph, the purchase or new construction of the replacement dwelling includes the purchase of that portion of land on which the replacement building, structure, or other

shelter constituting a place of abode of the person will be situated and that, pursuant to paragraph (3) of subdivision (g), constitutes a part of the replacement dwelling.

(c) (1) The property tax relief provided by this section shall be available if the original property or the replacement dwelling, or both, of the person includes, but is not limited to, either of the following:

(A) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development. If the unit or lot constitutes the original property of the person, the assessor shall transfer to the person's replacement dwelling only the base year value of the person's unit or lot and his or her share in any common area reserved as an appurtenance of that unit or lot. If the unit or lot constitutes the replacement dwelling of the person, the assessor shall transfer the base year value of the person's original property only to the unit or lot of the claimant and any share of the person in any common area reserved as an appurtenance of that unit or lot.

(B) A manufactured home or a manufactured home and any land owned by the person on which the manufactured home is situated. For purposes of this paragraph, "land owned by the person" includes a pro rata interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(i) If the manufactured home or the manufactured home and the land on which it is situated constitutes the person's original property, the assessor shall transfer to the person's replacement dwelling either the base year value of the manufactured home or the base year value of the manufactured home and the land on which it is situated, as appropriate. If the manufactured home dwelling that constitutes the original property of the person includes an interest in a resident-owned mobilehome park, the assessor shall transfer to the person's replacement dwelling the base year value of the person's manufactured home and his or her pro rata portion of the real property of the park. No transfer of base year value shall be made by the assessor of that portion of land that does not constitute a part of the original property, as provided in paragraph (4) of subdivision (g).

(ii) If the manufactured home or the manufactured home and the land on which it is situated constitutes the claimant's replacement dwelling, the assessor shall transfer the base year value of the claimant's original property either to the manufactured home or the manufactured home and the land on which it is situated, as appropriate. If the manufactured home dwelling that constitutes the replacement dwelling of the claimant includes an interest in a resident-owned mobilehome park, the assessor shall transfer the base year value of the claimant's original property to the manufactured home of the claimant and his or her pro rata portion of the park. No transfer of base year value shall be made by the assessor to that portion of land that does not constitute a part of the replacement dwelling, as provided in paragraph (3) of subdivision (g).

(2) This subdivision shall be subject to the limitations specified in subdivision (d).

(d) The property tax relief provided by this section shall be available to a person who is the coowner of the original property, as a joint tenant, a tenant in common, a community property owner, or a present beneficiary of a trust subject to the following limitations:

(1) If a single replacement dwelling is purchased or newly constructed by all of the coowners and each coowner retains an interest in the replacement dwelling, the person filing for the transfer of base year value shall be eligible under this section whether or not any or all of the remaining coowners would otherwise be eligible.

(2) If two or more replacement dwellings are separately purchased or newly constructed by two or more coowners and more than one coowner would otherwise be eligible to transfer base year value pursuant to this section, all coowners shall have the base year value of the original property transferred to any replacement dwelling in proportion to their ownership interest in the original property.

(3) If two or more replacement dwellings are separately purchased or newly constructed by two coowners who held the original property as community property, only the coowner who has attained 55 years of age, or is severely and permanently disabled, shall be eligible under this section. If both spouses are over 55 years of age,

the base year value of the original property shall be transferred to any replacement dwelling in proportion to their ownership interest in the original property.

(4) In the case of coowners whose original property is a multiunit dwelling, the limitations imposed by paragraphs (2) and (3) shall only apply to coowners who occupied the same dwelling unit within the original property at the time specified in paragraph (2) of subdivision (b).

(e) Upon the sale of original property, the assessor shall determine a new base year value for that property in accordance with subdivision (a) of Section 2 of Article XIII A of the California Constitution and Section 110.1, whether or not a replacement dwelling is subsequently purchased or newly constructed by the former owner or owners of the original property. This section shall not apply unless the transfer of the original property is a change in ownership that either (1) subjects that property to reappraisal at its current fair market value in accordance with Section 110.1 or 5803 or (2) results in a base year value determined in accordance with this section, Section 69, or Section 69.3 because the property qualifies under this section, Section 69, or Section 69.3 as a replacement dwelling or property.

(f) (1) A person entitled the property tax relief provided by this section shall provide to the assessor, on a form that shall be designed by the State Board of Equalization and that the assessor shall make available upon purchase of the replacement dwelling at the time in which the replacement dwelling would ordinarily be subject to reappraisal at its current fair market value, the following information:

(A) The name and social security number of each person who resides at the property and who is eligible for the homeowner's exemption.

(B) Proof that the person or his or her spouse who resided on the original property with the person was, at the time of its sale, at least 55 years of age, or severely and permanently disabled. Proof of severe and permanent disability shall be considered a certification, signed by a licensed physician and surgeon of appropriate specialty, attesting to the claimant's severely and permanently disabled condition. In the absence of available proof that a person is over 55 years of age, the person shall certify under

penalty of perjury that the age requirement is met. In the case of a severely and permanently disabled person either of the following shall be submitted:

(i) A certification, signed by a licensed physician or surgeon of appropriate specialty that identifies specific reasons why the disability necessitates a move to the replacement dwelling and the disability-related requirements, including any locational requirements, of a replacement dwelling. The person shall substantiate that the replacement dwelling meets disability-related requirements so identified and that the primary reason for the move to the replacement dwelling is to satisfy those requirements. If the person, or his or her spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move to the replacement dwelling is to satisfy identified disability-related requirements.

(ii) The person's substantiation that the primary purpose of the move to the replacement dwelling is to alleviate financial burdens caused by the disability. If the person, or his or her spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move is to alleviate the financial burdens caused by the disability.

(C) The address and, if known, the assessor's parcel number of the original property.

(D) The date of the sale of the person's original property and the date of the purchase or new construction of a replacement dwelling.

(E) A statement by the person that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

(2) The form required by this subdivision shall be filed within three years of the date the replacement dwelling was purchased or the new construction of the replacement dwelling was completed. Any form filed after the expiration of the filing period set forth in this paragraph shall be considered by the assessor, subject to all of the following conditions:

(A) Any base year value transfer granted pursuant to that filing shall apply commencing with the lien date of the assessment year in which the form is filed.

(B) The full cash value of the replacement property in the assessment year described in subparagraph (A) shall be the base year value of the real property in the assessment year in which the base year value was transferred, factored to the assessment year described in subparagraph (A) for both of the following:

(i) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.

(ii) Any subsequent new construction occurring with respect to the subject real property that does not qualify for property tax relief pursuant to the criteria set forth in paragraph (4) of subdivision (h).

(g) For purposes of this section, the following definitions shall apply:

(1) "Person over 55 years of age" means any person or the spouse of any person who has attained 55 years of age or older at the time of the sale of the original property.

