No. S222329

IN THE SUPREME COURT OF CALIFORNIA

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926 NORTH ARDMORE AVENUE, LLC,

Plaintiff and Appellant

v.

COUNTY OF LOS ANGELES,

Defendant and Respondent.

SUPREME COURT
FILED

MAR 25 2015

Frank A. McGuire Clerk

Deputy

After A Decision By The Court of Appeal,
Second Appellate District, Division Seven, Case No. B248356
Los Angeles County Superior Court, No. BC 476670
The Honorable Rita Miller, Judge Presiding

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926 NORTH ARDMORE AVENUE, LLC'S MOTION FOR JUDICIAL NOTICE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF; DECLARATION OF DANIEL M. KOLKEY

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MOTION FOR JUDICIAL NOTICE

Pursuant to Evidence Code sections 451, 452, and 459 and California Rules of Court, rule 8.520(g), Appellant 926 North Ardmore Avenue, LLC ("Ardmore") respectfully requests that this Court take judicial notice of the following former statutory and regulatory enactments and legislative history, which are referenced in Ardmore's opening brief and are relevant to the interpretation of Revenue and Taxation Code section 11911—the subject of this proceeding:

I. Statutory Provisions

(1) Former Chapter 34 of the Internal Revenue Code of 1954 (former 26 U.S.C. § 4301 et seq., repealed by Pub.L. 89-44, Title VIII, § 802(a)(2), 79 Stat. 159 (1965)), which is found at 1 Clerk's Transcript ("CT") 86-96.)

II. Regulatory Provisions

(2) Former Documentary Stamp Tax Regulations (former 26 C.F.R. Part 47), which are found at 1CT204-2CT266.

III. Legislative History

A. Public Law No. 85-859

(3) House of Representatives Report No. 481 regarding the Excise Tax Technical Changes Act of 1957 (H.R.Rep. No. 481, 85th Cong., 2d Sess. (1957)), which is found at 1CT140-151.

(4) Senate Report No. 2090 regarding the Excise Tax Technical Changes Act of 1957 (Sen.Rep. No. 2090, 85th Cong., 2d Sess. (1958)), which is found at 1CT152-156.

B. Public Law No. 89-44

(5) House Report No. 433 regarding the Excise Tax Reduction Act of 1965 (H.R.Rep. No. 433, 89th Cong., 1st Sess. (1965), 111 Cong. Rec. 1645, 1679-1680), which is found at 1CT100-102.

(6) Statement of the Managers on the Part of the House, Conference Report No. 525 on Excise Tax Reduction Act of 1965 (H.R.Rep. No. 525, 89th Cong., 1st Sess. (1965), 111 Cong. Rec. 1645, 1752-1754), which is found at 1CT106-108.

C. Senate Bill No. 837

(7) Senate Bill No. 837 (1967-1968 Reg. Sess.) as amended July 25, 1967, which is found at 2CT400-410.

(8) Opinion of Legislative Counsel, No. 25569 (Aug. 1, 1967) regarding Senate Bill No. 837, printed in 3 Sen. J. (1967-1968 Reg. Sess.) pp. 4738-4739, which is found at 3CT503-504.

(9) Legislative Analyst, Analyses of Senate Bill No. 837 (1967-1968 Reg. Sess.) as amended June 8, 1967, which is found at 2CT437-438.

(10) Assembly Committee on Revenue and Taxation, Analysis of Senate Bill No. 837 (1967-1968 Reg. Sess.), May 23, 1967, which is found at 3CT565.

(11) The Legislative Secretary's Enrolled Bill Report on Senate Bill No. 837 (1967-1968 Reg. Sess.) Aug. 17, 1967, which is found at 2CT449.

D. Assembly Bill No. 1428

(12) Senate Rules Committee, Office of Senate Floor Analyses, Analysis of Assembly Bill No. 1428 (1999-2000 Reg. Sess.) as amended May 3, 1999, which is found at 3CT621-623.

E. Assembly Bill No. 748

(13) Assembly Committee on Revenue and Taxation's analysis of legislation implementing Proposition 13 (1979-1980 Reg. Sess.) Oct. 29, 1979, pp. 27-30, which is attached as Exhibit A to the Declaration of Daniel M. Kolkey ("Kolkey Declaration").

F. Senate Bill No. 816

(14) Assembly Journal, September 9, 2009 (2009-2010 Reg. Sess.), vol. 3, p. 3209, which is attached as Exhibit B to the Kolkey Declaration.

(15) Senate Daily Journal, September 10, 2009 (2009-2010 Reg. Sess.), pp. 2388-2389, which is attached as Exhibit C to the Kolkey Declaration.

G. Assembly Bill No. 563

(16) Senate Daily Journal, August 31, 2011 (2011-2012 Reg. Sess.), pp. 2206-2207, which is attached as Exhibit D to the Kolkey Declaration.

(17) Assembly Daily Journal, September 6, 2011 (2011-2012 Reg. Sess.), p. 2909, which is attached as Exhibit E to the Kolkey Declaration.

H. Proposition 13

(18) Legislative Analyst, Analysis of Proposition 13, The Jarvis-Gann Property Tax Initiative (1977-1978 Reg. Sess.), which is attached as Exhibit F to the Kolkey Declaration.

I. Assembly Bill No. 583

(19) Senate Rules Committee, Office of Senate Floor Analyses, third reading analysis of Assembly Bill No. 583 (1995-1996 Reg. Sess.) as amended Aug. 23, 1996, which is attached as Exhibit G to the Kolkey Declaration.

The foregoing items are appropriate subjects of judicial notice and comply with the criteria for judicial notice under the California Rules of Court:

(1) They are relevant to Ardmore's arguments relating to the interpretation of Revenue and Taxation Code section 11911 (Cal. Rules of Court, rule 8.252(a)(2)(A));

(2) The items submitted with this motion are admissible statutory and regulatory enactments and legislative history (Cal. Rules of Court, rule 8.252(a)(2)(C); Evid. Code, §§ 451, 452, 459);

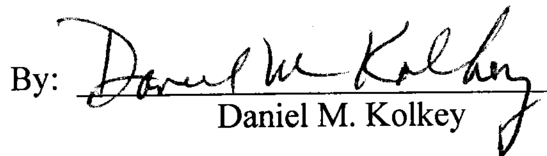
(3) None of the items submitted with this motion relates to proceedings occurring after the judgment that is the subject of this appeal (Cal. Rules of Court, rule 8.252(a)(2)(D)); and

(4) Items 1-12 were presented to the Court of Appeal and Superior Court and judicial notice was granted, whereas items 13-19 (which address interpretations of section 11911 raised in the Court of Appeal's opinion) were not presented below (Cal. Rules of Court, rule 8.252(a)(2)(B)).

Dated: March 25, 2015

Respectfully submitted,
FISHERBROYLES, LLP

GIBSON, DUNN & CRUTCHER LLP

By: 
Daniel M. Kolkey

Attorneys for Plaintiff and Appellant 926 North Ardmore Avenue, LLC

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This action concerns whether Revenue and Taxation Code section 11911—which is part of the Documentary Transfer Tax Act of 1967 (Rev. & Tax Code, § 11901 et seq.) ("DTTA")[1]—authorizes a county to impose a documentary transfer tax based on a change in ownership or control of a legal entity that directly or indirectly holds title to real property.

The DTTA was patterned on the former federal Stamp Act, and many of its provisions, including section 11911, are virtually verbatim texts of their federal progenitors.

This motion seeks judicial notice of (i) the former federal statutory and regulatory enactments upon which the DTTA is patterned, (ii) selected legislative history for the federal Stamp Act and DTTA, and (iii) selected legislative history of subsequent state statutes upon which the Court of Appeal based its interpretation of section 11911. These materials are referenced in the accompanying opening brief of Appellant 926 North Ardmore Avenue, LLC ("Ardmore") and confirm that the California Legislature intended section 11911 to impose a documentary transfer tax

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[1] All undesignated statutory sections are to the Revenue and Taxation Code.

only on writings that convey realty and not transfers of legal interests in entities that own (directly or indirectly) real property.

As shown herein, these materials satisfy the requirements for judicial notice under the California Rules of Court, rules 8.520(g) and 8.252(a) because the materials to be noticed are relevant to this proceeding; the materials are proper subjects of judicial notice; items 1-12 were presented to the lower courts and notice was taken of them; items 13-19 were not presented to the lower courts because they have only become relevant to address the Court of Appeal's interpretation of section 11911, but they are subject to judicial notice under Evidence Code section 452; and the materials to be noticed do not relate to proceedings occurring after the judgment that is the subject matter of this proceeding.

II. ARGUMENT

A. ITEMS 1-12 ARE PROPER SUBJECTS OF JUDICIAL NOTICE BECAUSE THEY ARE DOCUMENTS THAT WERE PROPERLY NOTICED BELOW.

Evidence Code section 459, subdivision (a) provides: "The reviewing court shall take judicial notice of (1) each matter properly noticed by the trial court [under section 452] and (2) each matter that the trial court was required to notice under section 451 or 453." (Evid. Code, § 459, subd. (a).)

The Court of Appeal and Superior Court took notice of items 1 through 12. (Slip opn., p. 9.) Moreover, these items were and are properly noticed because they are documents of which courts are either required to take notice under section 451 or should take notice under section 452.

First, as to item 1—former Chapter 34 of the Internal Revenue Code—Evidence Code section 451, subdivision (a) provides that "[j]udicial notice shall be taken of . . . [t]he decisional, constitutional, and public statutory law of this state and of the United States." (Evid. Code, § 451, subd. (a).) Former Chapter 34 of the Internal Revenue Code was the public statutory law of the United States and thus qualifies as a subject of judicial notice under Evidence Code section 451. Under Evidence Code section 459, subdivision (a)(2), "[t]he reviewing court shall take judicial notice of . . . each matter that the trial court was required to notice under [s]ection 451." Moreover, here, the Court of Appeal and the Superior Court both took judicial notice of item 1, and under Evidence Code section 459, subdivision (a)(1), "[t]he reviewing court shall take judicial notice of (1) each matter properly noticed by the trial court."

Item 2—the former federal Documentary Stamp Tax Regulations promulgated under the former federal Stamp Act—is also properly subject to judicial notice. Under Evidence Code section 452, subdivision (b),

"judicial notice may be taken . . . of [r]egulations . . . of the United States." (Evid. Code, § 452, subd. (b).)

Likewise, items 3 through 12, which consist of selected portions of the legislative history of the former federal Stamp Act (former 26 U.S.C. § 4301 et seq.) and of the DTTA, are proper subjects of judicial notice because judicial notice may be taken of "[o]fficial acts of the legislative . . . department[] of the United States and of any state." (Evid. Code, § 452, subd. (c).) This has been construed to permit judicial notice of "relevant legislative history." (*United Teachers of Los Angeles v. Los Angeles Unified School Dist.* (2012) 54 Cal.4th 504, 528.) Moreover, because the Court of Appeal and the Superior Court properly took judicial notice of these documents under Evidence Code section 452, "[t]he reviewing court shall take judicial notice of" these documents, as well. (See Evid. Code, § 459, subd. (a) ["The reviewing court shall take judicial notice of . . . each matter properly noticed by the trial court"].)

Finally, items 2 to 12 are highly relevant. As noted earlier, because "section 11911 was patterned after the former federal [Stamp] [A]ct and employs virtually identical language as that act, [a court] must infer that the Legislature intended to perpetuate the federal administrative interpretations of that federal act." (*Thrifty Corporation v. County of Los Angeles* (1989) 210 Cal.App.3d 881, 884; accord, *Brown v. County of Los Angeles* (1999) 72 Cal.App.4th 665, 668 [same].) Accordingly, the regulations construing

the former federal Stamp Act (item 2) and the federal act's legislative history (items 4-7) will assist the Court in its interpretation of section 11911. Likewise, the legislative history of the DTTA (items 7-11) will support Ardmore's position that the DTTA was based on the federal Stamp Act. Finally, item 12—a portion of the legislative history of an amendment to the DTTA—will support Ardmore's position that the Court of Appeal erroneously construed that amendment to imply that the DTTA taxes transfers of interests in legal entities that own realty. (Slip. Opn., pp. 22-24.)

B. ITEMS 13-19 ARE PROPER SUBJECTS OF JUDICIAL NOTICE BECAUSE THEY ARE ADMISSIBLE LEGISLATIVE HISTORY UNDER EVIDENCE CODE SECTION 452.

Ardmore also requests that this Court take judicial notice of items 13 through 19—additional items of legislative history—in order to aid the Court in its interpretation of section 11911. These items were not before the lower courts but have become relevant in view of (1) the Court of Appeal's reliance on statutes outside of the DTTA and (2) the Court of Appeal's erroneous treatment of section 11925.

Specifically, items 13 through 19 help demonstrate that the Court of Appeal improperly construed section 11911, based on subsequent and disassociated statutory enactments, to "impose a documentary tax on transfers of interests in legal entities that result in a 'change of ownership'

[under section 64 of the Revenue and Taxation Code]." (Slip opn., p. 28.) Although section 64 appears in a different division of the Revenue and Taxation Code, postdates the DTTA by more than a decade, and was enacted for an entirely different purpose, the Court of Appeal imported section 64's concepts to interpret section 11911 and also reasoned that the Legislature's subsequent enactment of Senate Bill No. 816 and Assembly Bill No. 563 *implies* that the Legislature reads section 11911 as incorporating section 64's definition of "change in ownership." The requested legislative history set forth in items 13-18 will help establish that these statutory enactments cannot be used to interpret section 11911:

Item 13, which is the Assembly Committee on Revenue and Taxation's analysis of the implementing legislation for Proposition 13 (Exhibit A to the Kolkey Declaration), confirms that the Legislature enacted section 64 solely to govern the assessment of real property taxes under Proposition 13 and that section 64 is not relevant to the interpretation of the earlier enacted section 11911.

Items 14-17, which contain relevant sections of the Assembly Journals and Senate Journals for two bills that were enacted in 2009 (Sen. Bill No. 816) and 2011 (Assem. Bill No. 563) and upon which the Court of Appeal relied for its interpretation of section 11911, show that neither bill was enacted by the requisite supermajority vote (Kolkey Decl., exhs. B-E), and therefore interpreting these enactments, as the Court of Appeal did, to

"change the method" of calculating the documentary transfer tax would run afoul of article XIIIA, section 3 of the California Constitution.[2]

Item 18, which is the Legislative Analyst's Analysis of Proposition 13 (Kolkey Decl., exh. F), further shows that the Legislature understood that Proposition 13 and its implementing legislation was not relevant to the DTTA and indeed precludes any expansion of the DTTA.

Finally, item 19 is legislative history of the Uniform Partnership Act of 1994 (Stats. 1996, ch. 1003, § 2), which helps to rebut the Court of Appeal's assumption that Revenue and Taxation Code section 11925 creates "an exemption [for partnerships] to the transfer tax authorized under section 11911." (Slip opn., p. 29.) Based on that assumption, the court reasoned that section 11911 *impliedly* authorizes a tax on the transfer of interests in non-partnership entities that own realty. (*Ibid.*) But the origins of section 11925 demonstrate that it was designed to avoid the frequent imposition of the documentary transfer tax on transfers of partnership property resulting from the "'aggregate' approach to partnerships." (See item 3: H.R.Rep. No. 481, 85th Cong., 2d Sess. (1957) [1CT149-150]

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[2] Article XIIIA, section 3 of the California Constitution, as it existed at the time of the enactment of these two bills provided that "any change in State taxes . . . whether by increased rates or changes in methods of computation 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." (Former Cal. Const., art. XIIIA, § 3.)

[explaining the origins of former 26 U.S.C. section 4383, upon which section 11925 was modeled].) Significantly, item 19, which is the Senate Rules Committee's Floor Analysis of Assembly Bill No. 583 (Kolkey Decl., exh. G), demonstrates that California followed the "'aggregate' approach" to partnerships until 1996, which shows the significance of section 11925's elimination of that approach for purposes of the DTTA. Under the aggregate approach, any de minimis change in a partnership's composition required the original partnership to dissolve and to convey any real property to a new partnership. This would have resulted in a documentary transfer tax whenever there was any change in a partnership's composition. This history helps confirm that section 11925's treatment of partnerships was designed to eliminate the anomalies associated with the "'aggregate' approach" and to instead adopt the "entity" approach adopted by the federal Stamp Act and embodied in section 11925. This background should eliminate any argument that section 11925 is an exception to a general rule that the DTTA authorizes a documentary transfer tax on transfers of interests in legal entities that own realty. Instead, it further supports the general rule that the DTTA does not levy documentary transfer taxes on transfers of interests in legal entities that own property.

CONCLUSION

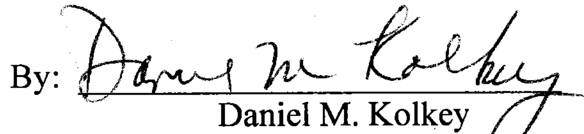
For the foregoing reasons, Ardmore respectfully requests that the Court grant its Motion for Judicial Notice.

Dated: March 25, 2015

Respectfully submitted,

FISHERBROYLES, LLP

GIBSON, DUNN & CRUTCHER LLP

By: 

Daniel M. Kolkey

Attorneys for Plaintiff and Appellant 926 North Ardmore Avenue, LLC

DECLARATION OF DANIEL M. KOLKEY

I, Daniel M. Kolkey, declare as follows:

1. I am an attorney duly licensed to practice law in the State of California and am a partner in the law firm of Gibson, Dunn & Crutcher LLP, counsel of record for Appellant 926 North Ardmore Avenue, LLC ("Ardmore"). I have personal knowledge of the facts stated herein unless indicated otherwise, and if called as a witness, I could and would testify competently thereto. I make this declaration in support of Ardmore's Motion for Judicial Notice.

2. At my direction, attorneys at my firm retained Legislative History and Intent ("LHI") to obtain the legislative history for Assembly Bill No. 748, Senate Bill No. 816, Assembly Bill No. 563, and Proposition 13—The Jarvis-Gann Property Tax Initiative. Exhibits A through F are true and correct copies of relevant portions of the legislative history provided by LHI in the form provided by LHI.

