



PROPERTY TAX PORTABILITY

July 2020

SDCTA Position:

OPPOSE

Rationale for Position:

Concerns about transfers to children, that children should not get the benefit of not paying taxes when inheriting property from the parent. Other key concerns are the lockbox funding for fire, when there are many other funding needs.

Title: California Proposition 19, Property Tax Transfers, Exemptions, and Revenue for Wildfire Agencies and Counties Amendment (2020)

Type: Legislatively Referred Constitutional Amendment (LRCA)

Vote: Supermajority in State Assembly and Senate, majority in popular vote.

Status: On November ballot

Issue: Changes to rules governing tax assessment transfers and inheritance.

Description: Would allow eligible homeowners to transfer their tax assessments anywhere within the state and allow tax assessments to be transferred to a more expensive home with an upward adjustment, increase the number of times that persons over 55 years old or with severe disabilities can transfer their tax assessments from one to three, require that inherited homes that are not used as principal residences, such as second homes or rentals, be reassessed at market value when transferred, and allocate additional revenue or net savings resulting from the ballot measure to wildfire agencies and counties.

Fiscal Impact: Changes to property tax exemptions for inherited property would increase property tax revenue for local governments by tens of millions of dollars annually. Property tax benefits for eligible homeowners would decrease property tax revenue by tens of millions of dollars annually. Property tax administration costs would increase by tens of millions of dollars annually. Projected net benefit to local governments by tens of millions of dollars each year in the short term, expanding to a few hundred million dollars in the long term.

Background

Under current California law, eligible homeowners (people over the age of 55, with severe disabilities, or disaster/contamination victims under limited circumstances) can transfer their current tax assessments to a different home of the same or lesser market value. This allows them to move without an increase in property taxes so long as the replacement dwelling is in the same county or is in another county that allows base year value transfers.¹ In addition, current California law allows parents or grandparents to

¹ [Bill Text - ACA-11 The Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act](#), "The California Constitution authorizes the Legislature to authorize a person over 55 years of age or any severely and permanently disabled person residing in property eligible for the homeowner's exemption to transfer the base year value of that property to a replacement dwelling of equal or lesser value located in the same county, or another county that has adopted an ordinance allowing base years value transfers from other counties, as provided."



transfer their primary residential properties to their dependents (children or grandchildren) without that property’s tax assessment reverting to market value. The first \$1 million of other real property is also exempt from reassessment if transferred.²

Current California Law	Proposed Changes
Eligible homeowners can transfer their tax assessments within counties to homes of equal or lesser value	Eligible homeowners can transfer their tax assessments anywhere in the state to homes of greater value .
Tax assessments on inherited homes, including those not used as primary residences , can be transferred from parent to child or grandparent to child.	Tax assessments on inherited homes can be transferred from parent to child or parent to grandchild, but only if the child uses the inherited residence as their primary residence .
Tax assessments may only be transferred once .	Tax assessments for persons over 55 or persons suffering severe disabilities may be transferred three times.

Any tax revenues or net savings from the ballot measure would be allocated to wildfire agencies and counties.

History of the Issue

California Proposition 13 “froze” the general tax levy at 1% of assessed property value. Property tax value is determined when a property is purchased, constructed, or changes ownership. Under Proposition 13, property owners could maintain the property tax assessment at the time of purchase and transfer that value to their children or grandchildren.

The California Constitution was amended in 1986 by Proposition 60, which allowed people over the age of 55 to sell their home and keep their base year value to a different home of equal or lesser value, if they moved within the same county. Proposition 90, passed in 1988, allowed individuals to transfer property tax in different counties as long as the counties had a Proposition 90 ordinance.³ Proposition 50 allowed for property tax transfers for both residential and commercial property owners affected by disasters within a county, and Proposition 110 allowed for disability related tax transfers for residential property owners.

² [Bill Text - ACA-11 The Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act](#). “The California Constitution ... provides that the purchase or transfer of the principal residence, and the first \$1,000,000 of other real property, of a transferor in the case of a transfer between parents and their children, or between grandparents and their grandchildren ... is not a “purchase” or “change in ownership” for purposes of determining the “full cash value” of property for taxation.”

³ Shiner, Meghan, and John Knobel. “Proposition 5: PROPERTY TAX TRANSFER Initiative Constitutional Amendment and Statute .” University of the Pacific. McGeorge School of Law, 2018. <https://www.mcgeorge.edu/documents/Publications/prop5Nov2018.pdf>.



Additional constitutional amendments allowed for inter-county contamination related transfers and intra-county disaster related transfers through Proposition 171 and Proposition 1, respectively.

In 2018, the California Association of Realtors attempted to create a property tax break for seniors through California Proposition 5. The measure would allow property tax base transfers for seniors, disabled homeowners or disaster affected property owners. The measure failed to pass after the Legislative Analyst's Office fiscal assessment determined local governments and schools would lose \$2 billion annually in lost property tax revenue.⁴

For the 2020 election cycle, the California Association of Realtors attempted several strategies to ensure the passage of the property tax reform. The Association pursued a parallel track to get property tax reform on the ballot, qualifying a citizen-initiated ballot measure while also pursuing a legislatively referred ballot measure, both of which contained the same core tax reform language.

For the legislative track, the CAR began negotiations with the California State Assembly for the passage of Assembly Constitutional Amendment 11, or "The Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act". Ordinarily, the Legislature and the CAR would have renegotiated a bipartisan wording for the ballot initiative to be placed on the ballot in November, but the COVID-19 pandemic caused substantial delays in a final wording being reached for the legislatively referred ballot initiative. Therefore, the Legislature and the CAR had not yet agreed on a final ballot language for November by the time the filing deadline of June 25th was reached.

