

Split Roll Initiative Looms

Despite California Voters Rejecting 2020 Attack on Property Tax Protections, Another Split Roll Initiative on Horizon for 2022

Since voters reduced California property taxes with Proposition 13 in 1978, multiple factions have attempted to roll back the reform and boost property tax collections. Government labor unions and advocacy organizations aimed to repeal many of Proposition 13's protections and increase taxes on business properties with Proposition 15 in 2020. Despite California voters rejecting this initiative, the ballot initiative process has started yet again for a potential ballot measure attack on Proposition 13 in 2022.

BACKGROUND ON PROPOSITION 13

Proposition 13 has been the law for more than 40 years. In 1978, property values were soaring and so were their corresponding property taxes. There was no limit to how high an assessor could increase a property's value in any given year. Between 1972 and 1977, home prices in Southern California doubled. Even if tax rates didn't change, property tax bills also doubled. Many taxpayers could not afford their ever-increasing property taxes and feared losing their homes.

Proposition 13 brought a halt to all that — limiting total taxes to 1% of the property's value, and any increases to a maximum of 2% per year. California voters passed the constitutional amendment by a nearly 2 to 1 margin, and solidified property tax stability and predictability.

PROPOSITION 13 AMENDMENTS TO STATE CONSTITUTION KEEP PROPERTY TAXES MANAGEABLE AND PREDICTABLE

Proposition 13 required that all categories of real property on the local assessment roll be assessed at the same basic tax rate and under the same valuation standard. It did not distinguish among residential, commercial, industrial, agricultural, or any other type of property.

In addition, Proposition 13 capped local property tax rates at 1% of the property's assessed value — based on the market value as of the date of the most recent change in ownership or new construction. Proposition 13 capped property tax increases at 2% per year. This means that property taxes are pegged to the property's original purchase price, plus improvements, not what the property is worth currently.

When a property is sold, it is reassessed at its new purchase price. It is then taxed at a rate of 1% of that new value, and from then on, Proposition 13's tax limits apply until it is sold again. These protections provide stability and predictability to both property owners and government coffers — protecting both from very high or very low reassessed property values each year.

Furthermore, Proposition 13 required any state tax to be approved by a two-thirds vote of both houses of the Legislature. It required approval by two-thirds of voters for any tax levied by local governments that was designated for a special purpose, like parks or roads.

WHAT IS SPLIT ROLL?

A tax roll is the official list of all the properties to be taxed. "Split roll" means classifying properties based on some characteristic, like value or use, such as residential or commercial. Proponents of a split roll would remove some of the protections of Proposition 13 from some defined classes of properties in order to raise taxes.

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The idea of a split roll has been rejected consistently since the passage of Proposition 13. Over the last few decades, there have been numerous legislative proposals to present a split roll to the voters, but none ever reached the ballot. A split roll ballot measure in 1992 was defeated soundly.

PROPOSITION 15 REJECTED BY VOTERS IN 2020

Proposition 15 attempted to amend the California Constitution to require business properties be reassessed to fair market value and then taxed at that value. Proposition 15 included all business property, except for property used for residential (including rental) or agricultural production purposes. Mixed-use property was to be reassessed in proportion to its commercial use.

The proposition exempted from full reassessment business property with an on-site business that was under single ownership with no more than \$3 million worth of property statewide.

The properties would have been reassessed every three years. The Legislative Analyst's Office (LAO) estimated Proposition 15 would have increased business property taxes by \$7.5 billion to \$12 billion a year. Proposition 15 would have dedicated the proceeds of the tax increase to schools, community colleges and local governments, in proportion to what those entities received in general property tax allocations. Pursuant to Proposition 98, 40% of California's General Fund spending must go to education. California's education spending, however, is actually closer to 50% with cities, counties and special districts splitting the rest.

Opponents of the measure argued that Proposition 15 would have hurt small businesses with a particular detriment to female- and minority-owned businesses. In addition, the initiative lacked accountability and transparency, would have increased food and grocery prices, and exacerbated the housing affordability crisis.