3. Attached hereto as Exhibit A is a true and correct copy of the relevant portion of the Assembly Committee on Revenue and Taxation's analysis of the implementing legislation for Proposition 13, as provided to my firm by LHI.

4. Attached hereto as Exhibit B is a true and correct copy of a portion of the Assembly Journal for the 2009-10 Regular Session, as provided by LHI.

5. Attached hereto as Exhibit C is a true and correct copy of a portion of the Senate Daily Journal dated September 10, 2009, as provided by LHI.

6. Attached hereto as Exhibit D is a true and correct copy of a portion of the Senate Daily Journal dated August 31, 2011, as provided by LHI.

7. Attached hereto as Exhibit E is a true and correct copy of a portion of the Assembly Daily Journal dated September 6, 2011, as provided by LHI.

8. Attached hereto as Exhibit F is a true and correct copy of a portion of the Legislative Analyst's "Analysis of Proposition 13, The Jarvis-Gann Property Tax Initiative," as provided by LHI.

9. I am informed and believe that attorneys from my firm further retained the Legislative Intent Service, Inc. ("LIS") to obtain the legislative history for Assembly Bill No. 583. Attached hereto as Exhibit G is a true and correct copy of the Senate Rules Committee's Office of Senate Floor Analyses' Third Reading of Assembly Bill No. 583, as provided by LIS in the form provided by LIS.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on this 25th day of March 2015 in San Francisco, California.

Daniel M. Kolkey

EXHIBIT A

IMPLEMENTATION OF PROPOSITION 13

VOLUME I

PROPERTY TAX ASSESSMENT

OCTOBER 29, 1979

Prepared By Staff Of The

ASSEMBLY REVENUE AND TAXATION COMMITTEE

WILLIE L. BROWN, JR.
Chairman

No. 748

owner of taxable real property, the lessee, because the lessor's interest is tax exempt. The lessee's interest, therefore, is always "substantially equivalent" to the fee interest in the taxable real property.

Legal Entities

With two exceptions, the purchase or transfer of ownership interests in legal entities, such as corporate stock or partnership interests, are NOT changes in ownership (Section 64(a)). The are:

(1) transfer of stock in a housing cooperative conveying right of possession and occupancy, which is generally treated as a change in ownership (see below for further explanation), and

(2) obtaining majority control of a corporation through purchase or transfer of corporate stock, exclusive of shares owned by directors, by another corporation or a partnership or any other person. The property owned by the corporation which is taken over is deemed to have changed ownership (Section 64(c)).

Transfers between different legal entities DOES constitute a change in ownership, however. For example, a transfer of property between two non-affiliated corporations, a partnership and a corporation, or a partnership and an individual are all changes in ownership. This was termed by the Task Force as the "separate entity theory", in which the general laws of the state endowing corporations, partnerships, joint ventures, associations and so forth with an identity separate from its owners is respected. To tax transactions among entities and individuals was considered to be quite important in order to head off two-step transactions of property from one person to another via a corporation, (i.e., A incorporates his home or business, then sells 100% of stock in corporation to B, who may then dissolve the corporation and own the home or business), which would otherwise escape reappraisal.

The majority-takeover-of-corporate-stock provision deviates from this general theory, and represents an "ultimate control" rationale. This provision was enacted out of a concern that, given the lower turnover rate of corporate property, mergers or other transfer of majority controlling ownership should result in a reappraisal of the corporation's property -- an effort to maintain some parity with the increasing relative tax burden of residential property statewide, due to the more rapid turnover of homes. It was also a trade-off for exempting transfers among 100% wholly-owned corporations (see following section).

Affiliated Corporations. Transfers of real property between or among affiliated corporations, including those made to achieve a corporate reorganization by merger or consolidation shall not be a change of ownership if: (a) The voting stock of the corporation making the transfer and the voting stock of the transferee corporation are each owned 100 percent by a corporation related by voting stock ownership to a common parent; and (b) The common parent corporation owns directly 100 percent of the voting stock of at least one corporation in the chain or chains of related corporations (Section 64(b)). The purpose of this section is to exclude those transfers made among subsidiaries directly or indirectly owned by the same parent corporation, and which, therefore, are essentially under the same ownership and control before the transfer as after. (See also BOE Rule 462(i)(2)).

Partnerships. Real property which is contributed to a partnership or which is acquired by the partnership IS a change in ownership of such real property, regardless of whether the title to the property is held in the name of the partnership or in the name of one or more individual partners, with or without reference to the partnership. The transfer of any interest in real property by a partnership to a partner or any other person or entity also constitutes a change in ownership. However, the purchase or transfer of an ownership interest(s) in a partnership(s), e.g., the addition or deletion of partners, is NOT a change in ownership in partnership property (BOE Rule 462(i)).

Housing Cooperatives. As previously mentioned, the general rule regarding transfer of stock in a housing cooperative is that it constitutes a change of ownership (Section 61(h)). However, excluded are transfers involving stock in cooperatives financed under various federal or state mortgage assistance programs IF the stock is transferred either to the housing cooperative itself, or to a person or family which qualifies for purchase of the cooperative stock by reason of limited income, as per any applicable federal or state assistance programs. Any transfer to a person or family NOT of limited income, whether directly from a prior tenant-stockholder or via the cooperative itself, DOES constitute a change of ownership (Section 62(i)). The purpose of this exclusion is to keep carrying charges (i.e., taxes) low to facilitate stock purchase and ownership by low income persons and families at the lowest possible levels. As amended by AB 1019 it is ensured that this benefit go only to low income co-op owners, and not to low income homeowners of standard single-family residences or condominiums.

Whenever a change of ownership does occur with respect to a cooperative AND transfer NOT subject to the exemption, only the unit or lot transferred and any share in the common area is reappraised (Section 65(c)). This same principle extends to units or lots in community apartment projects, planned unit developments, shopping centers, industrial parks, or other properties with common areas (such as condominiums).

Any increase in property taxes resulting from such a reappraisal must be applied by the owner of the property (e.g., the housing cooperative corporation) solely to the unit the transfer of which triggered the reappraisal. Thus, the increase will be borne by the new tenant only, and not by the remaining tenants who had nothing to do with the transfer. Otherwise, the cooperative, which receives a single tax bill, might prorate the increase equally to all tenants (Section 65(e) 2d paragraph).

Other Exclusions from "Change in Ownership"

The following transfers do NOT constitute a change in ownership:

(1) The transfer of bare legal title, e.g., (a) any transfer to an existing assessee for the purpose of perfecting title to the property, or (b) any transfer resulting in the creation, assignment, or reconveyance of a security interest not coupled with the right to immediate use, occupancy, possession or profits (Section 62(b) and (c)(1)).

(2) Any transfer caused by the substitution of a trustee pursuant to the terms of a security or trust instrument (Section 62(c)(2)).

(3) Any transfer by an instrument whose terms reserve to the transferor, the transferor's spouse, or both of them, an estate for years or an estate for life. Transfers with a retained life estate are not ownership changes until the life tenant dies. The life tenant has the dominant or primary interest under the "value equivalence" element of the general change in ownership definition, and there is no transfer of the present interest in the property until the life tenant dies and the property vests in the remainder. At that time, the provisions of trusts and interspousal transfers permitting, a change in ownership shall be deemed to have occurred (Section 62(e)).

(4) A change in the name of an owner of property not involving a change in ownership (BOE Rule 462, 2d paragraph).

(5) Any purchase, redemption or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution (Section 62(h)).

(6) Any contribution of real property to an employee benefit plan, or the creation, vesting, transfer, distribution or termination of a participant's or beneficiary's interest in such a plan, as described in the Employee Retirement Income Security Act of 1974 (Section 66).

(7) Any transfer resulting from tax delinquency by the sale to or deed to the state and redemption by the former assessee. However, a sale by the state, whether to the original owner or to a new owner, IS a change in ownership requiring reappraisal as of the date of the sale (BOE Rule 462(g)).

(8) Transfer by judicial action upon foreclosure is not a change in ownership until (a) after the period of redemption has passed and property has not been redeemed, or (b) upon redemption when title vests in the original debtor's successor in interest (BOE Rule 462(f)).

Newly Constructed Property

In 1978-79 the definition of new construction was left to Board of Equalization regulations (BOE Rule 463), In AB 1488, acting on Task Force recommendations, a statutory definition was enacted for 1979-80 and thereafter. However, perhaps more so than in any other assessment area, what constitutes new construction is very largely determined by the Board rule, which as amended in response to AB 1488 expands the existing statutory language significantly. There are also more unresolved controversies regarding new construction than any other part of the new law, which are indicated in the following discussion.

Basic Definition. "New Construction" is defined by statute to mean "(a)ny addition to real property, whether land or improvements (including fixtures). . . and (a)ny alteration of land or of any improvement (including fixtures) ...which constitutes a major rehabilitation thereof or which converts the property to a different use." (Section 70(a)).[16]

---

16. This basic definition differs from the original Board rule which defined "newly constructed" as "any addition or improvement to land, whether classified as land or improvement for purposes of enrollment, and any addition of new improvements or alterations of existing improvements if said alteration results in a conversion to another use or an

(continued)

EXHIBIT B

Volume 3

Journal of the Assembly

Legislature of the State of California

2009–10 Regular Session

December 1, 2008 to November 30, 2010

HON. JOHN A. PÉREZ
Speaker

HON. FIONA MA
Speaker pro Tempore

HON. ISADORE HALL III
Assistant Speaker pro Tempore

HON. CHARLES M. CALDERON
Majority Floor Leader

HON. MARTIN GARRICK
Minority Floor Leader

E. DOTSON WILSON
Chief Clerk of the Assembly

AMY LEACH
Minute Clerk

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CALL OF THE ASSEMBLY DISPENSED WITH ON SENATE BILL NO. 816

At 8:08 p.m., on motion of Assembly Member Calderon, and in the absence of any objection, further proceedings under the call of the Assembly were dispensed with.

Senate Bill No. 816 passed by the following vote:

AYES—49

Ammiano	De La Torre	Huber	Ruskin
Arambula	De León	Huffman	Saldaña
Beall	Eng	Jones	Skinner
Block	Evans	Krekorian	Solorio
Blumenfield	Feuer	Lieu	Swanson
Brownley	Fong	Lowenthal	Torlakson
Buchanan	Fuentes	Ma	Torres
Caballero	Furutani	Mendoza	Torrico
Calderon	Galgiani	Monning	Yamada
Carter	Hall	Nava	Mme. Speaker
Chesbro	Hayashi	Pérez, J.	
Coto	Hernandez	Pérez, V.M.	
Davis	Hill	Portantino	

NOES—27

Adams	Duvall	Hagman	Nielsen
Anderson	Emmerson	Harkey	Silva
Berryhill, B.	Fletcher	Jeffries	Smyth
Berryhill, T.	Fuller	Knight	Strickland
Conway	Gaines	Logue	Tran
Cook	Garrick	Miller	Villines
DeVore	Gilmore	Niello	

Vote Changes

By unanimous consent, the following vote change was permitted on Senate Bill No. 816: Assembly Member Huber from "No" to "Aye".

Bill ordered transmitted to the Senate.

EXHIBIT C

CALIFORNIA LEGISLATURE

2009–10 REGULAR SESSION

SENATE DAILY JOURNAL

ONE HUNDRED THIRTIETH LEGISLATIVE DAY

IN SENATE

Senate Chamber, Sacramento
Thursday, September 10, 2009

The Senate met at 9:30 a.m.
Hon. S. Joseph Simitian, of the 11th District, presiding.
Secretary Greg Schmidt at the Desk.
Assistant Secretary Zach Twilla reading.

QUORUM CALL OF THE SENATE

Without objection, a quorum call was placed upon the Senate.

The President directed the Sergeant at Arms to close the doors and to bring in the absent Members.

PROCEEDINGS UNDER QUORUM CALL OF THE SENATE

ROLL CALL

The roll was called and the following Senators answered to their names:

Aanestad, Alquist, Ashburn, Benoit, Calderon, Cedillo, Cogdill, Corbett, Correa, Cox, Denham, DeSaulnier, Ducheny, Dutton, Florez, Hancock, Harman, Hollingsworth, Huff, Kehoe, Leno, Liu, Lowenthal, Maldonado, Negrete McLeod, Oropeza, Padilla, Pavley, Price, Romero, Runner, Simitian, Steinberg, Strickland, Walters, Wiggins, Wolk, Wright, Wyland, and Yee—40.

Quorum present.

Maldonado, Oropeza, Padilla, Pavley, Price, Romero, Runner, Simitian, Steinberg, Strickland, Wiggins, Wolk, Wright, and Wyland.

NOES (4)—Senators Correa, Leno, Walters, and Yee.

Above bill ordered enrolled.

FURTHER PROCEEDINGS UNDER CALL OF THE SENATE DISPENSED WITH (SB 792)

On motion of Senator Leno, further proceedings under the call of the Senate were dispensed with.

Roll Call

The names of the absentees were called and the Senate concurred in Assembly amendments to SB 792 by the following vote:

AYES (38)—Senators Aanestad, Alquist, Ashburn, Benoit, Calderon, Cedillo, Cogdill, Corbett, Correa, Cox, Denham, DeSaulnier, Ducheny, Dutton, Florez, Hancock, Harman, Hollingsworth, Huff, Kehoe, Leno, Lowenthal, Maldonado, Negrete McLeod, Oropeza, Padilla, Pavley, Price, Romero, Runner, Simitian, Steinberg, Strickland, Walters, Wiggins, Wolk, Wright, and Wyland.

NOES (1)—Senator Yee.

Above bill ordered enrolled.

FURTHER PROCEEDINGS UNDER CALL OF THE SENATE DISPENSED WITH (SB 802)

On motion of Senator Leno, further proceedings under the call of the Senate were dispensed with.

Roll Call

The names of the absentees were called and the Senate concurred in Assembly amendments to SB 802 by the following vote:

AYES (39)—Senators Aanestad, Alquist, Ashburn, Benoit, Calderon, Cedillo, Cogdill, Corbett, Correa, Cox, Denham, DeSaulnier, Ducheny, Dutton, Florez, Hancock, Harman, Hollingsworth, Huff, Kehoe, Leno, Lowenthal, Maldonado, Negrete McLeod, Oropeza, Padilla, Pavley, Price, Romero, Runner, Simitian, Steinberg, Strickland, Walters, Wiggins, Wolk, Wright, Wyland, and Yee.

NOES (0)—None.

Above bill ordered enrolled.

FURTHER PROCEEDINGS UNDER CALL OF THE SENATE DISPENSED WITH (SB 816)

On motion of Senator Ducheny, further proceedings under the call of the Senate were dispensed with.

Roll Call

The names of the absentees were called and the Senate concurred in Assembly amendments to SB 816 by the following vote:

AYES (28)—Senators Alquist, Ashburn, Benoit, Calderon, Cedillo, Cogdill, Corbett, Cox, DeSaulnier, Ducheny, Florez, Hancock, Kehoe,

Leno, Lowenthal, Maldonado, Negrete McLeod, Oropeza, Padilla, Pavley, Price, Romero, Simitian, Steinberg, Wiggins, Wolk, Wright, and Yee.

NOES (11)—Senators Aanestad, Correa, Denham, Dutton, Harman, Hollingsworth, Huff, Runner, Strickland, Walters, and Wyland.

Above bill ordered enrolled.

FURTHER PROCEEDINGS UNDER CALL OF THE SENATE DISPENSED WITH (SB 555)

On motion of Senator Kehoe, further proceedings under the call of the Senate were dispensed with.

Roll Call

The names of the absentees were called and the Senate concurred in Assembly amendments to SB 555 by the following vote:

AYES (27)—Senators Alquist, Benoit, Calderon, Cedillo, Cogdill, Corbett, Cox, DeSaulnier, Ducheny, Florez, Hancock, Kehoe, Leno, Liu, Lowenthal, Maldonado, Oropeza, Padilla, Pavley, Price, Romero, Simitian, Steinberg, Wiggins, Wolk, Wright, and Yee.

NOES (11)—Senators Aanestad, Ashburn, Correa, Denham, Dutton, Harman, Huff, Runner, Strickland, Walters, and Wyland.

Above bill ordered enrolled.

FURTHER PROCEEDINGS UNDER CALL OF THE SENATE DISPENSED WITH (SB 83)

On motion of Senator Hancock, further proceedings under the call of the Senate were dispensed with.

Roll Call

The names of the absentees were called and the Senate concurred in Assembly amendments to SB 83 by the following vote:

AYES (23)—Senators Alquist, Calderon, Cedillo, Corbett, DeSaulnier, Ducheny, Florez, Hancock, Kehoe, Leno, Liu, Lowenthal, Oropeza, Padilla, Pavley, Price, Romero, Simitian, Steinberg, Wiggins, Wolk, Wright, and Yee.

NOES (17)—Senators Aanestad, Ashburn, Benoit, Cogdill, Correa, Cox, Denham, Dutton, Harman, Hollingsworth, Huff, Maldonado, Negrete McLeod, Runner, Strickland, Walters, and Wyland.

Above bill ordered enrolled.

SPECIAL CONSENT CALENDAR

Assembly Concurrent Resolution 75—Relative to promotores and community health workers.

Resolution read, adopted, and ordered transmitted to the Assembly.

(NOTE: See Consent Calendar Roll Call)

EXHIBIT D

CALIFORNIA LEGISLATURE

2011–12 REGULAR SESSION

SENATE DAILY JOURNAL

ONE HUNDRED TWENTY-THIRD LEGISLATIVE DAY

IN SENATE

Senate Chamber, Sacramento
Wednesday, August 31, 2011

The Senate met at 10 a.m.

Hon. Christine Kehoe, of the 39th District, presiding.

Secretary Greg Schmidt at the Desk.

Assistant Secretary Zachary L. Twilla reading.

QUORUM CALL OF THE SENATE

Without objection, a quorum call was placed upon the Senate.

The President directed the Sergeant at Arms to close the doors and to bring in the absent Members.