(2) (A) "Base year value of the original property" means its base year value, as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property is sold by the claimant, or in the case where the original property has been substantially damaged or destroyed by misfortune or calamity and the owner does not rebuild on the original property, determined as of the date immediately prior to the misfortune or calamity.

(B) If the replacement dwelling is purchased or newly constructed after the transfer of the original property, "base year value of the original property" also includes any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the sale of the original property. The base year or years used to compute the "base year value of the original property" shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

(3) "Replacement dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned

and occupied by a person as his or her principal place of residence, and any land owned by the person on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of a replacement dwelling includes only that area of reasonable size that is used as a site for a residence, and “land owned by the person” includes land for which the person either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate replacement dwelling. For purposes of this paragraph, “area of reasonable size that is used as a site for a residence” includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site. For purposes of this paragraph, “land owned by the person” includes an ownership interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(4) “Original property” means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a person as his or her principal place of residence, and any land owned by the person on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of the original property includes only that area of reasonable size that is used as a site for a residence, and “land owned by the person” includes land for which the person either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate original property. For purposes of this paragraph, “area of reasonable size that is used as a site for a residence” includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site. For purposes of this paragraph, “land owned by the person” includes an ownership interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(5) “Full cash value of the replacement dwelling” means its full cash value, determined in accordance with Section 110.1, as of the date on which it was purchased or new construction was completed, and after the purchase or the completion of new

construction.

(6) “Full cash value of the original property” means, either:

(A) Its new base year value, determined in accordance with subdivision (e), without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1 for the period from the date of its sale by the person to the date on which the replacement property was purchased or new construction was completed.

(B) In the case where the original property has been substantially damaged or destroyed by misfortune or calamity and the owner does not rebuild on the original property, its full cash value, as determined in accordance with Section 110, immediately prior to its substantial damage or destruction by misfortune or calamity, as determined by the county assessor of the county in which the property is located, without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, for the period from the date of its sale by the person to the date on which the replacement property was purchased or new construction was completed.

(7) “Sale” means any change in ownership of the original property for consideration.

(8) “Person” means any individual, but not any firm, partnership, association, corporation, company, or other legal entity or organization of any kind, who files for the property tax relief provided by this section. “Person” includes an individual who is the present beneficiary of a trust.

(9) “Property that is eligible for the homeowners’ exemption” includes property that is the principal place of residence of its owner and is entitled to exemption pursuant to Section 205.5.

(10) Property is “substantially damaged or destroyed by misfortune or calamity” if either the land or the improvements sustain physical damage amounting to more than

50 percent of either the land's or the improvement's full cash value immediately prior to the misfortune or calamity. Damage includes a diminution in the value of property as a result of restricted access to the property where the restricted access was caused by the misfortune or calamity and is permanent in nature.

(h) (1) Upon the timely filing of a form, as described in subdivision (f), the assessor shall adjust the new base year value of the replacement dwelling in conformity with this section. This adjustment shall be made as of the latest of the following dates:

(A) The date the original property is sold.

(B) The date the replacement dwelling is purchased.

(C) The date the new construction of the replacement dwelling is completed.

(2) Any taxes that were levied on the replacement dwelling prior to the filing for the property tax relief provided by this section on the basis of the replacement dwelling's new base year value, and any allowable annual adjustments to that new base year value, shall be canceled or refunded to the person to the extent that the taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

(3) Notwithstanding Section 75.10, Chapter 3.5 (commencing with Section 75) shall be utilized for purposes of implementing this subdivision, including adjustments of the new base year value of replacement dwellings acquired prior to the sale of the original property.

(4) In the case where a form under this section has been timely filed, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if the new construction is completed within two years of the date of the sale of the original property and the owner notifies the assessor in writing of completion of the new construction within six months after completion

(i) With respect to the transfer of the base year value of original properties to replacement dwellings, this section shall apply to any replacement dwelling that is

purchased or newly constructed on or after January 1, 2019.

(j) A form filed under this section is not a public document and is not subject to public inspection, except that the form shall be available for inspection by the person or his or her spouse, the person's or his or her spouse's legal representative, the trustee of a trust in which the person or his or her spouse is a present beneficiary, and the executor or administrator of the person's or his or her spouse's estate.

(k) This section shall become operative on January 1, 2019.

SECTION 5. The statutory provisions of this measure may be amended by a two-thirds vote of the members of each house of the Legislature and signed by the Governor so long as the amendments are consistent with and further the intent of this act.

SECTION 6. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

This page intentionally blank to facilitate double-sided printing.

Attachment Three
LAO's Fiscal Analysis of the People's Initiative to Protect Proposition 13
Savings, Version 3

This page intentionally blank to facilitate double-sided printing.



September 8, 2017

RECEIVED

SEP 08 2017

Hon. Xavier Becerra
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Ms. Ashley Johansson
Initiative Coordinator

Dear Attorney General Becerra:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional and statutory initiative (A.G. File No. 17-0013, Amdt. #1) related to property tax assessment.

Background

Local Governments Levy Taxes on Property Owners. Local governments—cities, counties, schools, and special districts—in California levy property taxes on property owners based on the value of their property. Property taxes are a major revenue source for local governments, raising nearly \$60 billion annually. Although the state receives no property tax revenue, property tax collections affect the state's budget. This is because state law guarantees schools and community colleges (schools) a minimum amount of funding each year through a combination of property taxes and state funds. If property taxes received by schools decrease (increase), state funding generally must increase (decrease).

Property Taxes Are Based on a Home's Purchase Price. Each property owner's annual property tax bill is equal to the taxable value of their property—or assessed value—multiplied by their property tax rate. Property tax rates are capped at 1 percent plus smaller voter-approved rates to finance local infrastructure. A property's assessed value is based on its purchase price. In the year a property is purchased, it is taxed at its purchase price. Each year thereafter, the property's taxable value increases by 2 percent or the rate of inflation, whichever is lower. This process continues until the property is sold and again is taxed at its purchase price.

Movers Often Face Increased Property Tax Bills. An existing homeowner often faces a higher property tax bill when she purchases a new home. Most homeowners who have lived in their homes for a few years or more pay taxes based on assessed values that are less than their homes' market values—what the homes could be sold for. This difference typically widens the longer a home is owned. This is because in most years the market value of most properties grows faster than 2 percent. When an existing homeowner purchases a new home, however, his or her assessed value is set to the market value of the new home. If the new home's market value is similar to or greater than the prior home, the new home's assessed value is likely to exceed the

Legislative Analyst's Office
California Legislature
Mac Taylor • Legislative Analyst
925 L Street, Suite 1000 • Sacramento CA 95814
(916) 445-4656 • FAX 324-4281

old home's assessed value. Even when the new home's market value is lower, the new home's assessed value can be higher than the prior home's if the prior home had been lived in for many years. A higher assessed value, in turn, leads to higher property tax payments for the home buyer.