California voters rejected Proposition 15 by a margin of 52% to 48%.

TWO SPLIT ROLL BALLOT MEASURES PROPOSED FOR 2022

Split roll proponents have submitted two similar measures for a potential 2022 vote; however, only one measure seems to be in play. The measure will receive a title and summary from the Attorney General by mid-December, and must collect at least 997,139 valid signatures by mid-April 2022 to qualify for the November 2022 ballot.

The Tax Cut and Housing Affordability Act of 2022 proposes a split roll property tax on all property valued at more than \$4 million per parcel. The tax revenues would be used to reduce homeowner property taxes and renters' income taxes. The measure also includes permit streamlining for residential housing development.

- First, this measure would apply a "surcharge" of 1% on the full cash value of all property valued at more than \$5 million per parcel. For parcels valued between \$4 million and \$5 million, the surcharge ranges proportionately from 0% to 1%. All property uses, including residential property, is subject to this tax, except agricultural property, residential units in common ownership where the average per-owner value is less than \$4 million, and residential housing where the units are restricted by deed to occupancy by low-income occupants. Existing property tax exemptions for religious, nonprofit and educational facilities remain in force.

- Second, proceeds from the tax increase would be used to increase the homeowner's exemption from \$7,000 to \$200,000 per parcel, for all owner-occupied residences. This exemption is not means-tested. This would increase the tax benefit for homeowners from about \$80 to about \$2,200 annually per residence. The renters' nonrefundable income tax credit would be increased to \$2,000 for married taxpayers or heads of household, and \$1,000 for single taxpayers, from the current \$120/\$60 credit. The new renters' credit may be claimed only by married taxpayers/heads of households with income less than \$400,000, and single taxpayers with income less than \$200,000.

If the tax increase is insufficient to pay for these redistributions, then the surcharge will increase automatically to 1.2%. If the tax increase collects surplus revenues over time, those surpluses would be used to provide refundable renters' credits.

- Third, the measure creates a streamlined permit process for any residential development that reserves at least half of its units, for sale or rent as a primary residence, for households earning less than 150% of the area median income.

For these developments, local governments would be required to approve any proposals "ministerially," which means without governing board discretion and able to bypass California Environmental Quality Act (CEQA) review, even for zoning changes, as long as they are consistent with the jurisdiction's general plan. There is a process whereby a local government could deny or condition a project by making certain findings based on a preponderance of evidence that the project would have an unmitigable adverse public health or safety impact.

PRELIMINARY FINANCIAL CONSIDERATIONS OF BALLOT INITIATIVE

The LAO concluded that an increased property tax on properties with a taxable value of more than \$4 million would increase taxes (that is, new state revenue) by about \$16 billion to \$19 billion annually. The LAO stated that the increased cost to

local governments for carrying out the measure would total \$16 billion to \$19 billion annually — thus, the revenues from the initiative would likely be fully offset.

PRIMARY CONCERNS WITH PROPOSED BALLOT INITIATIVE

Notwithstanding the language of the measure, the higher taxes would inevitably be passed on by businesses to consumers, and by landlords to their tenants. In the alternative, businesses would reduce overhead costs, such as employee hours or positions. In the worst case, businesses may shut their doors or relocate to states with a less hostile tax environment.

If landlords could not pass on the tax hikes, the effects would manifest in less upkeep and maintenance, and less investment in new, affordable multi-family housing.

Because this measure combines two very different policies — tax subsidies and land use — it may be vulnerable to a constitutional challenge based on the prohibition against an initiative comprising more than one subject.

CALCHAMBER POSITION

The California Chamber of Commerce strongly opposes any split roll proposal. Proposition 13 is one of the few tax protections Californians enjoy and voters have recognized that issue whenever these protections are threatened. Proponents of the split roll ballot initiative should look to the state and its massive budget surplus to fund the causes they hope to bolster by way of the ballot box.



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