PROCEEDINGS UNDER QUORUM CALL OF THE SENATE

ROLL CALL

The roll was called and the following Senators answered to their names:

Alquist, Anderson, Berryhill, Blakeslee, Calderon, Cannella, Corbett, Correa, De León, DeSaulnier, Dutton, Emmerson, Evans, Fuller, Gaines, Hancock, Harman, Hernandez, Huff, Kehoe, La Malfa, Leno, Lieu, Liu, Lowenthal, Padilla, Pavley, Price, Rubio, Runner, Simitian, Steinberg, Strickland, Vargas, Walters, Wolk, Wright, Wyland, and Yee—39.

Quorum present.

(NOTE: Senator Negrete McLeod will be excused this day due to illness.)

Lowenthal, Padilla, Pavley, Price, Rubio, Simitian, Steinberg, Vargas, Wolk, and Wright.

NOES (15)—Senators Anderson, Berryhill, Blakeslee, Cannella, Dutton, Emmerson, Fuller, Gaines, Harman, Huff, La Malfa, Runner, Strickland, Walters, and Wyland.

Above bill ordered transmitted to the Assembly.

THIRD READING OF ASSEMBLY BILLS (RESUMED)

Assembly Bill 1090—An act to amend Section 53684 of the Government Code, and to add Part 10.6 (commencing with Section 20800) to Division 2 of the Revenue and Taxation Code, relating to taxation.

Bill read third time and presented by Senator Alquist.

Roll Call

The roll was called and the bill was passed by the following vote:

AYES (38)—Senators Alquist, Anderson, Berryhill, Blakeslee, Calderon, Cannella, Corbett, Correa, De León, DeSaulnier, Dutton, Emmerson, Evans, Fuller, Gaines, Hancock, Harman, Hernandez, Huff, Kehoe, La Malfa, Leno, Lieu, Liu, Lowenthal, Padilla, Pavley, Price, Rubio, Runner, Simitian, Steinberg, Strickland, Vargas, Walters, Wolk, Wright, and Wyland.

NOES (0)—None.

Bill ordered transmitted to the Assembly.

Assembly Bill 1394—An act to amend Sections 15432, 15438, 15438.5, 15439, 15441, 15442, 15446, 15459, 15459.1, 15459.2, 15459.3, and 15459.4 of the Government Code, relating to health facility financing, and making an appropriation therefor.

Bill read third time and presented by Senator Alquist.

Roll Call

The roll was called and the bill was passed by the following vote:

AYES (38)—Senators Alquist, Anderson, Berryhill, Blakeslee, Calderon, Cannella, Corbett, Correa, De León, DeSaulnier, Dutton, Emmerson, Evans, Fuller, Gaines, Hancock, Harman, Hernandez, Huff, Kehoe, La Malfa, Leno, Lieu, Liu, Lowenthal, Padilla, Pavley, Price, Rubio, Runner, Simitian, Steinberg, Strickland, Vargas, Walters, Wolk, Wright, and Wyland.

NOES (0)—None.

Bill ordered transmitted to the Assembly.

Assembly Bill 563—An act to add Section 408.4 to the Revenue and Taxation Code, relating to taxation.

Bill read third time and presented by Senator Hancock.

Roll Call

The roll was called and the bill was passed by the following vote:

AYES (21)—Senators Alquist, Calderon, Corbett, De León, DeSaulnier, Evans, Hancock, Hernandez, Kehoe, Leno, Lieu, Liu, Lowenthal, Padilla, Pavley, Price, Rubio, Steinberg, Vargas, Wolk, and Wright.

NOES (15)—Senators Anderson, Berryhill, Cannella, Correa, Dutton, Emmerson, Fuller, Gaines, Harman, Huff, La Malfa, Runner, Strickland, Walters, and Wyland.

Bill ordered transmitted to the Assembly.

FURTHER PROCEEDINGS UNDER CALL OF THE SENATE DISPENSED WITH (AB 559)

On motion of Senator Evans, further proceedings under the call of the Senate were dispensed with.

Roll Call

The names of the absentees were called and AB 559 was passed by the following vote:

AYES (22)—Senators Alquist, Calderon, Corbett, De León, DeSaulnier, Evans, Hancock, Hernandez, Kehoe, Leno, Lieu, Liu, Lowenthal, Padilla, Pavley, Price, Simitian, Steinberg, Vargas, Wolk, Wright, and Yee.

NOES (16)—Senators Anderson, Berryhill, Blakeslee, Cannella, Correa, Dutton, Emmerson, Fuller, Gaines, Harman, Huff, La Malfa, Runner, Strickland, Walters, and Wyland.

Above bill ordered transmitted to the Assembly.

FURTHER PROCEEDINGS UNDER CALL OF THE SENATE DISPENSED WITH (AB 47)

On motion of Senator Hernandez, further proceedings under the call of the Senate were dispensed with.

Roll Call

The names of the absentees were called and AB 47 was passed by the following vote:

AYES (21)—Senators Alquist, Calderon, Corbett, De León, DeSaulnier, Evans, Hancock, Hernandez, Kehoe, Leno, Lieu, Liu, Lowenthal, Padilla, Pavley, Price, Rubio, Steinberg, Vargas, Wolk, and Yee.

NOES (16)—Senators Anderson, Berryhill, Blakeslee, Cannella, Correa, Dutton, Emmerson, Fuller, Gaines, Harman, Huff, La Malfa, Runner, Strickland, Walters, and Wyland.

Above bill ordered transmitted to the Assembly.

EXHIBIT E

ROOM REFERENCE

CALIFORNIA LEGISLATURE

2011–12 REGULAR SESSION

ASSEMBLY DAILY JOURNAL

Tuesday, September 6, 2011

ONE HUNDRED TWENTY-FOURTH SESSION DAY

TWO HUNDRED SEVENTY-FIFTH CALENDAR DAY

AT SACRAMENTO, CALIFORNIA

NOTE: Official record of roll call votes; all amendments considered by the Assembly on this day are on file with the Chief Clerk of the Assembly and available on request. A list of all measures amended and on which amendments were offered is shown on the final page of this day's Assembly Journal.

(Please direct any inquiries and report any omissions or errors to Minute Clerk: Phone 916-319-2360)

ASSEMBLY BILL NO. 563 (Furutani)—An act to add Section 408.4 to the Revenue and Taxation Code, relating to taxation.

The question being: Shall the Assembly concur in the Senate amendments to the above bill?

(NOTE: Text of Senate amendments on file with the Secretary of the Senate.)

The roll was opened, and the Assembly concurred in Senate amendments by the following vote:

AYES—51

Alejo	Campos	Gordon	Pan
Allen	Carter	Hall	Perea
Ammiano	Cedillo	Hayashi	Pérez, V.M.
Atkins	Chesbro	Hernández	Portantino
Beall	Davis	Hill	Skinner
Block	Dickinson	Huber	Solorio
Blumenfield	Eng	Hueso	Swanson
Bonilla	Feuer	Huffman	Torres
Bradford	Fong	Lara	Wieckowski
Brownley	Fuentes	Lowenthal	Williams
Buchanan	Furutani	Ma	Yamada
Butler	Galgiani	Mitchell	Mr. Speaker
Calderon	Gatto	Monning	

NOES—27

Achadjian	Garrick	Knight	Norby
Berryhill	Grove	Logue	Olsen
Conway	Hagman	Mansoor	Silva
Cook	Halderman	Miller	Smyth
Donnelly	Harkey	Morrell	Valadao
Fletcher	Jeffries	Nestande	Wagner
Gaines	Jones	Nielsen	

Bill ordered enrolled.

EXHIBIT F

AN ANALYSIS OF PROPOSITION 13
THE JARVIS-GANN PROPERTY TAX INITIATIVE

MAY 1978

RECEIVED
MAY 1 8 1978
Statistical Research &
Consulting Division
State Board of Equalization

LEGISLATIVE ANALYST
STATE OF CALIFORNIA
925 L STREET, SUITE 650
SACRAMENTO, CALIFORNIA 95814

78-11

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ACKNOWLEDGEMENT

This report was prepared by James Patterson and Peter Schaafsma, with the assistance of Jon David Vasché, Robert Hesse, Stephen Rhoads, and others in the Legislative Analyst's office.

SUMMARY

If approved by the voters in the June 6, 1978 primary election, Proposition 13 would make major changes to the tax system in California by amending the State Constitution. Passage of the measure requires a majority affirmative vote of those voting.

KEY PROVISIONS (Chapter III)

The key provisions of Proposition 13 would:

. Limit property taxes on all property (real and personal) to 1 percent of the property's full market value.

This limit is equivalent to a tax rate of $4 per $100 of assessed value because property is assessed at 25 percent of market value. The 1 percent limit could be exceeded only to repay existing voter-approved debt, which we estimate would add $1 to the maximum tax rate.

. "Roll back" assessed values of real property to their 1975-76 levels (adjusted upward, as necessary, to reflect estimated market values in 1975-76), and limit annual increases in these assessed values to 2 percent unless the property is sold.

Property could be assessed based on market value when sold or constructed.

. Require a two-thirds vote of both houses of the state Legislature to increase state tax revenues.

. Permit local governments to impose "special" nonproperty taxes if approved by two-thirds of the voters in a local election.

Although the language of the proposition seems to require a two-thirds vote of all registered voters to impose alternative local taxes, Legislative Counsel advises that the courts would probably rule that a two-thirds approval of those voting is sufficient. Other provisions of

the Constitution, however, might make it necessary for the Legislature to authorize these special taxes as well. Legislative Counsel believes that some local taxes could be increased <u>without voter approval</u> if used for general purposes.

It is important to note that Proposition 13, by itself, <u>would not</u>

- Impose a limit on the amount of revenues that could be raised either by the state or by local government; or
- Limit the amount of expenditures that these governments could undertake.

IMPLEMENTATION (Chapter X)

Because some of the provisions of Proposition 13 would take effect on July 1, 1978, three weeks after the June 6th election, local governments and the state would have little time to prepare for it. Some of the major implementation considerations would include:

1. <u>Apportionment of property taxes among units of governments</u>.

The state would be required to determine how property tax revenues within the 1 percent limit are to be distributed among cities, counties, school districts and special districts. This could be done in many different ways, including:

. Allowing county boards of supervisors to apportion the revenues.

. Adopting a formula for distributing the revenues.

. Permitting local jurisdictions to continue to impose supervised tax rates under the limit.

Each of these alternatives raises significant policy and administrative issues. For example, if counties were required to provide for the

distribution of property tax revenues to cities, school districts, and special districts, their control over local spending would be increased significantly, and the authority of other local governments would be reduced accordingly.

2. Changes in local and state assessment rolls.

County assessors would be required to develop entirely new assessment rolls based on 1975-76 values, adjusted to reflect new construction and ownership transfers since 1975-76. Because most assessors have not retained the 1975-76 roll on computer tapes, the roll would have to be reconstructed by hand. This would be a time consuming and costly process. The State Board of Equalization also would have to construct a new roll for state-assessed property (public utilities and railroad lines).

3. Fiscal relief.

The state could elect to provide fiscal relief to local governments by (1) increasing state taxes or authorizing new local taxes, (2) relaxing state mandates, or (3) assuming the costs of certain locally funded programs.

4. Local budget changes.

If local property tax losses resulting from Proposition 13 are not replaced, local governments would have to develop plans for expenditure reductions. In addition, local governments would have to adjust the timing of their expenditures to take account of cash flow problems that Proposition 13 might cause.

INITIAL FISCAL AND TAX BURDEN EFFECTS (Chapter IV)

State and Local Fiscal Effects

We estimate that Proposition 13 would reduce local property tax revenues statewide by approximately $7 billion in 1978-79--an amount equal to 22 percent of local revenue from all sources. This revenue loss would increase to nearly $8 billion in 1979-80.

The state would realize savings of approximately $600 million because of reduced state tax relief payments to local governments that would occur automatically.

Other potential effects of Proposition 13 include (1) a change in state corporation and income taxes (either up or down), (2) a reduction in federal revenue sharing entitlements beginning in 1980-81, and (3) a decrease in local borrowing for capital outlay purposes.

If the reduced amount of local property tax revenues was distributed among local governments in proportion to current property tax revenues:

- cities would lose an estimated 15 percent of total income from all sources;
- counties would lose 23 percent;
- schools would lose 30 percent; and
- special districts would lose anywhere from 0 to over 50 percent.

It should be noted, however, that there is no legal or logical reason why property tax revenues allowed by the proposition would have to be distributed in the same proportions as current property taxes.

Property Tax Reductions

The reduction in property taxes paid by property owners is estimated at $6.4 billion ($600 million of the $7 billion in property tax revenues that would be lost by local governments is paid by the state, rather than by taxpayers). Of this $6.4 billion tax reduction, homeowners would receive about 36 percent ($2.3 billion), owners of renter-occupied residential property would receive about 19 percent ($1.2 billion), and owners of nonresidential property would receive about 45 percent ($2.9 billion). Because commercial, industrial and agricultural properties are not sold as frequently as homes, the assessment limits in Proposition 13 would benefit owners of nonresidential properties more than residential property owners. Over time, this would result in homeowners bearing an increasing proportion of total property taxes.

The extent to which any property tax savings would be passed along to renters in the form of lower rents would depend initially upon such factors as vacancy rates, renter mobility and contractual arrangements. In the long run, reductions in rents should occur because higher rates of return on rental property would encourage construction of this type of property.

Property tax reductions for individual homeowners would depend on (1) their property tax rate under current law, (2) when the property was constructed or last sold, and (3) the growth in the appraised value of the property. Consequently, property taxes on homes of equal market value could differ significantly. For example, a $50,000 home last sold in 1974 would be taxed at $349, while the same home sold in 1978 would be taxed at $538 (assuming a 15 percent annual increase in market values).

The percentage tax reductions for those homeowners who itemize income tax deductions would be lower at higher income levels due to offsetting state and federal income tax increases. This is because the real estate deduction is worth more to a high bracket taxpayer than to a low-bracket taxpayer. Hence the loss of these deductions as a result of Proposition 13 causes his taxable income to rise more.

SUBSEQUENT IMPACT ON LOCAL GOVERNMENT

The impact of Proposition 13 on services provided by cities, counties, schools and special districts would depend largely upon actions taken by state and local governments subsequent to passage of Proposition 13. The key issues that must be decided before the Proposition's impact can be determined include:

- how are the property taxes permitted by the measure to be distributed?
- will the state authorize local governments to impose new nonproperty taxes to raise additional revenue?
- is the state going to replace any or all revenue losses at the local level?
- will state mandates on local spending be relaxed?

There is no basis for predicting how these issues will be resolved. The most that can be done at this time is to analyze what impact Proposition 13 might have under various circumstances.

IMPACT ON LOCAL GOVERNMENTS ASSUMING NO REVENUE REPLACEMENT (Chapter V)

In this section, we summarize the possible impact of Proposition 13 on each level of local government if (1) property tax revenues allowed under the proposition were distributed among local agencies in the same proportions as current property tax revenues, and (2) there were no substantial replacement of local property tax revenue losses. These assumptions are made for purposes of illustration only.

General Impact

Program savings. When faced with significant reductions in local revenues, we would expect local officials to look first at the possibility of reducing the cost of providing existing services without actually cutting back those services. This might be done by laying off employees, reducing wages and fringes, and reducing nonpersonnel operating costs. There is no basis for estimating the potential for such savings. All that can be said is:

- It is likely that some cost reductions could be achieved without sacrificing services;
- There is no mechanism in Proposition 13 that would assure that these savings are realized; and
- Program savings resulting from this approach could not be counted on to offset a major portion of the $7 billion local revenue loss.

Program reductions. Next, we would expect local officials to look at discretionary, or optional, programs for possible expenditure reductions. Many of what are "optional" programs, however, would be difficult to reduce. Police patrols and fire protection fall in this category. Moreover, for some units of government, even the total elimination of all discretionary programs would not produce enough savings to offset revenue losses under the proposition. Consequently, many local governments would have to make reductions in those state-mandated programs where levels of service are not specified by the state.

Impact on Counties

Counties derived about one-half of the $7.4 billion in revenues they collected in 1976-77 from state and federal grants (only about 30 percent of this is available for general purposes). Property taxes contributed nearly one-third of total revenues. The only other significant revenue source, service charges, provided about 9 percent. If counties received the same proportionate share of property taxes allowed under Proposition 13 as they now receive, their total income would be reduced by about 23 percent in 1978-79. Depending on where expenditures were reduced, counties could lose some portion of federal grants-in-aid, state matching funds, and revenue from county revenue-producing programs.

County expenditures are predominately for public assistance (40 percent), police and fire protection and support of the court system (20 percent), general overhead functions (18 percent) and health and sanitation (14 percent).

The following points out some of the constraints which counties would face in attempting to reduce spending and, where possible, what the implications of reduced spending might be in the major program areas.

. Public assistance. Most public assistance programs are mandatory in that the counties are required by state and federal laws to provide specific financial contributions and administer the programs. In the absence of revisions to these laws, counties would have no legal alternative to continuing those programs at current levels, even though their total revenues are reduced.

. General assistance. State law requires that counties provide for indigent individuals who have no adequate means of support. If local revenues are reduced, counties could choose to reduce eligible caseload or grant levels. Although the courts may prevent substantial grant level reductions, counties may be able to effect some cost savings by tightening eligibility requirements.

. Sheriff's Department. Faced with reduced funding, counties could eliminate special service activities of the sheriff's department and the special purpose administrative units such as community relations and internal affairs. The degree to which sheriff's patrols and other field operations would be affected would depend on local spending priorities.

. Judicial system. In general, reduced funding of the

judicial system, though possible under existing law, could slow the resolution of existing civil and criminal cases, restrict the prosecution of minor criminal offenses, and reduce the number of serious criminal cases which can be successfully prosecuted. It is also legally possible to restrict the number of actions in civil and consumer protection cases.

. Fire protection. Funding for county (and city) fire departments is provided from local general fund revenue sources. In the face of reduced revenues, fire prevention and inspection services could be reduced to the legal minimum. In addition, counties could choose to reduce actual fire suppression activities.