Special Rules for Older Homeowners. While most homeowners face higher property taxes when buying a new home, in certain cases special rules apply to homeowners 55 and older. When moving within the same county, a homeowner who is 55 or older can transfer the assessed value of their existing home to a new home if the market value of the new home is equal to or less than their existing home. Further, counties may choose to allow homeowners 55 and older to transfer their assessed values from homes in different counties to new homes in their county. A county board of supervisors can permit such transfers by adopting a local ordinance. Currently, 11 counties (Alameda, El Dorado, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Mateo, Santa Clara, Tuolumne, and Ventura) allow these transfers. Whether within a county or across counties, a homeowner can transfer their assessed value only once in their lifetime.

Potential of Higher Property Taxes May Discourage Some Movers. Some research suggests that potential movers may be discouraged by the possibility of paying more property taxes. For example, homeowners 55 and older appear more likely to move in response to special rules allowing them to transfer their existing assessed value to a new home. California homeowners who were 55 years old were around 20 percent more likely to move in 2014 than 54 year old homeowners. This suggests that some homeowners who were interested in moving delayed doing so to avoid paying higher property taxes.

Other Taxes on Home Purchases. Cities and counties impose taxes on the transfer of homes and other real estate. These transfer taxes are based on the value of the property being transferred. Transfer taxes are equal to \$1.10 per \$1,000 of property value in most locations, but exceed \$20 per \$1,000 of property in some cities. Statewide, transfer taxes raise around \$1.1 billion for cities and counties.

Counties Administer the Property Tax. County assessors determine the taxable value of property, county tax collectors bill property owners, and county auditors distribute the revenue among local governments. Statewide, county spending for assessors' offices totals around \$550 million each year. County costs for property tax collectors and auditors are unknown but much smaller.

Proposal

Expands Special Rules for Older Homeowners. The measure expands the special rules applied to existing homeowners 55 and older who buy a new home. Under the measure, the assessed value of any home purchase by an existing homeowner 55 and older—including those moving across counties or to more expensive homes—would be tied to the assessed value of the buyer's prior home. If the new and old home have the *same* market value, the assessed value of the new home would be the assessed value of the prior home. If the market value of the new

home is *higher than* the prior home, the assessed value of the prior home would be adjusted upward. This adjusted value would be greater than the prior home's assessed value but less than the new home's market value. Conversely, if the market value of the new home is *less than* the prior home, the assessed value of the prior home would be adjusted downward. The measure specifies a formula to be used to make these upward and downward adjustments. There also would be no limit on the number of moves by an individual homeowner. These changes would take effect January 1, 2019.

Examples. To see how the measure's formulas work, consider the options of a recently retired couple who is looking to move. The couple has lived in their suburban home for 30 years. The home's assessed value is \$75,000 and could be sold for \$600,000. They are looking at two options:

- **Beach Home.** The couple could buy a beach home for \$700,000. Under the measure, the assessed value of the beach home would be \$175,000: \$75,000 (assessed value of their prior home) plus \$100,000 (\$700,000 [the new home's market value] minus \$600,000 [the prior home's market value]).
- **Small Downtown Condo.** The couple also could buy a downtown condo for \$500,000. Under the measure, the assessed value of the condo would be \$62,500: \$75,000 (assessed value of their prior home) multiplied by 0.8 (\$500,000 [the new home's market value] divided by \$600,000 [the prior home's market value]).

Fiscal Effect

Effects on Real Estate Markets. The measure would have a variety of effects on real estate markets throughout California. Most notably, the measure likely would change the number of homes bought and sold each year and the prices of those homes.

Increase Home Sales. Because the measure further reduces the property tax increases faced by older homeowners who purchase a new home, it likely would encourage more older homeowners to sell their existing homes and buy other homes. In recent years, between 350,000 and 450,000 homes have sold each year in California. Under the measure, home sales could increase by as much as tens of thousands per year.

Unclear Effect on Home Prices. The measure would increase the number of home buyers and sellers, as well as change how much home buyers are willing to pay for a home. The net effect of these changes on home prices is unclear.

Reduced Property Tax Revenues to Local Governments. By further reducing the increase in property taxes that typically accompanies home purchases by older homeowners, the measure would reduce property tax revenues for local governments. Additional property taxes created by an increase in home sales would partially offset these losses, but on net property taxes would decrease. In the first few years, property tax losses would be a few hundred million dollars per year, with schools and other local governments (cities, counties, and special districts) each losing

around \$150 million annually. Over time these losses would grow, likely reaching between \$1 billion to a few billion dollars per year (in today’s dollars) in the long term, with schools and other local governments each losing \$1 billion or more annually.

More State Spending for Schools. Most schools’ property tax losses would be offset by increased state funding. In the short term, annual state costs for schools would increase by around \$150 million. In the long term, annual state costs for schools would grow by \$1 billion or more (in today’s dollars).

Increase in Property Transfer Taxes. As the measure likely would increase home sales, it also would increase property transfer taxes collected by cities and counties. This revenue increase likely would be in the tens of millions of dollars per year.

Higher Administrative Costs for Counties. The measure would require county assessors to make process, staffing, and information technology changes. These changes likely would result in one-time costs in the millions of dollars or more, with somewhat smaller ongoing cost increases.

Summary of Fiscal Effects.

- Annual property tax losses for cities, counties, and special districts of around \$150 million in the near term, growing over time to \$1 billion or more per year (in today’s dollars).
- Annual property tax losses for schools of around \$150 million per year in the near term, growing over time to \$1 billion or more per year (in today’s dollars). Increase in state costs for schools of an equivalent amount in most years.

Sincerely,

for Mac Taylor
Legislative Analyst

for Michael Cohen
Director of Finance

Attachment Four
Memo on Tax Fairness, Transparency, and Accountability Act of 2018

This page intentionally blank to facilitate double-sided printing.



1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327.7500

Facsimile
916.441.5507

April 4, 2018

To: Members, Government Finance and Administration Policy Committee

From: Dorothy Johnson, CSAC Legislative Representative
Tracy Sullivan, CSAC Legislative Analyst

Re: 2018 Ballot Initiative: The Tax Fairness, Transparency and Accountability Act of 2018 – ACTION ITEM

Recommendation. Staff recommends the Government Finance and Administration Policy Committee forward an “oppose” position to the Executive Committee in light of the fiscal impacts on counties.

Summary.

The California Business Roundtable (CBR) is the lead proponent of the “Tax Fairness, Transparency and Accountability Act of 2018” initiative that seeks to inhibit the ability of local governments to generate new revenues through taxes and fees. It does so by amending both Proposition 26 and Proposition 218 and requiring supermajority voter approval on any new fee or tax, or the extension of an existing tax, applicable to any tax or fee in place after in January 1, 2018. It also requires two-thirds approval by the local legislative body to place a tax or fee before voters. The stated need is to address recent court decisions that created loopholes in tax and fee approval requirements by local government and their voting bodies.