. Mental health programs (Short-Doyle). If replacement revenues were not provided, counties could reduce funding for mental health programs in areas such as consultation, education and information services. Direct treatment services could be reduced or limited for persons with minor problems, and priority could be given to treating the most severely disturbed individuals.

. County hospitals. Twenty-five to thirty counties provide inpatient medical services, and often outpatient services, at county hospitals. These services are viewed as requirements under the counties' general responsibility to provide emergency medical service to indigents, but no specific service level is required by law.

. Retirement benefits. The courts have held that pensions are a form of deferred compensation and cannot be eliminated or reduced without impairing a contractual obligation in violation of the state and federal Constitution. Therefore, any reduction of existing retirement

benefits could be made only for new employees. Total employer pension costs, however, would be reduced if existing employees were laid off.

. Recreation. Generally, counties provide and maintain local park facilities for day use and also provide programs of managed recreation. If local revenues were reduced, the counties could either terminate recreation programs and park maintenance, or attempt to fund their programs through imposition of user charges. These charges would have to be relatively high to support the present level of operations.

. Cultural services. This category covers county expenses for the support of county museums, art galleries, veterans memorials and other miscellaneous civic activities. These services are not mandated, and are funded almost completely from local sources. Significant cutbacks in these services would be legally possible if Proposition 13 passes and replacement revenues are not made available.

Impact of Proposition 13 in a Specific County--Sacramento.

Under the assumptions noted above (proportional reductions in current revenue; no replacement revenue) the impact of Proposition 13 on Sacramento County would be a reduction in revenues of 20 percent, or $57 million. To compensate for this reduction, the county would have to cut back spending in two areas:

. state-mandated programs where the service level is not specified	$118.6 million
. Optional programs	70.0 million
Total	$188.6 million

However, both mandated and optional programs are financed in part using dedicated revenues that would not be available for other purposes if these programs were reduced. For example, the total elimination of all optional programs would reduce expenditures by $70 million, but would only save the county $45 million in nondedicated funds. As a consequence, Sacramento County would have to cut back some mandated programs where the service level is not specified.

Impact on Cities

State and federal aid makes up the largest share of total city revenues (about 30 percent in 1976-77), followed by property taxes (22 percent) and sales taxes (17 percent). The majority of state and federal aid is restricted to certain uses. Proposition 13 would reduce total city revenues by about 15 percent. (Again, this assumes each taxing jurisdiction received the same percentage of property taxes under the proposition that it receives under existing law.)

City expenditures are mainly for general government (31 percent), police and fire protection (30 percent) and public works (22 percent). Optional programs, such as parks and recreation programs, library and health services, and public enterprises, make up the remainder of the city budget. In general, cities would have more flexibility than counties in responding to passage of Proposition 13 due to the fact that a greater portion of their budget is attributable to optional activities.

Following are some of the programs which could be impacted if Proposition 13 is enacted and cities are required to reduce spending

by the full amount of the property tax revenue loss:

. Police. Police operations account for fully one-fifth of total city expenditures. Cities are under no legal requirement to provide police services, although nearly all of them do. Reduced funding could lead to a decreased emphasis on misdemeanors and vice-related activities. Its effect on patrol and investigative activities would depend on local spending priorities.

. Fire protection. A majority of cities provide fire protection services, and the rest are served by special fire protection districts whose boundaries include the city. State law does not specify any standards of performance or service, but does require enforcement of rules and regulations established by the State Fire Marshal, and the reporting of responses to calls for assistance. Administrative and prevention-oriented activities could, under current laws, be cut if local funds were reduced.

. Public works. Major public works activities include construction and maintenance of streets, storm drains and lighting, parking facilities, and sewage and waste collection and disposal. Reductions in local revenues could be met in part by establishing cost-covering user charges in those cities that do not have them presently. Also, capital spending probably would be less so that there would be less of a need for engineering services provided by public works personnel.

. Health and library services. These programs generally constitute a very minor portion of the city's budget. The majority of

the health expenditures are accounted for by a few large cities; in fact, most cities spend no money on health services. Those cities which do provide health services are essentially supplementing the service provided by their county government. Library services also are not provided by the majority of cities. Both of these programs could be eliminated or restricted under existing law if local revenues were reduced significantly.

. Parks and recreation. Most cities provide parks, playgrounds, and organized recreational programs similar to those of counties, except that cities generally place more emphasis on organized recreational activities. Reductions in local revenues could, under current laws, lead to reductions in park and playground maintenance, and the elimination of those recreational programs unable to support themselves through fees.

Impact of Proposition 13 on a City--Sacramento.

Proposition 13 would reduce revenues to the City of Sacramento by $14.5 million. This could be met by expenditure cuts in two areas:

. State mandated programs where the service level is not specified	$41.5 million
. Optional programs.	$39.2 million
Total.	$80.7 million

The full $14.5 million revenue loss could be met by eliminating one-half of the optional expenditures from nondedicated funds ($30.9 million).

Impact on Schools

Over half of all property tax revenues is used to finance K-14 school expenditures. Local property tax revenues are not used to support the California State University and Colleges, the University of California, the California Maritime Academy, or the Hastings College of Law. However, it is the major source of revenue for California's 7,000 elementary and secondary public schools and for the 105 community colleges.

Proposition 13 would reduce property tax revenues by slightly under $3.7 billion, or 30 percent of the total (state, federal, local) revenues available for K-12 education and the community colleges. (Again, this assumes each district received the same percentage of property taxes under the proposition that it now receives.)

. High wealth districts would be more affected by Proposition 13 than low wealth districts. This is the result of two factors. First, high wealth districts derive a greater portion of their revenues from the property tax than low wealth districts because of the way in which equalization aid is provided. Thus, the percentage reduction in revenues would be greater in high wealth districts than in low wealth districts. Secondly, high wealth districts tend to have higher expenditure levels than low wealth districts, so that their dollar loss per ADA would be greater even if the percentage loss was the same.

. The state is not obligated to provide replacement revenues for the support of education, Article XVI of the State Constitution notwithstanding. The state may choose to replace a portion of the

$3.7 billion in lost revenue, but there is no legal requirement that it do so.

. Proposition 13 would make the funding mechanism established by AB 65 (the Legislature's response to Serrano vs. Priest) moot. There are three reasons for this:

a. The tax rate limits of Proposition 13 would prevent school districts from raising the revenues needed to reach their authorized spending levels.

b. The foundation program concept would be rendered meaningless. Although the state's contribution toward the foundation program would be the same as it would be without the initiative, most districts would be unable to raise their portion of the program revenues.

c. The equalization provisions that were designed to impose higher taxes in high wealth districts would be rendered inoperative in the vast majority of cases by the mandatory reduction in taxes called for by the initiative.

. The reduction in local education revenues that would result because of Proposition 13 would place pressure on the Legislature to increase the state's share of K-12 expenditures. Full state funding, statewide salary schedule, and the voucher system are some of the alternative ways of increasing the state's share. One alternative, assuming the state could raise the necessary revenues, would be for the state to replace the loss in local property tax revenues. This would require additional state funds to flow to high wealth school districts,

and would appear to run counter to the Serrano vs. Priest decision.

. Personnel costs account for 85 percent of school district expenditures. However, in order to lay off certificated staff, school districts are required to issue a preliminary notice of intention to lay off the individuals affected by March 15, and a final notice by May 15. Only a handful of districts issued preliminary notices prior to March 15, and consequently, it would appear as though the ability of most districts to reduce employment in 1978-79 is doubtful.

Under Proposition 13, K-12 school districts will be faced by a difficult legal/fiscal dilemma wherein (1) they will be required to operate instructional programs for 175 schooldays in order to receive equalization aid, (2) they could lose 30 percent of their total revenue income, but (3) they are prohibited by law from laying off permanent employees unless due notice has been given.

. The options available to the community college districts are more numerous than for K-12. The districts could eliminate summer sessions, eliminate teachers' aides, eliminate contracts for special personnel services, reduce supplies, reduce community services, institute large layoffs, and perhaps even close down some campuses, in order to effect the necessary savings.

Impact on Special Districts

Special districts are independent local government units created to provide a single, specific service. For the 1975-76 fiscal year, 4,710 special districts filed financial reports with the State Controller.

County service areas were the most numerous type of district (691), followed by fire protection districts (461) and maintenance districts (454). Street lighting and lighting maintenance is the activity most often performed by these districts, followed by water utility (water supply), fire protection, and waste disposal.

Special district activities are classified as either enterprise or nonenterprise. Generally, enterprise activities collect the largest portion of their revenues from charges for current services and depend only minimally on property taxes (about 14 percent of total revenues), whereas nonenterprise activities rely most heavily on property tax revenues (nearly 50 percent of all revenues).

. Enterprise activities. Enterprise activities consist primarily of water utilities, redevelopment agencies, transit districts, hospitals, waste disposal and electric utilities. It is estimated that Propositon 13 would result in total revenue reductions for these districts ranging from about 3 percent to 15 percent. Many of these districts could make up revenue losses through increased service charges. Some enterprise districts (transit districts, for example) would probably not be so fortunate.

. Nonenterprise activities. Planning and development activities accounted for the largest proportion--over 29 percent--of total expenditures for nonenterprise activities, followed by fire protection districts, with 23 percent, and recreation and parks districts, with nearly 10 percent. Because, in many cases, nonenterprise special district activities rely

heavily on the property tax, the impact of Proposition 13 could be severe, as shown below. (This again depends on the assumption that property taxes allowed under the proposition would be apportioned in proportion to the existing distribution of property taxes.)

. Fire protection. There are 597 special districts in the state which provide fire protection. In fiscal year 1975-76, these districts received about $164 million to provide this service. Property taxes and state reimbursements totaled about 89 percent of all revenue. Other revenues included service charges of about $5 million (3 percent of total revenue) and state and federal aid of about $4.2 million. Most of the state and federal aid is for demonstration programs and fire prevention education, and cannot be used for general purposes. Proposition 13 could reduce the total revenue of these districts by about 51 percent. If other government units did not compensate the districts for this revenue loss, fire protection districts would be severely affected by Proposition 13. (If legislative authorization were given, these districts would be able to replace much of the revenue loss through property assessments, so long as they were not based on property value. For example, assessments could be based on square footage of buildings.)

. Flood control and water conservation. Flood control and water conservation activities consist of (1) operation and maintenance of levee and channel works constructed by the U. S. Corps of Engineers and (2) construction, operation and maintenance of local levee and channel facilities. In recent years, local agencies engaged in flood

control have relied heavily on revenues raised from property taxes. Total revenues for this activity were about $126.6 million in fiscal year 1975-76. Property taxes and state tax relief subventions accounted for about 77 percent of total revenues. State and local aid totaled about $5 million, but much of this revenue is for mandated programs and cannot be used for general operating expenses. If Proposition 13 is approved and the remaining property tax revenues are allocated on a proportionate basis, total revenues could be reduced by an estimated 44 percent.

. Recreation and parks. There are 261 special districts that provide recreation and park services. These districts received about $72.7 million in revenue to finance this activity in fiscal year 1975-76. Property taxes and state reimbursements accounted for about 71 percent of total revenues. Other important revenue sources included service charges of $7.2 million, state, local and federal aid of $4 million, and rents and concessions totaling $2 million. If Proposition 13 is approved, revenues could be reduced by about 41 percent.

IMPACT ON BONDED INDEBTEDNESS (Chapter VI)

Local Indebtedness

Proposition 13 would allow local government to levy tax rates above the 1-percent limit to repay existing voter-approved debt (primarily general obligation bonds). Existing debt which is not voter-approved and all future debt would have to be repaid within the limit.

. General obligation debt. Because local governments could not increase property taxes to repay future bond issues, at a minimum, their borrowing costs (interest rates) would increase, and, as a practical

matter, many local governments would be unable to fund capital outlay from the sale of general obligation bonds.

. Revenue bonds. Generally, Proposition 13 should have little effect on existing or future revenue bonds, most of which are repaid from user fees and service charges. Because of this, it is likely there would be an increased reliance, where possible, on this type of bond to fund capital outlay projects.

State Indebtedness

Proposition 13 would not have a direct effect on existing or future state indebtedness. However, the proposition could have an indirect impact on the state's borrowing cost for capital outlay purposes.

For example, if the state stretches its fiscal resources by electing to replace local revenue losses with surplus monies and/or increased state taxes, state bond issues might become somewhat less attractive and, thus, more expensive (that is, require a higher interest rate).

Proposition 13 could also affect existing state debt:

. School district repayments of state loans under the School Building Aid and Earthquake Safety programs are based on prior-year assessed values. Because of the reassessment restrictions imposed by the proposition, these repayments could be reduced, beginning in 1979-80.

. In some cases, public water agencies rely on property taxes to repay state loans under the Water Resources Development program. These payments could be reduced in the short run until these agencies are able to raise service charges for water deliveries.

Special Forms of Indebtedness

There are certain types of local indebtedness which are not voter approved, but which rely on property tax revenues for repayment; these could be seriously affected by passage of Proposition 13.

. Lease-revenue bonds. Cities, counties and school districts often "lease" facilities (for example, community centers and stadiums) from special districts which have been created solely for purposes of financing construction of the facility. To the extent the lease-revenue bonds which are issued for this purpose are repaid from local property taxes and not from revenues generated from the facility, existing lease obligations could be hindered, and future use of lease-purchase financing could become impracticable except to the extent leased facilities were self-supporting.

. Tax allocation bonds. Many redevelopment agencies (which cannot levy property taxes) rely heavily on "tax increment" funds to repay tax allocation bonds, which are used to fund redevelopment projects. "Tax increment" funds are property tax revenues allocated from cities, counties, school districts and other special districts based on the growth in assessed values within a redevelopment project area. Because tax increment revenues would be reduced by more than one-half under Proposition 13, the ability of redevelopment agencies to service existing debt and to fund future redevelopment activities could be seriously impaired.

IMPACT WITH REVENUE REPLACEMENT (Chapter VII)

Proposition 13 does not require the state or local governments to replace any part of the estimated $7 billion local revenue loss which would result from it in 1978-79. However, the proposition does not prohibit replacement of local revenue losses, and the state or local governments could choose to increase other revenue sources in order to continue local services.

Local Revenue Replacement

There are several means by which additional local revenues could be raised. Some are available to local officials under existing law. Others would have to be approved by two-thirds of the voters, due to the provisions of Proposition 13. Still others would require both voter approval and prior legislative authorization. Some of the more significant sources of local replacement revenue include:

. Local sales taxes. The Legislature could, by statute, authorize an increase in the 1 percent local sales tax rate. A 170 percent increase in the local rate, to 2.7 percent, would raise additional revenues of $2 billion, while bringing the combined state and local sales tax rate to 7.7 percent. Because the bulk of the local sales tax is apportioned to cities, increasing the local rate would not produce significant revenues for county governments.

. Local income taxes. The Legislature could, by statute, authorize a locally imposed, but state administered, income tax for cities and counties. One option, often referred to as "piggybacking",

would be for local governments to impose a surtax on the state income tax liability of their residents. We estimate that a surtax of 36 percent (that is, a 36 percent increase in state income tax collections) would raise $2 billion. Another option is to tax businesses on the basis of their payroll under the generally accepted authority of cities to levy business license taxes.

. Service charges and special assessments. Service charges are underutilized by some local agencies, and their use could be extended to additional types of services, such as refuse collection. Certain activities, such as street cleaning, could be financed by special non-ad valorem property assessments, which are not restricted under Proposition 13. In fact, we believe that there is a significant potential for using special assessments to finance government services now funded with general revenues. For example, fire protection services could be financed by a charge based on the square footage of property improvements. These assessments, however, do not have the high revenue potential of a sales or income tax.

State Revenue Replacement

If the state decided to replace local revenue losses caused by Proposition 13, either through subventions or direct assumption of the cost and administration of local programs, there would be four basic funding sources available for this purpose: (1) General Fund surplus monies, (2) increased state taxes and/or fees, (3) elimination or reduction of "tax expenditures", and (4) reduced state expenditures.

. General Fund surplus. At the end of the current fiscal year, 1977-78, it is estimated the state's existing General Fund surplus will reach approximately $3 billion. It must be stressed that this $3 billion surplus accumulated over a four-year period; it is not a recurring surplus that can be used over and over. Thus, if the accumulated surplus is used in 1978-79 to replace revenue lost by local governments under Proposition 13, it would not be available for this or any other purpose in subsequent years.

For example, in 1978-79, the General Fund surplus could provide an estimated $4.8 billion ($3 billion as of the end of 1977-78 plus the $1.8 billion surplus anticipated in 1978-79) of the $7 billion needed to close the revenue gap caused by Proposition 13 in 1978-79. This would still leave a $2.1 billion net revenue loss at the local level. If the full amount of the surplus were committed to local government relief, no funds would be available to augment existing state programs or to start new programs. In subsequent years, the state could only replace $2.1 billion of the $7.8 billion local revenue losses using uncommitted General Funds.

. Increased state taxes. Although the state has access to numerous General Fund and special fund revenue sources, as a practical matter, only a few of these sources are capable of generating additional revenues in the magnitudes that it would take to replace a significant portion of the local revenue loss under Proposition 13. The three major state taxes--sales, income, and corporation taxes-- are expected

to provide nearly 75 percent of revenues to all state funds and over 85 percent of General Fund revenues in 1978-79. The two next largest sources of General Fund revenue, inheritance and gift and insurance taxes, together will provide less than 5 percent of total revenues in 1978-79.

If the state opted to replace a major share of the revenue loss, it is probable that most of the money would be derived from the three major General Fund revenues, given the limited revenue-producing potential of other available state tax bases.

Tax Burden Effects of State Revenue Replacement (Chapter VIII)

For illustration purposes only we have developed estimates of the tax burden effects of proportionate increases in the state's three major General Fund taxes as a means of replacing local property tax revenue losses under Proposition 13, on an on-going basis. For this purpose, we have assumed that the $600 million in state savings under the measure would provide part of the $7 billion in total local replacement revenues. Thus, the net increase required would be $6.4 billion. As a means of developing the necessary $6.4 billion, we have assumed a proportionate 50 percent increase in state income, sales and corporation taxes. This would require (1) an increase in the state sales tax rate from 4.75 percent to 7.1 percent, resulting in an increase in the combined state and local rate from 6 percent (4.75 percent, state and 1.25 percent, local) to 8.4 percent, (2) a 48 percent personal income tax surtax and (3) an increase in the general corporation tax rate from 9 percent to 13 percent.

. Impact on homeowners. Under the above assumptions, net taxes paid by all homeowners would increase by nearly 7 percent. This is because homeowners pay a larger share of the three major General Fund taxes than of the property tax. Hence, a proportionate increase in these taxes, as a means of replacing property tax revenue loss, would tend to shift the net direct tax burden from owners of nonowner-occupied property to homeowners.

Our estimates also indicate that, on the average, 54 percent of all homeowners would pay increased net state and local taxes averaging over $400, and 46 percent would realize a net tax decrease averaging over $200. The impact would vary significantly, however, according to the circumstances of individual taxpayers. Generally, homeowners with high incomes relative to their property tax liability would pay more in taxes; conversely, low-income persons with a high property tax payment would realize net tax reductions.

The net impact on homeowners of a shift from the property tax to state General Fund taxes would tend to vary substantially from county to county, and by level of income. Generally, homeowners with incomes above $20,000 to $25,000 could expect to pay increased state and local taxes if replacement revenues were obtained by a proportionate increase in the three major state taxes.

. Impact on renters. If local property tax revenue losses under Proposition 13 were replaced with higher state taxes, the net impact on renters would depend on the extent to which property tax reductions were "passed on" through lower rents. Although we have no

basis for estimating the amount of rent reductions, if any, under Proposition 13, we have compared the total potential increases in state taxes, under our specified assumptions, to the net decrease in property taxes levied on renter-occupied dwellings.

Property tax reductions for all renter households would exceed the assumed state income and sales tax increases for occupants of these households by an estimated $270 million, or 34 percent. Or stated another way, 75 percent of the property tax reductions would have to be passed through to the renters in this example in order for them to avoid a net tax increase.

Renter-occupied homes realizing the largest tax reductions compared to state tax increases would be those with a low household income relative to the value of the rental unit. For example, property tax reductions on the rented homes of unmarried senior citizens--with typically below-average incomes--would exceed assumed state tax increases by an estimated 63 percent. For all renters with income below $5,000, average property tax reductions estimated at about $250 compare to state tax increases of less than $50. Above $10,000 to $15,000 of income, combined state income and sales tax increases generally would exceed property tax reductions on rented dwellings.

. Impact of increased state corporation taxes. Any conclusions as to the net impact on taxpayers in California of a 57 percent reduction in property taxes combined with an increase in the general corporation tax rate from 9 percent to 13 percent would be highly speculative. It is possible, however, to offer some general observations:

1. In the short run, it is likely that an increase in corporation income taxes would tend to reduce profits, and thus, would be borne largely by corporate shareholders. Because many corporate shareholders are not California residents, the full burden would not fall on Californians. There is no consensus, however, as to the long-run incidence of an increase in the corporation tax.

2. In very general terms, it is probable there would be a significant direct tax shift from capital intensive (high property tax) to labor intensive firms--for example, from manufacturing to service organizations.

3. The impact on business investment in California would depend on the extent to which increased investment in industries with net tax reductions would equal or offset the loss of investment in industries subject to higher net taxes. Thus, in addition to a potential impact on the net level of investment in California, a shift from property to corporate income taxes could alter the mix of business activity by industry type.

ECONOMIC EFFECTS (Chapter IX)

Proposition 13's net economic impacts will hinge critically on whether the reduction in local property tax revenues is offset by new revenues, and the manner and extent to which any replacement revenues are raised.

"Leakages"

It is possible that a significant portion of the property tax savings could flow out of the California economy, thereby dampening

economic activity within the state. Such "leakages" could occur because of increased federal income tax liabilities resulting from reduced real estate deductions, reduced municipal bond sales, declines in federal grants-in-aid to California, and property tax reductions going to non-California investors or landlords. There would be some counter inflows of federal funds, primarily unemployment compensation and welfare payments.

Impacts in the Short Term

1. Property Tax Reductions Replaced. The primary economic effects of Proposition 13 in the short run would involve redistributions of the tax burden, and therefore, disposable income if the $7 billion in property tax reductions were replaced with other revenue sources.

2. No Replacement of Property Tax Reductions. Failure to replace the reduction in local property tax revenues would result in:

- Serious economic dislocations that would show up as a sharp increase in the state's unemployment rate, from 7.4 to 10.0 percent.
- A significant reduction in spending by local governments.
- Up to $1 billion in unemployment benefit costs for the 270,000 local government employees laid off in 1978-79. (Local governments would bear an unknown portion of this cost).
- An increase in spending by those benefiting from property tax relief.

The net effect in the short term would be negative for the California economy.

Impacts in the Long Run

1. Property Tax Reductions Replaced. The major economic impacts of Proposition 13 in the long run, assuming full replacement of property tax reductions, would involve redistributions of income, wealth and tax burdens. After several years, we would not expect aggregate demand, income, and employment in the California economy to differ noticeably from what they would be without this measure.

2. No Replacement of Property Tax Reductions. It is not possible to predict the net economic impacts in the long run if property tax reductions are not replaced. Proposition 13 would set in motion forces that would tend to have both positive and negative effects such as:

Positive Effects:

- California might become a more attractive location for new firms due to lower property taxes.
- Prices charged for California-produced goods and services would tend to be lower, making our products more attractive in the national market, thereby increasing sales, production and employment.

Negative Effects:

- Property-related services provided by local governments could decline, perhaps adversely affecting property values and the cost of doing business in California.
- Potential significant leakages of property income out of the California economy might result, thereby weakening demand, production and employment.

I. INTRODUCTION

On June 6, 1978, the voters of California will decide an issue that could have major ramifications for government at all levels. The issue is whether a ceiling on property taxes should be written into the State Constitution--a ceiling that would reduce property taxes throughout California by an average of 57 percent.

The issue will be presented to the voters in the form of Proposition 13, an initiative constitutional amendment sponsored by Howard Jarvis and Paul Gann. A majority vote of those voting on the measure is required for passage.

OVERVIEW OF PROPOSITION 13

As discussed more fully in Chapter III, Proposition 13 would do two things:

- First, it would limit the amount of property taxes that could be levied on individual properties, thereby limiting the amount of revenues that could be raised by those governments utilizing the property tax.
- Second, it would make it somewhat more difficult for governments in California to adopt new taxes or raise existing taxes.

It is also important to note what Proposition 13 would not do. The initiative would not, by itself:

- Impose a limit on the amount of revenues that the state or local governments could raise; or

- Limit the amount of expenditures that these governments could undertake.

In other words, if the proposition is approved, it would not prevent a local government from securing new revenues to replace those lost as a result of any cut in property tax revenues, and from continuing to offer the current level of services at the same cost to its constituents. Other provisions of law, however, limit the taxes and charges that local governments can impose. Without the grant of additional authority from the Legislature, these laws (rather than the proposition itself) would limit local governments' ability to raise additional revenues.

THE DEBATE OVER PROPOSITION 13

Before turning to an analysis of Proposition 13 and its potential impact on California, it is useful to summarize the key arguments advanced by the supporters and opponents of the measure. In doing so, we rely exclusively on the arguments for and against the proposition set forth in the California Voters Pamphlet. As the pamphlet states, however, these arguments represent the opinions of those advancing them; they have not been checked for accuracy by any official agency of the state.

Arguments in Favor of Proposition 13

Supporters of Proposition 13 maintain that it will have the following effects:

- Limit property tax financing to property-related services (or conversely, prevent the use of property taxes for services that are not property related).
- Save the taxpayers of California $7 billion annually.
- Reduce the cost of housing to both homeowners and renters.
- Improve the business climate in California, making it possible to create new jobs.
- Reduce waste in government.
- Make the tax system fairer.

Implicit in many of these arguments is the assumption that the state or local governments would not raise existing taxes or impose new taxes to offset a significant portion of the property tax reductions caused by the proposition. Presumably, the measure's supporters believe that the elected representatives of the people would not take the positive action necessary to raise these revenues (that is, to vote for a tax increase). In other words, it appears that the proponents are banking on the political process--rather than the initiative itself--to impose a limit on revenues and expenditures.

Arguments Against Proposition 13

Opponents of Proposition 13 maintain that it will have the following effects:

- Shift the burden of taxation from businesses and landlords to individuals and families.
- Make local governments even more dependent upon the state

and federal governments, thereby weakening local control over local government programs.

- Cut vital government services such as police patrol, fire protection, and education.
- Lead to new or increased taxes on California residents, and higher home insurance costs.
- Make the property tax system more inequitable.
- Discourage business from locating in California.

Implicit in many of these arguments is the assumption that the voters cannot and will not do without the services that would have to be cut as a result of the revenue reductions brought about by the proposition. For this reason, the measure's opponents believe that new taxes will be imposed--either at the state or local level--to offset at least part, if not all, of the property tax decrease.

PURPOSE OF THIS REPORT

Our sole purpose in preparing this report is to provide a factual and analytical basis on which the Members of the California Legislature and others can assess the merits and fiscal implications of Proposition 13.

The report is organized as follows:

Chapter II describes the current property tax system and discusses trends in property tax rates, revenues, and relief.

Chapter III describes the specific provisions of Proposition 13 and indicates how the Legislative Counsel believes these provisions could

be interpreted by the Courts.

Chapter IV provides our estimates of the proposition's impact on state and local revenues and expenditures.

Chapter V takes these estimates of fiscal impact and attempts to put them in perspective from the standpoint of counties, cities, school districts, and special districts. This chapter also illustrates what the initial revenue loss would be for a specific city and county, and describes the expenditure base that existing revenues are supporting in each case.

Chapter VI discusses the potential impact of Proposition 13 on the ability of local governments to borrow.

Chapter VII identifies the primary revenue sources to which the state and local governments could turn for new revenues to offset property tax losses under Proposition 13.

Chapter VIII analyzes how the burden of state and local taxes would be affected if Proposition 13 is approved, and if other taxes are increased to generate replacement revenues.

Chapter IX discusses the primary economic consequences of Proposition 13, as well as the major economic uncertainties that surround it.

Chapter X identifies the key actions that would have to be taken by the state Legislature and local governments if Proposition 13 is approved.

What the Reader Should Know About This Report

As stated above, the purpose of this report is to provide an objective analysis of Proposition 13 and its potential impact on California. The report, however, is limited in four major respects.

First, it does not attempt to weigh the arguments for and against the initiative. Instead, it merely presents our analysis of the issues at stake, where it is possible to do so (see below), and leaves to the reader the task of evaluating the case made by each side to the debate.

Second, it is impossible to specify what impact Proposition 13 would have (as opposed to could have) on the state, local governments, the taxpayers, and the state's economy. There are two reasons for this. On the one hand, while the ultimate effect of the proposition would depend on how the state and local governments respond to the reduction in property tax revenues, the proposition itself provides no guidance on this matter. It is silent on the issues of:

- how the $7 billion in property tax reductions should be apportioned among counties, cities, schools, and special districts;
- whether revenue losses under the measure should be replaced through new or increased taxes;
- how much local government expenditures should be reduced; and
- what specific government services, if any, should be reduced or eliminated.

There is no way of predicting how the state and local governments would resolve these issues.

On the other hand, even if we knew how governments would respond to passage of the initiative, there is considerable uncertainty among economists as to what the effect would be on the state's economy. There is no uniform agreement as to whether the business climate would improve as a result of the proposition.

For these reasons we can be much more definitive about the proposition's effect on property taxes and its initial effect on state and local government revenues than we can about the impact on expenditures, government services, and the level of business activity in California. The danger in this is that, because these impacts cannot be specified in advance, they will not be given adequate attention by the reader in weighing the issues. Our inability to specify these effects, however, makes them no less important.

Third, because of the uncertainty as to how the state and local governments would respond to passage of Proposition 13, we have attempted to illustrate the measure's impact under various assumptions. For example, Chapter V--Impact on Local Government--generally assumes that the property tax revenues remaining under Proposition 13 would be allocated among local units of government in the same proportion that existing property tax revenues are. There is nothing magic about these assumptions; we have made them strictly to facilitate the analysis. In no case do these assumptions reflect our view as to how state and

local officials would respond, or should respond, to the measure's approval.

Finally, we have not attempted to compare Proposition 13 with the property tax relief measures that would go into effect if Proposition 13 is defeated and Proposition 8 is approved. These measures, however, are summarized at the end of Chapter II, and are discussed more fully in Appendices 2 and 3.

II. THE CURRENT PROPERTY TAX SYSTEM

Under existing provisions of the California Constitution, all tangible property is subject to taxation unless specifically exempted in the state Constitution or by federal law. For purposes of taxation, taxable property is classified as either "real" (land and buildings) or "personal" (business inventories, boats, aircraft, etc.).

EXEMPTIONS

Property which is entirely exempt from taxation includes property owned by the state and local governments; cemeteries; hospitals; public libraries and museums; property used exclusively for religious, scientific, charitable, or educational purposes; vessels over 50 tons; growing crops; household furnishings; and standing timber (which is subject to a "yield" tax when harvested). Certain property receives preferential treatment through restricted assessment. Examples include nonprofit golf courses, property of historical significance, open space lands, and certain documented vessels under 50 tons. Current state law also authorizes the partial exemption of property owned by veterans, owner-occupied dwellings (the homeowners' property tax exemption) and business inventories.[1]

ASSESSMENT, RATE IMPOSITION AND COLLECTION PROCEDURES

By law, all property is assessed for purposes of taxation at 25 percent of full value. "Full value", except in specified cases,

1. Chapter 1, Statutes of 1978, First Extraordinary Session (AB 7) will phase out the partial tax on business inventories if Proposition 13 on the June 1978 ballot is not approved by the voters.

is based on an estimate of the fair market value (or probable selling price) of the property. Because of revaluation lags and other imperfections inherent in the appraisal process, the "effective" assessment ratio, that is, the ratio of assessed value to actual market value, typically is below 25 percent and may vary considerably from one parcel of property to another.

All taxable property is assessed for purposes of taxation as of the March 1st lien date for the following fiscal year (July 1 to June 30) either by the county assessor or by the State Board of Equalization. "State-assessed" property, the assessed values of which are allocated to individual taxing jurisdictions, consists generally of public utilities and railroads.

The governing bodies of cities, counties, school districts and other special-purpose districts (such as fire protection or water utility districts) are authorized under current state law to levy a property tax rate (under restrictions discussed below) on the county- and state-assessed property values located within or allocated to their respective taxing jurisdictions. The county is responsible for collecting all of these taxes and distributing the proceeds to each of the individual jurisdictions within its boundaries.

EXISTING TAX RATE AND REVENUE LIMITS

Under current law, property tax rates imposed by cities, counties and special districts are limited to the higher of the rate levied in 1971-72 or 1972-73. These limitations, which became operative in 1973-74, were enacted originally by Chapter 1406, Statutes of 1972 (SB 90),

and have been significantly amended by subsequent legislation. The maximum tax rates established under "SB 90" may be increased with voter approval or under specified circumstances (for example, to allow a minimum percentage growth in total property tax revenues equal to the combined percentage increase in population and prices, or to provide additional revenues to cover the cost of emergencies or federal or court mandates). Because existing law limits only the tax rates levied by cities, counties and special districts, substantial increases in assessed values, if not offset by tax rate reductions, still permit relatively high growth rates in property tax revenues.

Property tax revenues of school districts currently are limited under Chapter 1406, as modified recently by Chapter 894, Statutes of 1977 (AB 65). (See Chapter for a more detailed discussion of existing school revenue limits.)

THE LEVEL AND SIGNIFICANCE OF PROPERTY TAX REVENUES

Total property tax revenues received by a taxing jurisdiction consist of property taxes levied on and paid by property owners plus state payments to the taxing jurisdiction (commonly called state subventions) as reimbursement for revenue losses due to the homeowners' and business inventory tax exemptions. In the current fiscal year (1977-78), it is estimated that nearly 6,300 local taxing jurisdictions in California will receive property tax revenues totaling approximately $11.5 billion--$10.3 billion from property taxpayers plus $1.2 billion in state tax relief subventions. By comparison, state General Fund revenues for this year currently are estimated at $13.4 billion.

Table II-1 provides a distribution of property tax revenues projected in 1978-79 by type of local government. As shown in this table, property taxes used for school purposes currently represent about 52 percent of total local property tax revenues. Table II-1 also indicates that the combined statewide average tax rate in 1978-79 is estimated to be $10.32 per $100 of assessed value.

TABLE II-1

ESTIMATED DISTRIBUTION OF PROPERTY TAX REVENUES UNDER EXISTING LAW BY LEVEL OF LOCAL GOVERNMENT 1978-79

	Average Tax Rate (per $100 of assessed value)	Property Tax Levies (millions)	State Property Tax Relief Subventions (millions)[a]	Total Property Tax Revenues	
				Amount (millions)	Percent of Total
Cities[b]	$ 1.36	$ 1,488	$ 157	$ 1,645	13.2%
Counties	2.90	3,168	336	3,504	28.2
Schools[c]	5.36	5,851	617	6,468	51.9
Special Districts	0.69	751	80	831	6.7
Total	$10.32	$11,258	$1,190	$12,448	100.0%

a. Represents estimated state reimbursements for the homeowners' and business inventory exemptions. These figures do not include the increased homeowners' and business inventory payments that would occur if Chapter 24, Statutes of 1978 (SB 1) and Chapter IX, Statutes of 1978 (AB 7x) become law.
b. Includes City and County of San Francisco.
c. Includes community colleges and county superintendent of schools.