Background.

Current Law

Proposition 218 (1996) requires local governments to submit to the voters any ordinance to impose taxes or property-related assessments, charges and fees for their approval. It established the vote thresholds for general taxes (majority vote) and for special taxes, i.e. taxes for a specific purpose (two-thirds, or supermajority vote), and requires general tax measures to be placed on regularly scheduled election ballots.

Proposition 26 (2010) amended the California Constitution to define what constitutes a local tax. It provided that “tax” means “any levy, charge, or exaction of any kind imposed by a local government...” This broad definition was accompanied by seven exceptions, also within Prop. 26, that covered most fees or charges that a local agency may want to impose and allows that imposition via unilateral action of the governing body without requiring voter approval.

Changes under Ballot Initiative

The ballot initiative would for local governments (cities, counties, special districts, and school districts):

- 1) Require two-thirds voter approval for any local tax or fee increase (specific or general) as well as two-thirds approval by the local legislative body to place a tax on the ballot.

- 2) Require two-thirds voter approval to extend an existing tax to a new territory, new class of pay or expanded base.
- 3) Expand the definition of a tax to include payments voluntarily made for benefits received (such as local franchise fees).
- 4) Require any tax placed on the ballot to detail how the revenues will be spent. Any changes to how the revenue is spent requires reapproval or states amount to be used for unrestricted purposes.
- 5) Require tax measures to be placed on general election ballots.
- 6) Require any initiative-based tax or fee proposal to be approved with two-thirds vote
- 7) Clarify a levy or charge payable to a non-governmental entity is a tax if the local government places any restrictions in use of proceeds
- 8) Require any fee to reflect “actual” instead of “reasonable” costs
- 9) Increase the legal burden of proof that a fee is not a tax, the amount of the fee is not more than the actual cost of service provided and the revenue from the fee is not being used for other purposes.
- 10) Apply these restrictions retroactively beginning January 1, 2018.

The ballot initiative would for the State:

- 1) Require that regulations containing increased taxes or fees would not take effect unless the Legislature passes a law approving the regulation.
- 2) Require if the regulation contains a tax, the bill allowing the regulation to remain in place must be passed by a two-thirds majority of both houses of the Legislature. (These provisions are not retroactive).
- 3) Increase the legal burden of proof that a fee is not a tax, the amount of the fee is not more than the actual cost of service provided and the revenue from the fee is not being used for other purposes.

Fiscal Impact

The Legislative Analysts' Office (LAO) was unable to provide a cost estimate for state or local government revenue impacts. However, they offer that by expanding the definition of taxes and increasing vote thresholds for certain taxes and fees, the measure makes it harder for the State, local governments, and initiative proponents to increase local revenues. The amount of reduced local government revenues would also depend on various factors, including the extent to which local governments would substitute developer fees and other majority-vote revenue sources for the revenue sources subject to a higher vote threshold under the measure. Roughly half of recently enacted sales, business, hotel, and utility general tax measures would have failed if the measure's

increased vote threshold requirements were in effect, suggesting that the reduction in local tax revenue could be substantial.

Policy Considerations.

Existing CSAC Policy

The California County Platform, CSAC's adopted statement of the basic policies of concern and interest to California's counties, speaks extensively in specific and general terms against the changes presented by this initiative. This includes the following:

"The three major planks of the Platform are: 1) to allow county government the fiscal resources that enable it to meet its obligations; 2) to permit county government the flexibility to provide services and facilities in a manner that resolves the day-to-day problems communities face; and 3) to grant county government the ability to tailor the levels of local revenues and services to citizens' satisfaction."— Chapter 1, General Provisions

"Local Authority: Counties should be granted enhanced local revenue-generating authority to respond to unique circumstances in each county to provide needed infrastructure and county services. Any revenue raising actions that require approval by the electorate should require a simple majority vote." – Chapter 9, Financing County Services

"...counties should have the ability to adjust all fees, assessments, and charges to cover the full costs of the services they support." – Chapter 9, Financing County Services

Retroactive Application

The retroactive application for any tax or fee established after January 1, 2018, would essentially invalidate any local agency or local voter activity this year and require proposed new or changes taxes or fees to receive two-thirds local legislative body and local voter approval.

Impacts on Emerging Industries and Innovation

While many counties have long established transaction and use taxes and transient occupancy taxes, amongst others, the expansion to a new area would require the heightened super-majority approval. This could have implications for emerging local industries, such as cannabis, or innovative service models, such as AirBnbs.

Increased Pressure on Other Revenue Sources Creates Unintended Consequences

Challenges to establishing new or expanded taxes and fees could put pressure on other local revenue generating sources, as noted by the LAO. This includes developer fees, which could thwart community development efforts and limit economic growth or recovery opportunities.

CSAC Ballot Initiative Review Process. In most instances, CSAC will only take a position on a relevant ballot measures after it qualifies for a scheduled election. However, in the event of an initiative having a direct impact on counties, earlier action may be taken.

Following referral by the CSAC Officers, the GF&A Policy Committee may recommend a position, including “No Position.” The recommendation will be forwarded to the CSAC Executive Committee to be acted and, if the motion is approved, then it will be forwarded to the CSAC Board of Directors for action before the November 2018 statewide election.

If “No Position” is recommended by the Committee, it will be forwarded to the Executive Committee as an informational item only. This will be subsequently forwarded to the Board of Directors as an informational item, unless the Executive Committee votes to take a “Support” or “Oppose” position.

Staff Contact. Please contact Dorothy Johnson at (916) 327-7500 Ext. 515 or djohnson@counties.org or Tracy Sullivan at (916) 327-7500 Ext 523 or tsullivan@counties.org.

Resources.

- 1) [Full text of Ballot Initiative](#) (Attachment 5)
- 2) [Fiscal Analysis by Legislative Analyst’s Office](#) (Attachment 6)

Attachment Five
Full Text of the Tax Fairness, Transparency, and Accountability Act of 2018

This page intentionally blank to facilitate double-sided printing.

December 22, 2017

VIA PERSONAL DELIVERY

Hon. Xavier Becerra
Attorney General of California
1300 I Street, 17th Floor, P.O. Box 944255
Sacramento, CA 95814

RECEIVED

DEC 22 2017

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Ashley Johansson, Initiative Coordinator

Re: Request for Title and Summary for Initiative Constitutional
Amendment (A.G. No. 17-0050) - Amended Language

Dear Ms. Johansson:

Pursuant to Section 9002(b) of the California Elections Code, please find attached hereto amendments to the above-captioned initiative measure. I hereby request that a title and summary be prepared for the initiative measure using the amended language. My address as a registered voter, the required proponent affidavits pursuant to Sections 9001 and 9608 of the California Elections Code, and a check for \$2,000.00 were included with the original submission.