Table II-2 shows the relative significance of property tax revenues as a source of local revenue projected for 1978-79. As the table shows, property tax revenues make up about 40 percent of local revenues from all sources--state, local, and federal. It is important to note that, although only about 19 percent of total revenues received by all special-purpose districts come from the property tax, many of these districts are heavily dependent on this tax. As an example, fire protection districts in Sacramento County received property taxes representing, on the average, over 95 percent of their total revenue in 1975-76.

TABLE II-2

SIGNIFICANCE OF PROPERTY TAXES
AS PERCENT OF TOTAL REVENUES--EXISTING LAW
1978-79
(amounts in millions)

	Number of Jurisdictions (1976-77)	Total Property Tax Revenues[a]	Revenue From All Sources (state, federal and local)[b]	Property Tax as Percent of Total Revenues
Cities[c]	414	$ 1,645	$ 6,093	27%
Counties	58	3,540	8,850	40
School Purpose	1,114[d]	6,468	12,125	53
Special Districts:				
Enterprise	1,483	443	3,510	13
Nonenterprise	3,227	388	895	43
Total, Special Districts	4,710	$ 831	$ 4,405	19%
Total	6,296	$12,448	$31,473	40%

a. Includes state subventions for the homeowners' property tax exemption and the business inventory tax exemption.
b. Projected based on State Controller's 1975-76 and 1976-77 financial transactions reports.
c. Includes City and County of San Francisco.
d. Includes 70 Community College Districts.

PROPERTY TAX REVENUE GROWTH

Increases in total property tax revenues from year to year depend both on the annual growth in assessed values and on changes in tax rates. Table II-3 provides a summary of statewide average tax rates and taxable assessed value over the period 1967-68 to 1978-79.

TABLE II-3

GROWTH OF ASSESSED VALUES AND TAX RATES
1967-68 THROUGH 1978-79

Fiscal Year	Taxable Assessed Values[a] Amount (millions)	Percentage Growth	Statewide Average Tax Rate Rate Per $100 of AV	Percentage Change
1967-68	$ 46,187	--	$ 8.90	--
1968-69	48,627	5.3%	9.30	4.5%
1969-70	52,115	7.2	9.92	6.7
1970-71	55,580	6.7	10.85	9.4
1971-72	58,785	5.8	11.43	5.4
1972-73	62,791	6.8	11.46	0.3
1973-74	67,278	7.2	11.15	-2.7
1974-75	74,299	10.4	11.24	0.8
1975-76	82,689	11.3	11.33	0.8
1976-77	93,717	13.3	11.19	-1.2
1977-78	106,694	14.4[b]	10.68	-4.6
1978-79[c]	120,030	12.5	10.32	-3.4

a. Includes homeowners' and business inventories exemptions, but excludes all "other" exemptions (e.g., property used for welfare and charitable purposes).
b. This percentage change has been adjusted to reflect the exclusion from the assessed value base in 1977-78 of the value of standing timber, which is now subject to a yield tax in lieu of an ad valorem property tax.
c. Projected.

Source: State Board of Equalization Annual Reports.

As shown in Table II-3, annual percentage increases in taxable assessed values (before application of the homeowners' and business inventory exemptions) have ranged, over the period covered, from a low of 5.3 percent in 1968-69 to a high of 14.4 percent in the current year. The average annual growth over the ten-year period, 1967-68 through 1977-78, was 8.8 percent. However, over the past four years (1974-75 to 1977-78), annual increases in taxable assessed values have averaged 12.4 percent, largely reflecting high rates of general price inflation and substantial increases in single-family home values. At this rate of increase, assessed values would double every six years. In 1978-79, taxable assessed values are projected to grow by 12.5 percent.

Prior to 1972-73, statewide average tax rates also were increasing significantly from year to year. During the four-year period from 1967-68 through 1971-72, the percentage annual rate increase went as high as 9.4 percent (in 1970-71) and averaged 6.5 percent. However, in 1972-73 and subsequent years, annual statewide average tax rate increases have consistently been below 1 percent. In the past two fiscal years, in fact, tax rates have declined significantly--statewide average rates decreased by 1.2 percent in 1976-77 and by 4.6 percent in the current year. In 1978-79, the average property tax rate is expected to decline by another 36 cents, a decrease of 3.4 percent.

The decline in the statewide average tax rate since 1972-73 can be attributed more to substantial growth in assessed value than to SB 90 rate restrictions, because the rates currently levied by most cities and counties are below their authorized levels. In effect, large annual increases in assessed values have allowed local governments to generate

desired revenue growth with minimal tax rate increases, or, as in the past two years, with reduced tax rates.

Table II-4 compares annual percentage changes in taxable assessed values for selected counties since 1974-75. In many counties, the large fluctuations in assessed value growth from year to year are primarily due to periodic reassessment of a large number of properties in an effort to keep assessed values in line with rapidly increasing market values. For example, San Francisco properties were substantially reassessed in 1975-76, resulting in a 21.5 percent increase in assessed values in that year compared to a 3.3 percent increase in the prior year and a 5.6 percent increase in 1976-77. The 34.3 percent assessed value increase in Kern County in 1974-75, however, was the result of increased crude oil prices and a consequent substantial upward revaluation of oil-producing properties.

TABLE II-4

PERCENTAGE CHANGE IN
TAXABLE ASSESSED VALUES BY SELECTED COUNTY
1974-75 to 1977-78

	1974-75	1975-76	1976-77	1977-78	Four-Year Annual Average
Alameda	7.1%	9.8%	10.7%	14.0%	10.4%
Contra Costa	12.6	13.6	13.5	16.1	14.0
Kern	34.3	20.4	7.5	26.8	21.8
Los Angeles	6.3	8.3	15.0	7.9	9.3
Marin	15.3	9.7	17.6	18.7	15.3
Orange	17.2	13.9	18.7	19.3	17.2
Sacramento	9.0	11.5	10.8	18.7	12.4
San Diego	15.0	13.3	12.9	16.6	14.4
San Francisco	3.3	21.5	5.6	9.3	9.7
San Mateo	8.7	16.2	4.1	23.2	11.1
Santa Clara	11.3	15.8	13.9	14.4	13.9
Statewide	10.4%	11.3%	13.3%	14.4%[a]	12.4%

a. The percentage change in 1977-78 has been adjusted to reflect the exclusion from assessed values in 1977-78 of the value of standing timber, which is now subject to a yield tax in lieu of an ad valorem property tax.

Source: State Board of Equalization Annual Reports.

Due to the combined effect of assessed value increases and tax rate changes, total local property tax revenues (including state subventions for the homeowners' and business inventory tax exemptions) have grown from about $4.1 billion in 1967-68 to an estimated $11.5 billion in the current year. This represents an average annual growth over this 10-year period of nearly 11 percent, with a low of 4.6 percent in 1973-74 (due largely to a substantial increase in state aid to schools) and a high of 16.3 percent in 1970-71.

Table II-5 summarizes data on property tax levies, state tax relief subventions and total property revenues (levies plus subventions) over the period, 1967-68 to 1978-79. As shown in this table, per capita property tax revenues have more than doubled from $214 per person in 1967-68 to $525 in 1977-78. On the other hand, because of the high corresponding growth in California personal income over this period, the ratio of property taxes per $100 of personal income, increased from $5.84 in 1967-68 to $6.61 in 1977-78, a 13 percent gain.

Property tax <u>levies</u>, or the taxes actually paid by property owners, have grown, on the average, at a somewhat lower rate than total property tax revenues because of increasing state property tax relief subventions to local government. The $10.3 billion in levies estimated for the current year represents a 9.6 percent average annual increase over the $4.1 billion paid in 1967-68. There has been a 10.8 percent average annual increase in total property tax revenues over the same period. It is important to note, however, that annual percentage tax increases in individual taxing jurisdictions (and for particular taxpayers) have varied substantially from these statewide averages primarily as a result of differences in reassessment cycles, regional variations in market value growth and differing local expenditure requirements.

TABLE II-5

GROWTH OF TOTAL PROPERTY TAX REVENUES
1967-68 to 1978-79

Fiscal Year	Property Tax Levies		State Tax Relief Subventions[a]		Total Property Tax Revenues			
	Amount (millions)	Percent Change	Amount (millions)	Percent Change	Amount (millions)	Percent Change	Per Capita	Per $100 of Personal Income
1967-68	$ 4,111	--	--	--	$ 4,111	--	$214	$5.84
1968-69	4,570	11.2%	$ 184[c]	--	4,570[c]	11.2%	235	5.89
1969-70	4,535	8.0	249	35.3%	5,184	13.4	263	6.18
1970-71	5,722	16.0	309	24.1	6,031	16.3	301	6.71
1971-72	6,372	11.4	353	14.2	6,725	11.5	331	7.14
1972-73	6,819	7.0	377	6.8	7,196	7.0	352	7.01
1973-74	6,648	-2.5	879	133.2	7,527	4.6	364	6.70
1974-75	7,381	11.0	997	13.4	8,378	11.3	401	6.67
1975-76	8,297	12.4	1,114	11.7	9,411	12.3	444	6.78
1976-77	9,368	12.9	1,141	2.4	10,509	11.7	488	6.83
1977-78	10,277	9.7	1,175[b]	3.0	11,452[b]	9.0	525	6.61
1978-79[b]	11,258	9.6	1,190	1.3	12,448	8.7	562	6.49

a. Consists of state reimbursements to local government for the homeowners' and business inventory exemptions.
b. Estimated.
c. Homeowners' tax relief was provided as a direct $70 rebate to taxpayers in the first year (1968-69). In all subsequent years, this assistance has been in the form of an assessed value exemption for which local governments are reimbursed.

STATE FUNDED PROPERTY TAX RELIEF

Beginning in the 1968-69 fiscal year, the state has provided increasing amounts of local property tax relief annually, either directly as payments to individual taxpayers or indirectly as reimbursements to local governments for state enacted exemptions. Table II-6 summarizes, by program, actual state tax relief expenditures for each of the years, 1968-69 through 1977-78, and budgeted expenditures for 1978-79.

In 1977-78, the state will spend in excess of $1.4 billion for purposes of reducing local taxes. Of this amount, $1,175 million will be paid to local governments as reimbursement for local revenue losses due to the homeowners' and business inventory exemptions (for a history of the growth of these reimbursements, see Table II-5). The homeowners' property tax exemption is a flat $7,000 of the full market value ($1,750 of assessed value) and benefits approximately 4 million homeowners. The inventory exemption program exempts 50 percent of business inventories from local taxation and accounts for the bulk of "personal property tax relief" ($415 million of the $420 million shown in Table II-6).

Over 400,000 senior citizen homeowners and renters presently receive a total of about $90 million under three separate programs. Homeowners 62 and over with total income below $12,000 receive a percentage reimbursement of their property tax payments. This percentage reimbursement ranges from 96 percent for those with incomes below $3,000 to 4 percent between $11,560 and $12,000 of income. Senior citizen home-

owners with incomes below $20,000 also may elect to "postpone" payment of their property taxes until death or transfer of ownership under a new program enacted in 1977. Renters 62 and over with total income below $5,000 receive assistance based on a percentage of $220, which has been designated as the "property tax equivalent" for this group of taxpayers.

About 3.5 million renters of all ages will receive an estimated $130 million in the current year in the form of a flat $37 refundable state income tax credit. And, finally, another $26.5 million will be subvened to local governments to replace revenue losses due to open space land (Williamson Act) restrictions and miscellaneous state mandates under SB 90.

These state tax relief programs will be revised significantly in 1978-79 if Proposition 13 is not approved by the voters and consequently, legislation enacted this year (SB 1 and AB 7x) becomes effective. (Enactment of SB 1 also will depend on the passage of Proposition 8 on the June ballot.)

TABLE II-6

STATE TAX RELIEF REIMBURSEMENTS
AND DIRECT PAYMENTS, 1968-69 THROUGH 1977-78
(in millions)

Fiscal Year	Homeowners' Property Tax Exemption	Senior Citizen Homeowners' Assistance and Postponement	Senior Citizen Renters' Assistance	Renters' Income Tax Credit	Total Residential Relief	Open Space Subventions	Personal Property Tax Relief[a]	SB 90 Revenue Loss Reimbursements	Total Property Tax Relief
1968-69	$183.7	$ 7.8	--	--	$191.5	--	--	--	$ 191.5
1969-70	199.7	7.9	--	--	207.6	--	$ 48.8	--	256.4
1970-71	218.0	8.6	--	--	226.6	--	90.6	--	317.2
1971-72	231.6	8.3	--	--	239.9	--	121.7	--	361.6
1972-73	242.9	59.1	--	--	302.0	$13.0	134.1	--	449.1
1973-74	657.1	60.7	--	$ 92.3	810.1	17.4	221.5	--	1,049.0
1974-75	700.9	50.0	--	110.3	861.1	14.4	295.8	$2.6	1,174.0
1975-76	756.5	51.1	--	115.1	922.7	16.0	362.7	4.8	1,306.2
1976-77	760.5	52.5	--	122.7	935.7	17.9	387.1	5.2	1,345.9
1977-78[b]	760.0	83.0	$7.0	130.0	980.0	21.0	420.1	5.5	1,426.6
1978-79[c]	745.0	104.0	9.0	135.0	993.0	22.0	450.0	6.7	1,462.7

a. Primarily represents reimbursements for the business inventory tax exemption.
b. Estimated.
c. Budgeted.

Table II-7 shows the growth of state tax relief expenditures from 1968-69 to 1978-79 and relates these expenditures in each of the years covered to total local property tax revenues and to state General Fund revenues. State tax relief costs as a percentage of total property tax revenues rose from 4.2 percent in 1968-69 to 14 percent in 1974-75. This percentage has declined in subsequent years (to 12.5 percent in 1977-78) primarily because the homeowners' exemption, which is statutorily _fixed_ at $1,750 of assessed value, tends to become a smaller percentage of assessed value as assessed values increase. And, in recent years, such increases have been substantial (see Table II-3).

TABLE II-7

GROWTH OF STATE TAX PROPERTY TAX RELIEF COSTS
1968-69 TO 1978-79

Fiscal Year	State Tax Relief Costs[a] (millions)	Annual Percent Change	State Property Tax Relief Costs as Percent of: Total Local Property Tax Revenues[d]	State General Fund Revenues[b]
1968-69	$ 191.5	--	4.2%	4.6%
1969-70	256.4	33.9%	4.9	5.9
1970-71	317.2	23.7	5.3	7.0
1971-72	361.6	14.0	5.4	6.7
1972-73	449.1	24.2	6.2	7.5
1973-74	1,049.0	133.6	13.9	15.0
1974-75	1,174.0	11.9	14.0	13.6
1975-76	1,306.2	11.3	13.9	13.6
1976-77	1,345.9	3.0	12.8	11.8
1977-78	1,426.6	6.0	12.5	10.7
1978-79[c]	1,462.7	2.5	11.8	9.7

a. See Table II-6 for breakdown of state tax relief costs.
b. Federal revenue sharing transfers are included in General Fund revenues.
c. Budgeted.
d. Includes state tax relief subventions.

State tax relief costs as a percentage of state General Fund revenues rose from 4.6 percent in 1968-69 to 15 percent in 1973-74. This percentage also has fallen off in recent years (to 10.7 percent in 1977-78), reflecting the significantly higher average annual growth rate of General Fund revenues (17.6 percent) relative to the growth or property tax revenues (11.1 percent) over the four-year period, 1973-74 to 1977-78.

THE CURRENT DISTRIBUTION OF THE PROPERTY TAX BURDEN

The distribution of current property tax levies among property owners is presented in Tables II-8, II-9 and II-10. These data indicate only how the initial, or direct, impact of this tax is distributed. A significant portion of property taxes is shifted from those on whom the tax is imposed to others--especially by nonhomeowners. Unfortunately, there is a wide range of opinion among economists as to the final incidence of the property tax--that is, who actually pays the tax after all tax shifting has occurred. In reviewing the data on the distribution of the tax burden provided in Tables II-8, II-9 and II-10, the following points should be kept in mind:

1. Some economists suggest that at least a portion of the property tax might be appropriately considered as a uniform national tax on all capital. Because owners of capital, (landlords, stockholders, etc.) tend to have higher incomes than nonowners, this would tend to reduce the "regressivity" (that is, the extent to which a tax represents a smaller percentage of income as income rises) of property taxes as traditionally assumed and as shown in the income distributions provided below.

2. An unknown portion of taxes on commercial and industrial property, other than those on the land itself, probably is shifted forward to consumers and/or backward to labor through, respectively, higher prices and lower wages.

3. Landlords probably are able to shift an unknown portion of their property taxes to renters through higher rental payments, depending on vacancy rates, tenant income and mobility, alternative housing and other factors affecting the supply of and demand for rental dwellings. Conventional economic theory argues, however, that the portion of property taxes levied on the land itself--perhaps 10 to 20 percent--may not be shiftable under any circumstances.

Property Taxes by Type of Property

Table II-8 provides the projected distribution of assessed values, reimbursable exemptions and net property tax levies in 1978-79, by type of property. As shown in this table, the gross assessed value of owner-occupied residential property represents about 38 percent of the gross assessed value of all property. After application of the homeowners' property tax exemption, property tax levies on homeowners are approximately 37 percent of total levies.

Property tax levies on renter-occupied residential property are projected to be approximately 19 percent of total levies in 1978-79. Although an unknown portion of these net levies are included in rent payments, as indicated above, there is no conclusive basis for estimating the actual amount or percentage of property tax levies "passed on" to tenants.

TABLE II-8

ESTIMATED DISTRIBUTION OF PROPERTY TAXES BY PROPERTY TYPE
1978-79
(dollar amounts in millions)

Property Type	Gross Assessed Values[a]	Percent of Total	Homeowners' and Inventory Exemptions	Net Assessed Value	Percent of Total	Property Tax Levies	Percent of Total
Owner-Occupied Residential	$ 45,313	37.7%	$ 6,942	$ 38,371	35.2%	$ 4,117	36.6%
Other Property:							
Renter Occupied/ Residential	19,661	16.4	--	19,661	18.0	2,110	18.7
Commercial, Industrial, and Agricultural	55,056	45.9	4,000	51,056	46.8	5,031	44.7
Total, Other Property	$ 74,718	62.3%	$ 4,000	$ 70,717	64.8%	$ 7,141	63.4%
All Property	$120,030	100.0%	$10,942	$109,088	100.0%	$11,258	100.0%

a. Excludes nonreimbursable exempt property (e.g., property used for welfare, educational and charitable purposes).

Property Taxes by Level of Income

Table II-9 provides the estimated distribution, by income level, of property taxes paid by homeowners in the 1976-77 fiscal year, the latest year for which such data are available. The property taxes shown in this table are net of all state property tax relief benefits currently provided homeowners. Because property taxes paid by homeowners increased significantly between 1976-77 and 1978-79, the total taxes shown in Table II-9 are not directly comparable to the total taxes on owner-occupied property as estimated in Table II-8. However, the average taxes paid at each income should not have changed substantially in this two-year period. As indicated, homeowners with incomes below $10,000 representing 19.5 percent of all homeowners, are estimated to have paid 9.8 percent of all net property taxes paid by homeowners. This relatively low percentage primarily reflects the effect of senior citizens' property tax assistance, which results in a significant reduction in taxes for qualified homeowners with incomes below $12,000.

TABLE II-9

ESTIMATED DISTRIBUTION OF PROPERTY TAXES BY INCOME
ALL CALIFORNIA HOMEOWNERS
1976-77 FISCAL YEAR

Total Family Income[a]	All Homeowners		Average Home Market Value	Average Net Property Taxes[b]	Total Property Taxes[b]	
	Number (thousands)	Percent of Total			Amount (millions)	Percent of Total
Under $10,000	756	19.5%	$30,590	$ 373	$ 281.8	9.8%
$10,000 - 15,000	776	20.0	35,560	606	470.3	16.4
15,000 - 20,000	810	20.9	39,565	700	566.5	19.7
20,000 - 25,000	612	15.8	44,255	806	493.8	17.2
25,000 - 30,000	372	9.6	49,685	930	345.8	12.0
30,000 - 40,000	314	8.1	57,740	1,114	350.0	12.2
40,000 - 50,000	107	2.8	69,700	1,386	147.7	5.1
50,000 - 75,000	84	2.2	78,700	1,591	133.8	4.6
75,000 and over	44	1.1	93,940	1,938	85.9	3.0
Total	3,875	100.0%	$42,500	$ 742	$2,875.6	100.0%

a. Represents income from all sources (including welfare grants and social security) received in the 1976 calendar year.

b. Represents net property taxes paid after (1) application of the homeowners' property tax exemption and (2) deduction of amounts disbursed under the Senior Citizens' Property Tax Assistance program.

Table II-10 provides the net taxes levied on renter-occupied dwellings in 1976-77 distributed according to the family income of the renters occupying these dwellings. The distribution in Table II-10 is based on an allocation of taxes levied on all rental property to individual renter households in proportion to the amount of rent paid. The table shows the maximum amounts of taxes that each income group could pay. The actual amounts paid by renters are unknown, but are probably less than the maximums, to the extent it is assumed taxes levied on the land itself cannot be shifted.

1978 PROPERTY TAX LEGISLATION

The Legislature has enacted two major property tax relief measures this year: Chapter 24, Statutes of 1978 (SB 1) and Chapter 1, Statutes of 1978, First Extraordinary Session (AB 7). These measures will become operative in 1978-79 only if Proposition 13 is defeated in the June primary election. (Voter approval of Proposition 8 in June is also required for SB 1 to become effective.) The major provisions of each of these bills are summarized briefly below (see Appendices 2 and 3 for our fiscal analyses of these acts).

SB 1 (Behr)--Homeowners' and Renters' Relief

SB 1 would:

1. Reduce property taxes for homeowners by 30 percent;
2. Increase the renters' refundable income tax credit from $37 to $45;
3. Expand current low-income tax assistance programs for senior citizen homeowners and renters;
4. Limit annual increases in the county contribution to Medi-Cal and SSI/SSP (adult welfare) costs; and

TABLE II-10

ESTIMATED DISTRIBUTION OF PROPERTY TAXES BY INCOME
ALL RENTER-OCCUPIED HOUSEHOLDS[a]
1976-77 FISCAL YEAR

Total Family Income[a]	All Renter-Occupied Households		Average Monthly Rent	Average Net Taxes Levied On Dwelling[b]	Total Net Taxes Levied on Dwelling[b]	
	Number (thousands)	Percent of Total			Amounts (millions)	Percent of Total
Under $ 5,000	922	26.9%	$142[b]	$ 383	$ 353.0	20.2%
$ 5,000 - 7,500	556	16.2	156	453	252.0	14.4
7,500 - 10,000	506	14.7	170	494	250.0	14.3
10,000 - 15,000	767	22.4	188	548	420.3	24.0
15,000 - 20,000	382	11.1	211	621	237.0	13.5
20,000 - 25,000	160	4.7	240	710	113.4	6.5
25,000 - 30,000	66	1.9	265	785	51.9	3.0
30,000 - 50,000	55	1.6	297	887	49.2	2.8
50,000 and over	18	0.5	415	1,253	22.8	1.3
Total	3,432	100.0%	$177	$ 510	$1,749.6	100.0%

a. Represents income from all sources (including welfare grants and social security) received in the 1976 Calendar year.
b. Represents property taxes levied on renter-occupied dwellings. These taxes are net of (1) the renter's income tax credit ($37 per renter) and (2) senior citizen renters' assistance.

5. Limit local property tax revenue growth to price increases plus new construction.

The net General Fund cost to the state of SB 1 would be about $1.4 billion in 1978-79, consisting of $1.2 billion in net homeowners' tax relief and about $200 million in renters' tax relief. To the extent that the indices on which the local revenue growth limit is based, rise less than the assessed value of taxable property (which is likely), local governments will also incur a loss in the form of foregone revenues, that is, revenues that otherwise would be collected at the prevailing tax rates.

AB 7x (Lockyer)--Business Inventory Tax Relief

AB 7x would:

1. Increase the business inventory tax exemption from 50 percent to 100 percent over five years;
2. Increase the corporation tax rate from 9 percent to 10 percent over four years;
3. Alters the method for computing the maximum 4 percent bank tax rate;
4. Subjects banks and other financial institutions to certain state and local taxes; and
5. Repeals specified sales tax exemptions.

This measure would increase state General Fund costs by about $90 million in 1978-79, and by over $500 million in 1982-83 for reimbursement of local revenue losses due to the increased business inventory exemption. Because the reimbursement provided under the formula will not completely cover actual revenue losses, local government effectively will

be required to "fund" a portion of the increased tax relief. After taking into account increased state revenues from the corporation tax rate increase, net cumulative state costs over this five-year period are estimated to be about $200 million.

III. ANALYSIS OF PROVISIONS

Proposition 13, if approved by the voters in the June 6, 1978 primary election, would make major changes to provisions of the State Constitution relating to state and local taxation.

Specifically, the proposition would:

1. Limit property taxes on all property to 1 percent of the property's full value;

2. "Roll back" assessed values of real property to their 1975-76 levels (adjusted upward, as necessary, to reflect estimated market values in 1975-76) and limit annual increases in these assessed values to 2 percent thereafter;

3. Require a two-thirds vote of both houses of the state Legislature to increase state tax revenues; and

4. Permit local governments to impose certain nonproperty taxes if approved by two-thirds of the voters in a local election. (Other provisions of the Constitution would make it necessary for the Legislature to authorize some of these taxes as well.)

The language of Proposition 13 (see Appendix 1), which is contained in six separate sections, appears simple and is relatively brief, considering the broad implications of the proposition's substantive provisions. However, largely because of this brevity and apparent simplicity, a precise interpretation of the meaning of each section and an accurate determination of its effect are not possible. Where provisions of the proposition are unclear or ambiguous, we have based

our interpretation on opinions of the Legislative Counsel as to the probable court interpretation.

GENERAL INTERPRETATIONAL RULES AND CONSIDERATIONS

Procedurally, Proposition 13 does not amend existing provisions of the State Constitution relating to taxation (most of which are contained in Article XIII), but adds entirely new language (Article XIIIA), much of it ambiguous. According to the Legislative Counsel, the ambiguity of the language makes interpretation of the proposition difficult "as it must be determined whether the old provisions will be superseded by the new, or whether the old provisions will prevail over the new in those cases where it would seem logical for a specific provision to prevail over a general one".

The Legislative Counsel advises that the courts, in interpreting the proposition in accordance with these general rules, may resort to the ballot pamphlet arguments as a means of determining the intentions of the framers of the proposition and of the electorate. However, the counsel further advises that these arguments are not considered to be controlling, and the intent of the proponents ultimately must be determined based on the language of the proposition itself.

LIMIT ON PROPERTY TAXES

> Section 1. (a) The maximum amount of any ad valorem tax on real property shall not exceed one percent (1%) of the full cash value of such property. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties. (b) The limitation

provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any indebtedness approved by the voters prior to the time this section becomes effective.

One Percent Limit

Section 1(a) limits ad valorem taxes on real property (land and buildings) to 1 percent of full value. The Legislative Counsel advises that, under existing provisions of the Constitution (Article XIII, Section 2) taxes on personal property (primarily business inventories) would also have to be limited to 1 percent of full value. The Counsel also advises that the 1 percent limit would apply both to county- and state-assessed property. Thus, taxes on all types of currently taxable property would be limited to 1 percent of full value, which is equivalent to a maximum tax rate of $4 per $100 of assessed value. This is because property is assessed at 25 percent of full value.

Proposition 13 does not permit local voters to raise the 1 percent limit; this limit could be raised only by another constitutional amendment.

Existing Tax Relief and Exemptions

The proposition would not eliminate existing state property tax relief programs (such as the homeowners' and business inventory exemptions) or other existing property tax exemptions (such as the exemption of property used for welfare, charitable and educational purposes). One consequence of this is that property taxes for homeowners and owners of business inventories would be reduced to less than 1 percent of full value under Proposition 13, because the existing exemptions would be subtracted

after the maximum taxes allowed under the 1-percent limit were determined.

Imposition and Apportionment of Limited Property Taxes

Section 1(a) states that property taxes levied under the limit would be collected by counties and apportioned "according to law" to the "districts" located within the counties. Although counties would be required to collect property taxes under the limit, the proposition would not prohibit taxing jurisdictions within the county from continuing to impose property taxes. However, as a practical matter, the imposition of the maximum rate on a county-wide basis would be administratively less complex and would permit the maximum revenues allowed under the limit to be realized.

Because there is no existing law by which property tax revenues remaining under the limit could be apportioned, the Legislative Counsel advises that the Legislature would be required to act to provide for such apportionment. We have no basis for predicting how property tax revenues might be apportioned by the Legislature. Some of the major alternatives available to the Legislature are discussed in Chapter X. In subsequent chapters of this analysis, we show what the impact of the proposition would be if revenues remaining under the limit were distributed among individual taxing jurisdictions within counties in the same proportion that existing property tax revenues are. This is done strictly for illustrative purposes; there is no legal or logical reason why the remaining revenues would have to be distributed in this manner.

Under current law, "districts" do not include cities or counties. Thus, a literal interpretation of the language in Section 1 would

preclude cities or counties from receiving any of the revenues apportioned under the 1-percent limit. The Legislative Counsel advises, however, that "districts" could be construed by the Legislature to include cities and counties for purposes of revenue apportionment.

Bonded Indebtedness

Section 1(b) of the proposition permits the 1-percent limit to be exceeded only to repay bonded indebtedness approved by the voters before July 1, 1978. The bulk of voter approved debt consists of "general obligation" bonds, which are bonds backed by the "full faith and credit" of the issuing agency. Examples of currently outstanding debt which is not voter approved (and, thus, could not be repaid with tax rates levied above the limit) are bonds secured by the revenue of a local government activity ("revenue bonds") and bonds secured by tax increment funds received by redevelopment agencies ("tax allocation bonds"). It is estimated that debt service levies which would be allowed over and above the 1-percent limit currently represent about 1/4 percent of the full value of property statewide, which is equivalent to a tax rate of $1 per $100 of assessed value.

The Legislative Counsel advises that the 1-percent limit could not be exceeded to repay any form of indebtedness (voter or nonvoter approved) incurred by local governments after July 1, 1978.

ASSESSMENT RESTRICTIONS

> Section 2. (a) The full cash value means the County Assessors 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 tax levels may be reassessed to reflect that valuation. (b) The fair market value base may reflect from year to year the inflationary rate not to exceed two percent (2%) for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction.

"Rolling Back" Real Property Assessed Values

Section 2(a) effectively requires that, for purposes of property taxation in 1978-79 and subsequent years, the assessed value of all existing real property would be based on the value of such property as shown on the 1975-76 assessment roll. (The assessed value of personal property would continue to be based on actual market value.) County assessors would be permitted to adjust the 1975-76 assessed values of real property if these values were below the estimated market value as of March 1, 1975. Although the proposition refers to the "county assessors" valuation, the Legislative Counsel advises that this "roll back" provision also would apply to state-assessed property.

Real property which was newly constructed or sold or otherwise transferred subsequent to the March 1, 1975 lien date would be assessed for tax purposes based on its market value on the date of completion or transfer. The Legislative Counsel believes that "newly constructed" property would include additions and renovations to existing property. The Counsel further advises that, where additions or renovations have

occurred subsequent to 1975, the assessed value of the property would be adjusted only to reflect the additions to market value due to the alterations. In other words, the entire parcel would not be revalued at its current market value, just the addition or renovated portion.

Limitation on Real Property Assessed Value Increases

Section 2(b) permits annual increases in the assessed value of real property, as established above under Section 2(a), only to reflect increases in the Consumer Price Index (CPI) of up to 2 percent. Because annual changes in the CPI are projected to be substantially greater than 2 percent in the foreseeable future, the practical effect of this provision would be to allow a maximum 2 percent increase in the assessed value of existing real property each year. However, because (1) the assessed value of personal property is not limited by Section 2 and (2) the assessed value of real property could be based on full market value in the case of new construction, additions and renovations, and property sold after March 1, 1975, the annual percentage increase in the assessed value of all property on the tax roll would be significantly above 2 percent.

The Legislative Counsel advises that Section 2(b) would not allow downward revaluations of individual parcels to reflect casualty losses (flood, fire, etc.), market value depreciation or rezoning.

INCREASE IN STATE TAXES

> Section 3. From and after the effective date of this article, any changes in State taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by

increased rates or changes in methods of computation 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.

Two-Thirds Majority Vote Requirement

Section 3 of the proposition requires a two-thirds vote of both houses of the Legislature in order to increase state taxes for purposes of raising additional revenues. Presently, legislation to increase any state tax requires only a simple majority vote of both houses of the Legislature, unless the legislation includes an urgency clause or makes an appropriation. (In the June 1976 primary election, the voters approved a constitutional amendment which reduced from a two-thirds to a simple majority the legislative vote requirement for increasing taxes on banks and corporations and insurance companies). The effect of this provision would be to make it somewhat more difficult to raise state taxes. However, because appropriations or urgency clauses are part of many tax measures, a two-thirds vote is often required under existing law.

Prohibition on New State Property Taxes

Section 3 also prohibits the state from imposing a new tax on the value or sale of real property. Presently, the only statewide property tax is a tax levied on private railroad cars which generates about $7 million annually in General Fund revenues. It is assumed the state would retain the authority to impose an ad valorem tax on

personal property or special assessments on real property if based on frontage or square footage.

ALTERNATIVE LOCAL TAXES

> Section 4. Cities, counties and special districts, by a two-thirds vote of the qualified electors of such district, may impose special taxes on such district, except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within such city, county or special district.

The Legislative Counsel advises that Section 4 of Proposition 13 would permit cities, counties and special districts, including <u>school districts</u>, to impose <u>new</u> "special" taxes with approval of two-thirds of <u>those voting</u> in a local election. Except for charter cities, authorization by the state Legislature also would be required before a local government could impose these taxes. Such "special" taxes could not include taxes on the value or sale of <u>real</u> property, but could include special assessments on real property if related to benefits.

(Although a literal interpretation of the language of Section 4 requires a local agency to levy special taxes on the agency itself, it is assumed that this language would be interpreted to allow such taxes to be levied on taxpayers within the taxing jurisdiction.)

<u>Special Taxes</u>

Current state law does not contain a definition of the term "special taxes". The Legislative Counsel offers the following general

conclusions on the probable court interpretation of Section 4 of Proposition 13.

1. Except for those charter cities which are not governed by general laws for tax purposes, all local government entities (including school districts) could not impose any new or additional tax without specific authorization by the state Legislature.

2. No government entity (including charter cities) could impose a new or additional tax currently preempted by the state under statutory or constitutional law unless such law were amended. An example of a current constitutional state preemption is the taxation of insurance companies. The Legislative Counsel also advises that personal income taxes and bank and corporation taxes currently are preempted by the state under statutory law.

3. A special tax would be determined by its purpose rather than by its nature. That is, a tax imposed for general purposes by a general government entity (i.e., city or county) would not be considered a special tax, and, therefore, could be imposed by a city council or county board of supervisors without voter approval, if authorized by the state Legislature or by city charter. An example would include an increase in the local sales tax for county general fund purposes.

4. Section 4 of the proposition would specifically prohibit an ad valorem tax on real property, but not a special assessment tax on real property tied to benefits. Thus, it is assumed special assessments on real property based on a measure other than value

(such as frontage or square footage) could be used to fund services which are related directly to the property (such as fire protection).

5. The Legislative Counsel advises that the prohibition against a "transaction" or "sales" tax on real property would not preclude an additional sales or use tax on tangible personal property. An extension of the existing documentary transfer tax, which is imposed on the transfer of equity in real property, probably would be prohibited.

Two-Thirds Local Vote Requirement

Section 4 of the proposition requires a two-thirds vote of all "qualified electors" to impose special taxes. Technically, as defined under current law, "qualified electors" are equivalent to "registered voters". Thus, under a literal interpretation of the language of the proposition, the imposition of a "special tax" would require the approval of two-thirds of all registered voters in a taxing jurisdiction. As a practical matter, voter turnout at local elections typically falls substantially below two-thirds of those registered. Because it is highly improbable the literal requirements could be met, the Legislative Counsel advises that it is likely that the courts would permit "special" taxes to be imposed by a two-thirds approval of those voting in a local election.