All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Gross & Leoni, LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814, (916) 446-6752, Attention: Kurt Oneto (telephone: 916/446-6752).

Thank you for your assistance.

Sincerely,



Robert Lapsley, Proponent

Enclosure: Proposed Initiative Constitutional Amendment

This page intentionally blank to facilitate double-sided printing.

[Deleted codified text is denoted in ~~strikeout~~. Added codified text is denoted by *italics and underline*.]

Section 1. Title.

This Act shall be known, and may be cited as, the Tax Fairness, Transparency and Accountability Act of 2018.

Section 2. Findings & Declarations.

(a) State and local governments' appetite for new revenue adds to the rapidly rising costs of living that Californians face for housing, childcare, gasoline, food, energy, healthcare, and education. Compared to 2009, state revenues from taxes and other sources are set to grow by 68 percent— \$72 billion, or the equivalent of more than an additional \$7,200 annually for a family of four. Comparable growth in local government charges such as employee pensions adds considerably more to this total. This growing burden of taxes and other charges is hurting hardworking Californians who find themselves living paycheck to paycheck, and being forced to make tough choices between paying for housing, food, or healthcare.

(b) Californians are already among the highest taxed people in the country and already pay among the highest tax rates in the nation for the state personal income tax, sales taxes, and gasoline tax. From the most recent data from the US Census Bureau, California state and local government general revenues collected in 2015 from taxes, fees, charges, and other non-utility local sources were the highest in the nation at \$419 billion, making them the 9th highest on a per capita basis at \$8,385 per person. With 12 percent of the national population, US Census Bureau data shows that Californians in 2016 paid 17 percent of all taxes collected by the states including 13 percent of all general sales taxes, 15 percent of all vehicle license fees, 16 percent of all property taxes, 22 percent of all corporation taxes, 23 percent of all personal income taxes, and 29 percent of all occupation and business license fees.

(c) Californians have tried repeatedly to force greater accountability upon government before revenues can be increased. Voter-approved ballot measures such as Proposition 13 (1978), Proposition 62 (1986), Proposition 218 (1996), and Proposition 26 (2010) required state and local governments to make their case to the voters on the need for increased government revenues.

(d) Through these measures, voters also tried to keep government honest and transparent about why new revenues and charges are needed and how they will be used. For too long, politicians, state and local governments, and special interests have promised that taxpayer money will be spent for a specific purpose, only to divert its use once the money starts coming in. Revenues that were supposed to improve education instead have been diverted to general salary and benefit increases. Revenues that were promised to improve and expand government services were instead diverted to pay down debts created by past government decisions. Recent major transportation improvements have seen cost overruns more than double their original estimate. Polling by the nonpartisan Public Policy Institute of California showed 88 percent of Californians believe state government wastes a lot or some of the money we pay in taxes and charges.

(e) Contrary to the voters' intent, voter approval of government revenue increases and spending accountability measures have been weakened by the Legislature, the courts, and special interests, making it easier to raise government revenues in a myriad of ways by only a simple majority of the Legislature or with no vote by the public who is expected to pay the costs.

(f) Worse, court-created loopholes have enabled governments and their surrogates to become less transparent about how the funds taken from taxpayers are raised and spent. Loopholes have been created which are used by the Legislature, local governments and even special interest groups to: (1) pass vaguely-worded statutes allowing unelected bureaucrats to impose new fees and other charges on their own that increase the costs of goods and services in the state; (2) impose new taxes and other charges by hiding them and simply calling them by another name or even using the term "something else;" (3) shelter the revenues from voter approval by running the revenues through a nonprofit organization or another third party; and (4) encourage "divide and tax" by making it easier to raise taxes or charges on only a part of the population through simple majority votes in low turnout elections.

Section 3. Statement of Purpose.

(a) In enacting this measure, the voters reassert their right to require a two-thirds vote of the Legislature at the state level, and two-thirds of voters at the local level, for increases in state and local taxes, no matter how they are labeled nor how or by whom they are proposed. The

voters also intend that government remain accountable to the voters for how the taxes, fees, charges, and other government revenues extracted from Californians are spent.

(b) Furthermore, the purpose and intent of the voters in enacting this measure is to clarify that any new or increased form of state revenue, by any name or manner of extraction paid directly or indirectly by Californians, shall be authorized only by a two-thirds vote of the Legislature to ensure that the purposes for such tax, fee, or other charge are broadly supported and transparently debated.

(c) Furthermore, the purpose and intent of the voters in enacting this measure is also to ensure that taxpayers have the right and ability to effectively balance new or increased taxes, fees, charges, or other government revenues with the rapidly increasing costs Californians are already paying for housing, food, gasoline, energy, healthcare, education, and other basic costs of living.

(d) Furthermore, the purpose and intent of the voters in enacting this measure is to force transparency and accountability on how state and local revenues are utilized, so that revenues are used for their promised purposes, and not diverted to other uses.

(e) Furthermore, the purpose and intent of the voters in enacting this measure is to require that the public be allowed to vote on any and all local taxes that were created or increased by regulation or other bureaucratic action.

(f) In enacting this measure, the voters also additionally intend to reverse loopholes in the legislative two-thirds vote and voter approval requirements for government revenue increases created by the courts including, but not limited to, *Cannabis Coalition v. City of Upland*, *Chamber of Commerce v. Air Resources Board*, and *Schmeer v. Los Angeles County*.

Section 4. Section 3 of Article XIII A of the California Constitution is amended, to read:

SECTION 3.

(a) Every levy, charge, or exaction of any kind imposed, adopted, created, or established by state law is either a tax or an exempt charge.

(b) (a) Any change in state statute law which results in any taxpayer paying a higher tax must be imposed by an act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property, may be imposed.

~~(c) (b)~~ As used in this section, “tax” means every ~~any~~ levy, charge, or exaction of any kind imposed, adopted, created, or established by the State state law that is not an exempt charge, except the following:

(d) As used in this section, “exempt charge” means only the following:

~~(1)~~ A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the State of conferring the benefit or granting the privilege to the payor.

~~(1) (2)~~ A reasonable charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable actual costs to the State of providing the service or product to the payor.

~~(2) (3)~~ A reasonable charge imposed for the reasonable not to exceed the actual regulatory costs to the State ~~incident to~~ for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, imposing assessments on a business by a tourism marketing district, and the administrative enforcement and adjudication thereof.

~~(3) (4)~~ A charge imposed for entrance to or use of state property, or the purchase, rental, or lease of state property, except charges governed by Section 15 of Article XI.