EFFECTIVE DATE

> Section 5. This article shall take effect for the tax year beginning on July 1, following the passage of this Amendment, except Section 3 which shall become effective upon the passage of this article.

If approved by the voters in the June 6, 1978 primary election, Legislative Counsel advises that the provisions of Proposition 13 would take effect with respect to property taxes imposed for the 1978-79 fiscal year. Section 3, the two-thirds legislative vote requirement for increasing state taxes, would take effect immediately upon passage.

SEVERABILITY CLAUSE

> Section 6. If any section, part, clause, or phrase hereof is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected but will remain in full force and effect.

Section 6 is intended to prevent the invalidation of all of the provisions of Proposition 13 if any individual provisions are held to be unconstitutional.

IV. DIRECT STATE AND LOCAL FISCAL EFFECTS

The passage of Proposition 13 would have certain direct effects on state and local costs and revenues in the absence of any subsequent changes to existing state laws. Our estimates of these direct fiscal effects are summarized and discussed below. It is important to emphasize that these estimates do not take into account possible action by the Legislature subsequent to passage of the initiative. Such action might include the replacement of local revenue losses, the assumption of full or partial funding responsibility for local programs, the relaxation of state mandates and/or the authorization of alternative local revenues. Also not reflected in these figures are the long-term secondary economic effects of this measure.

In subsequent chapters of this analysis, we will discuss and attempt to illustrate the fiscal effects, tax burden shifts and economic consequences that might result from alternative legislative responses to Proposition 13.

SUMMARY OF DIRECT FISCAL EFFECTS

Table IV-1 provides estimates of the direct fiscal impact of Proposition 13 in 1978-79 and 1979-80, the first and second years in which it would be operative. We have provided estimates for two years in order to take account of delayed effects and as a means of indicating the general growth pattern of projected state savings and local losses.

TABLE IV-1

SUMMARY OF DIRECT
STATE AND LOCAL FISCAL EFFECT
(in millions)

State	Savings/(Losses) 1978-79	1979-80
State Tax Relief Subventions:		
Homeowners' exemption	$ 398	$ 407
Business inventory exemption	245	271
Total State Subventions	$ 643	$ 678
Senior Citizen Homeowners' Assistance	$ --	$ 58
Medi-Cal, Welfare Costs	(65)	(92)
School Apportionment Aid and Recapture Revenues	--Potential Net Loss--	
State Tax Revenue Interaction	--Unknown Net Effect--	
Net State Savings	$ 578	$ 644
Local		
Property Tax Revenues:		
Taxpayer levies	($6,401)	($7,240)
State tax relief subventions	(643)	(678)
Total Property Tax Revenues	($7,044)	($7,918)
Medi-Cal, Welfare Costs	$ 65	$ 92
School Apportionment Aid	--Potential Net Savings--	
Net Local Losses	($6,979)	($7,826)

EXHIBIT G

SENATE RULES COMMITTEE AB 583

Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 445-6614 Fax: (916) 327-4478

THIRD READING

Bill No: AB 583
Author: Sher (D)
Amended: 8/23/96 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 7/2/96
AYES: Haynes, Lockyer, O'Connell, Petris, Sher, Solis, Wright, Leslie, Calderon

ASSEMBLY FLOOR: 79-0, 1/31/96

SUBJECT: Uniform Partnership Act

SOURCE: National Conference of Commissioners on Uniform State Laws

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DIGEST: This bill repeals the Uniform Partnership Act and replaces it with the Revised Uniform Partnership Act.

Senate Floor Amendments of 8/23/96 made technical changes.

Senate Floor Amendments of 8/22/96 allow for choice on the part of the LLP to be governed by the law prior to adoption of this bill, as specified.

ANALYSIS: Under existing law, partnerships are governed by the Uniform Partnership Act.

This bill would enact the Uniform Partnership Act of 1994, as specified, that would apply to partnerships formed on or after January 1, 1997.

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This bill would provide that partnerships formed before January 1, 1997, are governed by the Uniform Partnership Act until January 1, 1999, except as specified. This bill would make certain conforming changes.

The bill makes additions and changes to Articles 1 through 6, and Article 8 of the current Uniform Partnership Act and adds Article 7, 9 and 9.5. The articles are as follows:

Article 1	General Provisions
Article 2	Nature of Partnership
Article 3	Relations of Partners to Persons Dealing with Partnership
Article 4	Relations of Partners to Each Other and to Partnership
Article 5	Transferees and Creditors of Partner
Article 6	Partner's Dissociation
Article 7	Partner's Dissociation When Business Not Wound Up
Article 8	Winding Up Partnership Business
Article 9	Conversions and Mergers
Article 9.5	Limited Liability Partnerships

The articles which contain the most significant changes and additions are Article 2, Nature of Partnership; Article 4, Relations of Partners to Each Other and to Partnership and Articles 6-9., dealing with dissociation and winding up the partnership business.

The bill also incorporates the following:

1. The limited liability partnership provisions ("LLP") added to California's Uniform Partnership Act in 1995. Since RUPA will become the new governing law of general partnerships, it was essential to add LLP provisions to conform with current California law.

   This bill also incorporates the provisions of SB 1318, which is a technical cleanup of last year's SB 513 (Calderon), authorizing limited liability partnerships for the accounting and legal professions.

2. Conforms the bill's interspecies merger provisions to those contained in California's Revised Limited Partnership Act and Limited Liability Company Act.

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3. Conforms the partnership conversion provisions of the bill to track the proposed revised interspecies merger provisions of RUPA. Specifically, conversions between a partnership and a limited partnership; partnerships and a limited liability company or a foreign business entity, but not a foreign or domestic corporation are permitted. Given that far more LLC's are being formed than limited partnerships, LLCs appear to be the entity of choice in most cases, and conversion provisions reflect this reality.

4. Conforms certain probate related provisions to those of California's Uniform Partnership Act. Current California law provides that the provisions of the UPA override the provisions of the Probate Code with respect to the rights and duties of surviving partners, the legal representatives of deceased partners, their creditors, and the creditors of the partnership. These provisions continue this rule.

5. The bill would allow a registered limited liability partnership or a partnership converting to a registered LLP to choose to be governed by the law in effect prior to the adoption of the bill. This "choice" will only remain in effect until January 1, 1998. After that date, the registered LLP shall be governed by the law as specified in Section 16111.

6. The amendments also allow the Board of Equalization to continue the current tax collection practices on partners and partnerships.

The existing, comprehensive law governing business partnerships in California is based on the Uniform Partnership Act (UPA) drafted in 1914. The UPA's most recent iteration in California was enacted by the Legislature in 1949. The Uniform Partnership Act has remained unchanged since its inception in 1914. AB 583 proposes the adoption of the Revised Uniform Partnership Act (RUPA) adopted by the National Conference of Commissioners of Uniform State Laws in 1993.

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Partnership law forms an essential constituent to the conduct of business. Unless persons associated to do business together establish a formal entity like a corporation or limited partnership, the association is deemed to be a partnership, and all of their business relations with one another, with other businesses, and with the public, are governed by the law of partnerships.

The author initially introduced the RUPA in 1994 as AB 2612. Because of unresolved controversies among the participants, including the Business Law

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Section of the State Bar, legal scholars, the Department of Corporations, the Secretary of State and the Consumer Attorneys of California, the bill was put over for interim study and discussion. AB 583 includes modifications that resolve all of the controversies.

To date, RUPA has been adopted in roughly 12 states. The known states are as follows: Connecticut, Florida, Missouri, North Dakota, West Virginia, Texas, Montana, and Wyoming.

If enacted, the RUPA will govern all general partnerships formed after its effective date and, after a transition period, will also replace the current UPA with respect to existing partnerships.

Nature of the Partnership

The first essential change in UPA concerns the nature of the partnership. There is age long conflict in partnership law over the nature of the organization. Should a partnership be considered merely an aggregation of individuals or should it be regarded as an entity by itself.

The aggregate theory approaches the partnership as a conglomerate of individuals and a mechanism through which the partners conduct business. This theory views each partner as having an undivided share of partnership assets.

The entity approach treats the partnership as a separate legal entity that is completely removed from the individuals partners of the partnership. Under this theory, each of the partners has separate legal interests and the ownership of the partnership assets is in the entity.

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Under current California Partnership law, a partnership is defined as: "an association of two or more persons to carry on as co-owners as business for profit." (Section 15006(1)) AB 583 defines a partnership as: "an entity distinct from its partners." (Section 16301) In other words, AB 583 treats the partnership as an entity.

The significance of the entity approach is apparent throughout the bill. For example, in Section 16201, there is no longer the need to convey title from the old partnership to the new partnership every time there is change in partners. Another example is that property acquired by a partnership

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becomes property of the partnership as an entity and not of the partners individually. (Section 16203) This prevents a partner from forcing an in kind distribution of the property upon leaving the partnership but rather can only be paid the value of his partnership interest.

Fiduciary Duty

This section, which is perhaps the most controversial, provides significant changes and additions to the statutory formulation. Due to the sparse statutory law governing fiduciary duties in UPA, the intricacies of fiduciary duty has mainly derived from common law. In comparing and contrasting common law with RUPA, it is difficult to say with certainty if RUPA will have any significant impact on existing law.

The members of the RUPA Subcommittee reviewed a number of California cases which have dealt with the fiduciary duty of partners. Their goal was to determine whether any of the California cases dealing with fiduciary duty of partners would have been decided differently if Article 4 of RUPA had been applied. The subcommittee concluded that none of the California cases would have been decided differently; therefore the new fiduciary duty section makes no substantive change from prior law.

Section 16404 establishes a comprehensive, but not exhaustive, definition of partnership fiduciary duties. A partner owes at least two duties to other partners and the partnership: a duty of loyalty and a duty of care. In addition, an obligation of good faith and fair dealing is imposed on partners.

Section 16404(b) outlines a partner's duty of loyalty. First, subsection (b)(1) is derived from existing law and provides that a partner has a duty not to appropriate benefits without the consent of other partners. An express reference to the appropriation of a partnership opportunity is new. However, common law has long held that a partner may not usurp a partnership opportunity. See, e.g., Ferry v. McNeil (1963) 214 Cal. App. 2d 411; Fraser v. Boguki (1988) 203 Cal. App.3d 604. The difficulty has been and will continue to be determining what constitutes a partnership opportunity.

Section 15021 imposes the duty on partners to account for profits and benefits in all transactions connected with "the formation, conduct or liquidation of the partnership." RUPA comments provide that "formation"

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has been deleted in order to alleviate any concern that the duty of loyalty could be inappropriately extended to pre-formation of a partnership.

New subsection (b)(2) provides that a partner must refrain from dealing with the partnership as or on behalf of a party having an interest adverse to the partnership. This is frequently referred to as "self-dealing." Common law has recognized the duty of a partner to refrain from "self-dealing." See, e.g., Cagnolatti v. Guinn (1983) 140 Cal. App.3d 42; Prince v. Harting (1960) 177 Cal. App.2d 720.

New subsection (b)(3) provides that a partner must refrain from competing with the partnership in the conduct of its business. Common law recognizes a partner's duty not to compete. See, e.g., Olivet v. Frischling (1980) 104 Cal. App. 3d 831; Leff v. Gunter (1983) 33 Cal.3d 508. The duty to compete only applies to the "conduct of the business" and not to the "winding up." Thus, a partner is free to compete either after dissociation or upon dissolution. A California court has held that a partner's duty not to compete survives his withdrawal from the partnership, unless the parties agree otherwise. Leff v. Gunter (supra) 33 Cal. 3d 508.

Section 16404 (c) is new and establishes a duty of care that partners owe to other partners and to the partnership. A partner's duty of care is limited to refraining from engaging in "grossly negligent or reckless conduct, intentional misconduct, or knowing violation of law." California courts do not recognize a duty of care, but the duty has been established by other state courts. See, e.g., Rosenthal v. Rosenthal, (Me. 1988) 543 A.2d 348.

Section 16404 (d) is also new and provides that partners have an obligation of good faith and fair dealing in the discharge of all their duties. The meaning of "good faith and fair dealing" is not firmly fixed under present law. RUPA comments indicate that "good faith" clearly suggests a subjective element, while "fair dealing" implies an objective component. Some commentators believe that good faith is more properly understood by what it excludes than by what it includes. See Robert S. Summers, "Good Faith" in General Contract Law and the Sales Provisions of the Uniform Commercial Code, 54 Va. L. Rev. 195, 262 (1968):

Good faith, as judges generally use the term in matters contractual, is best understood as an "excluder" - a phrase with no general meaning or meanings of its own. Instead, it functions to rule out many different forms of bad faith.

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It is hard to get this point across to persons used to thinking that every word must have one or more general meanings of its own -- must be either univocal or ambiguous.

Good faith nor fair dealing is defined in any part of AB 583. RUPA comments indicate the terms were intentionally not defined in order to allow the courts to develop their own meaning through case law.

Perhaps one of the most significant issues is the nonwaivability of fiduciary duties. Section 16103(b)(3)-(5) provide that the partners may not eliminate the duty of loyalty nor obligation of good faith, and may not "unreasonably reduce" the duty of care.

These provisions appear to deny partners the contractual freedom to define their relationship as they wish. Common law has already recognized a court's willingness to intrude on a parties contractual freedom by finding a breach of a fiduciary duty despite a waiver in the partnership agreement.

Dissolution

The UPA provides that any partner dissociation causes dissolution. This aggregate view of the partnership significantly interferes with continuity of the firm. RUPA Articles 6, 7 and 8 appear to change this by clearly separating partner dissociation and dissolution. Article 6 identifies events that cause partner dissociation; Article 7 deals with buyout of a dissociated partner by a continuing firm; and Article 8 deals with dissolution.

A partnership dissolves under current law upon the happening of specific events, either the end of the prescribed term of the partnership, as agreed by the partners, or when the partner dissociates, rightfully or wrongfully, from the partnership. At dissolution, the business of the partnership has to be wound up and fruits of the enterprise distributed to the partners after the creditors are paid.

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Automatic dissolution of the partnership after dissociation of a partner does not take place under RUPA. In a partnership for a term or for a particular purpose, dissolution and winding up are required unless a majority in interest of the remaining partners agree to continue the partnership within 90 days after a partner's triggering dissociation before the expected expiration of the term of the partnership. Again, a dissociation that triggers a buy out of the

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dissociating partner's interest does not imperil the partnership with dissolution.

This "continuation rule" even extends to at-will partnerships by providing that an at-will partnership will not dissolve unless at least half of the partners decide to do so. The withdrawal of a single partner, by itself, would no longer constitute an event of dissolution, and instead would trigger the buyout provisions of Article 7.

Joint and Several Liability

The bill provides that a partnership may sue and be sued in the partnership. This entity approach allows a partnership to be treated separate and distinct from the individual partners. Although this provision is new to the Corporation Code, it is not new to California law. Civil Procedure Code §369.5(a) already allows a partnership to sue or be sued in the partnership name. The bill also indicates that it is not necessary to name the partners individually in addition to naming the partnership.

In addition, the bill provides that a judgment against the partnership is not, by itself, a judgment against a partner. Thus, a partner must be individually named in the suit and a judgment entered against the partner in order for his personal assets to be the subject of a levy against the partnership. (Note: this an another example of the entity approached integrated into the UPA).

Under Section 16306(a), partners are jointly and severally liable for all partnership obligations and not only for tort-type liabilities as under Section 15015. Generally, joint and several liability permits a creditor to proceed immediately against any of the joint and several judgment debtors. However, an "exhaustion requirement" is imposed on creditors to first exhaust the partnership assets before levying against a partner to satisfy a judgment based on a claim against the partnership.

Exhaustion is not required if: (1) the partnership is in Chapter 11 bankruptcy; (2) the claimant and the partner have agreed otherwise; (3) the court finds the partnership assets in the state are insufficient, exhaustion is excessively burdensome, or the grant of permission is an appropriate exercise of the court's equitable powers; and (4) liability is imposed on the partner by law or contract independent of the existence of the partnership. For example, a judgment creditor may proceed directly against the assets of a partner who is

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among partners, partnerships and third parties. Most of these rules, however, can be varied by express agreement of the parties. Thus, RUPA will have its greatest impact on partnerships that do not have detailed written partnership agreements and that must rely on the default rules, much effort was devoted to determining what the likely expectations of the parties would be in a given situation. In most cases, RUPA was drafted to accord with the public policy of meeting those expectations.

The bill also clarifies and defines many rights and liabilities that are addressed ambiguously by the current UPA. Thus, the law will have greater predictability and parties will be able to engage in business transactions in California with greater certainty.

Finally, as a new uniform act promulgated by NCCUSL, RUPA is likely to be enacted in most, if not all, states. Its enactment in California, therefore, will promote greater uniformity and understanding of the law.

RJG:lm 7/10/96 Senate Floor Analyses
SUPPORT/OPPOSITION: SEE ABOVE
**** END ****

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CERTIFICATE OF SERVICE
PROOF OF SERVICE

I, Carol J. Aranda, declare as follows:

I am employed in the County of San Francisco, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 555 Mission Street, Suite 3000, San Francisco, California 94105, in said County and State. On March 25, 2015, I served the within:

MOTION FOR JUDICIAL NOTICE

to each of the persons named below at the address(es) shown, in the manner described.

SEE ATTACHED SERVICE LIST

☑ **BY MAIL**: I placed a true copy in a sealed envelope addressed as indicated on the attached service list for collection and mailing at my business location, on the date mentioned above, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service in a sealed envelope with postage fully prepaid. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit for mailing contained in the proof of service.

I certify under penalty of perjury that the foregoing is true and correct, that the foregoing document(s), and all copies made from same, were printed on recycled paper, and that this certificate was executed on March 25, 2015 at San Francisco, California.

Carol Aranda

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