~~(4) (5)~~ A fine, or penalty, ~~or other monetary charge~~ including any applicable interest for nonpayment thereof, imposed by the judicial branch of government or the State, ~~as a result of a state administrative enforcement agency pursuant to adjudicatory due process, to punish a violation of law.~~

~~(e)~~ Any tax adopted after January 1, 2010, but prior to the effective date of this act, that was not adopted in compliance with the requirements of this section is void 12 months after the effective date of this act unless the tax is reenacted by the Legislature and signed into law by the Governor in compliance with the requirements of this section.

(e) As used in this section, “state law” includes, but is not limited to, any state statute, state regulation, state executive order, state resolution, state ruling, state opinion letter, or other legal authority or interpretation adopted, enacted, enforced, issued, or implemented by the legislative or executive branches of state government. Because subdivision (f) of Section 9 of Article IX of this Constitution requires that the University of California shall be entirely

independent of all political or sectarian influence, "state law" does not include acts of the Regents of the University of California.

(f)(1) A levy, charge, or exaction of any kind imposed, adopted, created, or established by state law and which is retained by or payable to a non-government entity remains subject to this section if a state law also limits in any way how the non-government entity can use the levy, charge, or exaction.

(2) The characterization of a levy, charge, or exaction of any kind imposed, adopted, created, or established by state law as being voluntary, or paid in exchange for a benefit, privilege, allowance, authorization, or asset, shall not be a factor in determining whether the levy, charge, or exaction is a tax or an exempt charge.

(g) No new, increased, or extended tax shall be valid or given any effect unless:

(1) The state law creating, increasing, or extending the tax contains a specific and legally binding and enforceable limitation on how the revenue from the tax can be spent. If the revenue from the tax can be spent for unrestricted general revenue purposes, then a statement that the tax revenue can be spent for "unrestricted general revenue purposes" shall be included in the separate, stand-alone section required by paragraph (2).

(2) A true and impartial statement of facts explicitly and affirmatively identifying each tax and the specific limitation on how the revenue therefrom can be spent is set forth in the state law as a separate, stand-alone section containing no other information.

(3) The revenue from the tax is not used for any purpose other than those identified pursuant to this subdivision.

(h) The specific and legally binding and enforceable limitation on how the revenue from a tax can be spent shall only be changed by a state law which is adopted by a separate act that is passed by not less than two-thirds of all members elected to each of the two houses of the Legislature.

(i) ~~(d)~~ The State bears the burden of proving by a preponderance of the clear and convincing evidence that a levy, charge, or other exaction of any kind is an exempt charge and is not a tax, that the amount is reasonable and no more than necessary to cover the reasonable actual costs of the governmental activity service or product or regulatory task, that an exempt charge is not used for any purpose other than its stated purpose, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens

on, or benefits received from, the governmental activity is proportional based on the service or product provided to the payor as described in paragraph (1) of subdivision (d), or is proportional to the costs to the State created by the payor for performing the regulatory tasks described in paragraph (2) of subdivision (d).

Section 5. Section 3.1 is added to Article XIII A of the California Constitution, to read:

SECTION 3.1.

(a) No new, increased, or extended levy, charge, or exaction of any kind that is contained in, or authorized by, a new or amended regulation shall be given any force or effect unless and until the Legislature by statute approves the levy, charge, or exaction as provided in this section.

(b) If the levy, charge, or exaction is a tax as defined in Section 3 of this article, then it must be approved by not less than two-thirds of all members elected to each of the two houses of the Legislature. If the levy, charge, or exaction is an exempt charge as defined in Section 3 of this article, then it must be approved by not less than a majority of all members elected to each of the two houses of the Legislature.

(c) The Legislature shall not vote to approve any levy, charge, or exaction of any kind subject to this section until after the regulation containing the levy, charge, or exaction is approved in its final form by the Office of Administrative Law or any alternative or successor agency. No regulation containing or authorizing a levy, charge, or exaction subject to this section shall be filed with the Secretary of State or published in the California Code of Regulations, or any alternative or successor publication, until the levy, charge, or exaction is approved by the Legislature in compliance with this section.

(d) An emergency regulation, including any readoption thereof, that contains or authorizes any new, increased, or extended levy, charge, or exaction of any kind shall not remain in effect longer than 120 days without approval of the levy, charge, or exaction by the Legislature pursuant to this section.

(e) This section shall not apply to any new, increased, or extended levy, charge, or exaction of any kind that is contained in, or authorized by, a new or amended regulation promulgated pursuant to a state tax that was adopted in compliance with Section 3.

(f) For purposes of this section, "regulation" has the same meaning as found in Section 11342.600 of the Government Code, and "emergency" has the same meaning as found in Section 11342.545 of the Government Code, as those sections read on January 1, 2017.

(g) Nothing in this section shall be interpreted as a grant of authority to tax to any executive branch agency or department.

Section 6. Section 1 of Article XIII C of the California Constitution is amended, to read:

SECTION 1.

Definitions. As used in this article:

(a) "Article XIII D assessment, fee, or charge" means an assessment, fee, or charge subject to Article XIII D. ~~"General tax" means any tax imposed for general governmental purposes.~~

(b) "Local government" means any county, city, city and county, including a charter city or county, any special district, ~~or~~ any other local or regional governmental entity, or the electorate of any of the preceding entities when exercising the initiative power.

(c) "Special district" means an agency of the State, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.

~~(d) "Special tax" means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.~~

~~(d) (e)~~ As used in this article, "tax" means every any levy, charge, or exaction of any kind imposed, adopted, created, or established by a local government law that is not an exempt charge or Article XIII D assessment, fee, or charge., ~~except the following:~~

(e) "Exempt charge" means only the following:

~~(1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.~~

~~(1) (2)~~ A reasonable charge imposed for a specific local government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable actual costs to the local government of providing the service or product.

~~(2)~~ (3) A reasonable charge imposed for the reasonable not to exceed the actual regulatory costs to the a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

~~(3)~~ (4) A charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property.

~~(4)~~ (5) A fine, or penalty, ~~or other monetary charge~~ including any applicable interest for nonpayment thereof, imposed by the judicial branch of government or a local government administrative enforcement agency pursuant to adjudicatory due process, ~~as a result of~~ to punish a violation of law.

~~(5)~~ (6) A charge imposed as a condition of property development, or an assessment imposed upon a business by a tourism marketing district.

~~(6)~~ (7) An Article XIII D assessment, fee, or charge Assessments and property-related fees imposed in accordance with the provisions of Article XIII D.

~~(f)~~ "Local law" includes, but is not limited to, any ordinance, resolution, regulation, ruling, opinion letter, or other legal authority or interpretation adopted, enacted, enforced, issued, or implemented by a local government.

~~(g)~~ "Extend" includes, but is not limited to, doing any of the following with respect to a tax, exempt charge, or Article XIII D assessment, fee, or charge: lengthening its duration, delaying or eliminating its expiration, expanding its application to a new territory or class of payor, or expanding the base to which its rate is applied.

~~(h)(1)~~ A levy, charge, or exaction of any kind imposed, adopted, created, or established by a local law and which is retained by or payable to a non-government entity remains subject to this section and Section 2 if a local law also limits in any way how the non-government entity can use the levy, charge, or exaction.

~~(2)~~ The characterization of a levy, charge, or exaction of any kind imposed, adopted, created, or established by a local law as being voluntary, or paid in exchange for a benefit, privilege, allowance, authorization, or asset, shall not be factors in determining whether the levy, charge, or exaction is a tax or an exempt charge.

~~(i)~~ The local government bears the burden of proving by a preponderance of the clear and convincing evidence that a levy, charge, or other exaction of any kind is an exempt charge and

not a tax, that the amount is *reasonable and* no more than necessary to cover the reasonable *actual* costs of the governmental activity *service or product or regulatory task, that an exempt charge is not used for any purpose other than its stated purpose*, and that the manner in which those costs are allocated to a payor *is proportional based on the service or product provided to the payor as described in paragraph (1) of subdivision (e), or is proportional to the costs to the local government created by the payor for performing the regulatory tasks described in paragraph (2) of subdivision (e)* bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.

Section 7. Section 2 of Article XIII C of the California Constitution is amended, to read:

SECTION 2.

Local Government Tax Limitation. Notwithstanding any other provision of this Constitution:

(a) All taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.

(b) No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(c) Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this article and in compliance with subdivision (b).

(a) Every levy, charge, or exaction of any kind imposed, adopted, created, or established by local law is either a tax, an exempt charge, or an Article XIII D assessment, fee, or charge.

(b) (d) No local government may impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall

not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

(c) The governing body of a local government shall only submit a tax to the electorate of the local government by an act passed by not less than two-thirds of all members elected to the governing body. Any tax so submitted shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(d) The governing body of a local government shall not impose, extend, or increase any exempt charge unless and until the act containing the exempt charge is passed by not less than two-thirds of all members elected to the governing body. An exempt charge imposed, extended, or increased by a governing body shall be subject to referendum pursuant to the same signature requirement applicable to statewide referendum measures.

(e) No initiative in any local government may impose, extend, or increase any exempt charge unless and until the exempt charge is submitted to the electorate and approved by a two-thirds vote.

(f) No new, increased, or extended tax shall be valid or given any effect unless:

(1) The act creating, increasing, or extending the tax contains a specific and legally binding and enforceable limitation on how the revenue from the tax can be spent. If the revenue from a tax can be spent for unrestricted general revenue purposes, then a statement that the tax revenue can be spent for "unrestricted general revenue purposes" shall be included in the separate, stand-alone section required by paragraph (2), and included in the ballot question presented to voters.

(2) A true and impartial statement of facts explicitly and affirmatively identifying each tax and the specific limitation on how the revenue therefrom can be spent is set forth in the act as a separate, stand-alone section containing no other information.

(3) The revenue from the tax is not used for any purpose other than those specifically identified pursuant this subdivision.

(g) A change in how the revenue from a tax can be spent shall be treated as a new tax and shall be approved in accordance with the requirements of this section.

(h) An Article XIII D assessment, fee, or charge can be extended, imposed, or created pursuant to Article XIII D.

(i) In order to preserve the right of voters to vote on all local taxes as provided for in this section, all of the following shall apply:

(1) Any imposition, increase, or extension of a local government tax that was voted on by the electorate of the local government after January 1, 2018, but prior to the effective date of this subdivision, and which does not satisfy all of the requirements of paragraph (2), shall cease to be imposed, extended, increased, or collected unless and until the tax is approved in strict compliance with all the requirements of paragraph (2).

(2)(A) The tax imposition, increase, or extension was approved by two-thirds of the local government's electorate.

(B) The act imposing, increasing, or extending the tax strictly complies with subdivision (f).

(C) The ballot question presented to voters for the tax imposition, increase, or extension strictly complies with subdivision (f).

Section 8. Section 5 is added to Article XIII C of the California Constitution, to read:

SECTION 5.

(a) This article and Section 4 of Article XIII A shall apply to all local lawmaking power, whether exercised by a governing body or by the electorate acting through the initiative power.

(b) Nothing in this article or Section 3 of Article XIII A shall be interpreted as altering the voter approval requirements for bonded indebtedness described in paragraph (3) of subdivision (b) of Section 1 of Article XIII A.

Section 9. Section 3 of Article XIII D of the California Constitution is amended, to read:

SECTION 3.

Property Taxes, Assessments, Fees and Charges Limited.

(a) No tax, assessment, fee, or charge shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:

(1) The ad valorem property tax imposed pursuant to Article XIII and Article XIII A.

(2) Any ~~special~~ non-ad valorem tax receiving a two-thirds vote pursuant to Section 4 of Article XIII A.

(3) Assessments as provided by this article.

(4) Fees or charges for property related services as provided by this article.

(b) For purposes of this article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership.

Section 10. Liberal Construction.

This Act shall be liberally construed in order to effectuate its purposes.

Section 11. Conflicting Measures.

(a)(1) In the event that this initiative measure and another initiative measure or measures relating to state or local vote requirements for the imposition, adoption, creation, or establishment of taxes, charges, and other revenue measures shall appear on the same statewide election ballot, the other initiative measure or measures shall be deemed to be in conflict with this measure. In the event that this initiative measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other initiative measure or measures shall be null and void.

(2) Notwithstanding paragraph (1), this initiative measure shall not be deemed to be in conflict with any other initiative measure that requires statewide voter approval of the creation, increase, extension, or continued imposition of any tax.

(b) If this initiative measure is approved by the voters but superseded in whole or in part by any other conflicting initiative measure approved by the voters at the same election, and such conflicting initiative is later held invalid, this measure shall be self-executing and given full force and effect.

Section 12. Severability.

The provisions of this Act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Act. The People of the State of California hereby declare that they would have adopted this Act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any portion of this Act or application thereof would be subsequently declared invalid.

Section 13. Legal Defense.

If this Act is approved by the voters of the State of California and thereafter subjected to a legal challenge alleging a violation of state or federal law, and both the Governor and Attorney General refuse to defend this Act, then the following actions shall be taken:

(a) Notwithstanding anything to the contrary contained in Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

(b) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this Act. The written affirmation shall be made publicly available upon request.

(c) A continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

Section 14. Effective Date.

Notwithstanding any other provision of the California Constitution, this act shall take effect the day after its approval by the voters.

This page intentionally blank to facilitate double-sided printing.

Attachment Six
LAO's Fiscal Analysis of the Tax Fairness, Transparency, and Accountability
Act of 2018

This page intentionally blank to facilitate double-sided printing.



January 11, 2018

RECEIVED

JAN 11 2018

Hon. Xavier Becerra
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Ms. Ashley Johansson
Initiative Coordinator

Dear Attorney General Becerra:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional initiative concerning state and local government taxes and fees (A.G. File No. 17-0050, Amendment No. 1).

BACKGROUND

State Government

Taxes and Fees. The state levies various taxes to fund over 80 percent of the state budget. The remainder of the budget is funded through various fees and other charges. Examples include: (1) charges for a specific government service or product, such as a driver's license; (2) charges relating to regulatory activities; (3) charges for entering state property, such as a state park; and (4) judicial fines, penalties, and other charges.

Vote Thresholds for Changing State Taxes and Fees. Under the State Constitution, state tax increases require approval by two-thirds of each house of the Legislature. The Legislature needs approval by only a majority of each house in order to levy fees and other charges. Voters, on the other hand, can levy state taxes or fees via initiative by a majority vote of the statewide electorate. The Legislature can reduce or change taxes with a majority vote of each house, provided the change does not increase taxes on any taxpayer. If a bill increases a tax on any taxpayer, the bill requires a two-thirds vote of both houses of the Legislature—even if the bill results in an overall state revenue loss.

Local Governments

Taxes and Fees. The largest local government tax is the property tax, followed by local sales taxes, utility taxes, hotel taxes, and other taxes. In addition to these taxes, local governments levy a variety of fees and other charges. Examples include parking meter fees, building permit fees, regulatory fees, and judicial fines and penalties.

Legislative Analyst's Office
California Legislature
Mac Taylor • Legislative Analyst
925 L Street, Suite 1000 • Sacramento CA 95814
(916) 445-4656 • FAX 324-4281

Vote Threshold for Changing Local Taxes and Fees. In order to increase taxes, the State Constitution generally requires that local governments secure a two-thirds vote of their governing body—for example, a city council or county board of supervisors—as well as approval of the electorate in that local jurisdiction. “General taxes”—that is, taxes levied by cities and counties for any purpose—may be approved by a majority vote of the electorate. On the other hand, “special taxes”—that is, any taxes levied by schools or special districts or taxes levied by cities and counties for specified purposes—require a two-thirds vote of the electorate. Citizen initiatives that increase taxes must secure the same vote of the electorate—majority vote for general taxes and two-thirds vote for special taxes—as those placed on the ballot by local governing bodies.

Fee increases, on the other hand, generally may be approved by a majority vote of the local governing body and do not require voter approval. (Exceptions include certain property-related fees which require voter approval.) Citizen initiatives changing fees must be approved by a majority vote of the electorate.

PROPOSAL

This measure amends the State Constitution to change the rules for how the state and local governments can impose taxes, fees, and other charges.

Taxes

Expands Definition of Tax. The measure amends the State Constitution to expand the definition of taxes to include some charges that state and local governments currently treat as nontax levies. As a result, the measure would increase the number of revenue proposals subject to the higher state and local vote requirements for taxes. Specifically, regulatory fees and fees charged for a government service or product would have to more closely approximate the payer’s actual costs in order to remain fees. Certain charges retained by or payable to nongovernmental entities would also be considered taxes under the measure. In addition, certain charges imposed for a benefit or privilege granted the payer but not granted to those not charged would no longer be considered fees.

Increases Vote Thresholds for Some Local Taxes. The measure increases the vote thresholds for increasing some local taxes. Specifically, the measure requires that increases in local general taxes be approved by a two-thirds vote of the electorate whether sought by local governments or by citizen initiative. Any local government tax approved between January 1, 2018 and the effective date of this measure would be nullified unless it complies with the measure’s new vote threshold and other rules described below.

Allowable Uses of Revenues Must Be Specified in Certain Cases. The measure requires tax measures to include a statement of how the revenues can be spent. If the revenue is to be used for general purposes, the law must state that the revenue can be used for “unrestricted general revenue purposes.” These requirements would apply to increases in state and local taxes. In the case of local government taxes, the measure requires that a statement of allowable uses be included in the ballot question presented to voters. Any change to the statement of allowable uses of revenue would have to be passed by (1) a two-thirds majority of both houses of the

Legislature in the case of state taxes, (2) a two-thirds vote of the local governing body and two-thirds vote of the electorate in the case of local government taxes, or (3) a two-thirds vote of the electorate in the case of local citizen initiative taxes.

Local Government Fees

Increases Vote Thresholds for Certain Local Government Fees. The measure requires that increased fees and other charges be approved by either a two-thirds vote of a local governing body in the case of local government fees or a two-thirds vote of the electorate in the case of local citizen initiative fees. The measure also provides that fees and other charges levied by a local governing body may be overturned via referenda. (The measure would not change vote thresholds and rules for developer fees and property assessments imposed on parcels.)

Other Provisions

State Regulations Containing Tax or Charge Must Be Approved by Legislature. Under the measure, state regulations containing increased taxes or fees would not take effect unless the Legislature passes a law approving the regulation. (This requirement would not apply to regulations implementing laws that were already approved by the Legislature.) If the regulation contains a tax, the bill allowing the regulation to remain in place must be passed by a two-thirds majority of both houses of the Legislature. The measure allows emergency regulations to take effect for up to 120 days without approval of the Legislature.

FISCAL EFFECTS

Reduced State Tax Revenue. By increasing the number of revenue measures subject to a two-thirds vote of both houses of the Legislature, the measure makes it harder for the Legislature to increase certain state revenues. The amount of reduced state revenue under the measure would depend on various factors, including future court decisions that could change the number of revenue measures subject to the higher vote requirements. The fiscal effects also would depend on future decisions made by the Legislature. For example, requirements for legislative approval of regulations that increase taxes or fees could result in reduced revenue depending upon future votes of the Legislature. That reduced revenue could be particularly notable for some state programs largely funded by fees. Due to the uncertainty of these factors, we cannot estimate the amount of reduced state revenue but the fiscal effects on state government likely would be minor relative to the size of the state budget.

Reduced Local Government Tax and Fee Revenue. By expanding the definition of taxes and increasing vote thresholds for certain taxes and fees, the measure makes it harder for local governments and initiative proponents to increase local revenues. The amount of reduced local government revenues would also depend on various factors, including the extent to which local governments would substitute developer fees and other majority-vote revenue sources for the revenue sources subject to a higher vote threshold under the measure. Roughly half of recently enacted sales, business, hotel, and utility general tax measures would have failed if the measure's increased vote threshold requirements were in effect, suggesting that the reduction in local tax revenue could be substantial.

Summary of Fiscal Effects

- Likely minor decrease in annual state revenues and potentially substantial decrease in annual local revenues, depending upon future actions of the Legislature, local governing bodies, voters, and the courts.

Sincerely,



Mac Taylor
Legislative Analyst

to



Michael Cohen
Director of Finance

for