At the same time, the CAR qualified Initiative No. 19-0003/1864, the Property Tax Transfers and Exemptions Initiative (2020) by securing at least 1.5 million signatures from registered voters. Qualifying this initiative allowed the CAR's core tax reform efforts to go before voters in November, even if the legislatively referred ACA 11 failed to make the June 25, 2020 deadline to do so.

The Legislature's version of the property tax reform differed from the reform pushed by the ACA in a few key ways, including expanding the property tax incentive to wildfire victims, and devoting some funds to firefighting efforts.

The situation as it currently stands is that the version of the initiative written by the Legislature, California Proposition 19, Property Tax Transfers, Exemptions, and Revenue for Wildfire Agencies and Counties Amendment (2020), is on the ballot for November, and that the version written by the CAR, the California Property Tax Transfers and Exemptions Initiative (2020), is not, having been removed by Secretary of State Padilla on July 1st, pending a legal challenge by Assembly Speaker Rendon.

⁴"California Proposition 5: Portable Real Estate Tax Break." CALmatters 2018 Election Guide. Accessed July 6, 2020. https://elections.calmatters.org/2018/california-ballot-measures/proposition-5-portable-real-estate-tax-break/?_ga=2.217650070.1255963148.1593802308-1809558843.1593802308.



Governance Impact

The ballot measure would amend Article XIIA of the California Constitution to include section 2.1, 2.2 and 2.3, which would alter laws governing tax assessment transfers, inherited properties, and establish state funds to mitigate changes in revenue.

Fiscal Impact

The measure will eliminate the parent-to-child and grandparent-to grandchild-property tax exemption if the property owner does not use the property as their primary residence. If the inherited property is used as the primary residence and has a market value over \$1 million, an upward adjustment in assessed value would occur.

As of February 16, 2023, the taxable value of an inherited property would be adjusted annually at the rate of change in the California House Price Index.⁵

The Legislative Analyst's Office completed a fiscal impact assessment of the previously removed California Property Tax Transfers and Exemptions Initiative (2020), A.G. File No. 19-0003. Although removed from the ballot, the analysis explains the fiscal impact of key changes present in Proposition 19 - removal of inherited property tax exemptions, legal entity ownership change rules and tax transfer benefits to eligible homeowners.⁶

As an estimated 60,000 to 80,000 inherited properties are excluded from property tax reassessment annually, the adjustment to inherited property tax exclusion would increase local government revenue by an estimated \$100 million per year in the short term. In the long term, this would increase to approximately \$1 billion per year.⁷

The tax break for seniors, disabled, disaster or contamination affected property owners will decrease property tax revenue for local governments by tens of millions of dollars annually in the short term, increasing to hundreds of millions of dollars annually in the long term. Additionally, county administration costs would increase by tens of millions of dollars per year.⁸

The LAO projects local governments will receive a net gain of approximately tens of millions of dollars annually in the short term, expanding to a few hundred million dollars per year in the long term.⁹

Revenue from the ballot measure would create the California Fire Response Fund (CRFR) for fire suppression personnel and County Revenue Protection Fund (CRPF) to reimburse counties for revenue

⁵ "California Proposition 19, Property Tax Transfers, Exemptions, and Revenue for Wildfire Agencies and Counties Amendment (2020)." Ballotpedia. Accessed July 6, 2020.
[https://ballotpedia.org/California_Proposition_19_Property_Tax_Transfers_Exemptions_and_Revenue_for_Wildfire_Agencies_and_Counties_Amendment_\(2020\)](https://ballotpedia.org/California_Proposition_19_Property_Tax_Transfers_Exemptions_and_Revenue_for_Wildfire_Agencies_and_Counties_Amendment_(2020))

⁶ "A.G. File No. 2019-003." Property tax assessment. [Ballot]. Legislative Analyst's Office, August 22, 2019.
<https://lao.ca.gov/BallotAnalysis/Initiative/2019-003>

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.



loss due to changes in property tax. Funds would be administered by the California State Controller. 75% of calculated revenue would go towards CFRF and 15% towards CRP. The Assembly Floor Analysis projects the measure would contribute tens of millions of dollars annually.¹⁰

Proponents

Arguments in support:

“ACA 11 is a compromise measure to replace a measure qualified for the November ballot, ensuring that funding for fire protection and local government revenues are protected, and allowing for flexibility and reform in California's property tax formulas, while leaving the protections of Proposition 13 intact. This measure contains several provisions intended to increase the stock of available housing and provide protections to vulnerable Californians in the housing market, while creating protected funding for underfunded fire districts throughout the state and ensuring that counties and local governments receive equal and equitable funding through the provisions.”¹¹

The measure was proposed by Democrat Assemblymember Kevin Mullin, sponsored by the California Association of Realtors (CAR).

Proponents of the removed California Property Tax Transfers and Exemptions Initiative included Homeownership for Families and Tax Savings for Seniors. Proponents for the current Proposition 19 include the California Professional Firefighters Union and the California Association of Realtors.¹²

Opponents

Arguments in opposition:

“ACA 11, if approved by the voters on the November 2020 ballot, would limit the ability of parents to transfer their Proposition 13 tax base to their children unless the child decides to live in the home as their primary residence. The measure also eliminates a \$1 million property tax exemption for parent to child transfers beyond the primary residence, which could include investment property or commercial buildings. Either of these situations could result in a potentially significant property tax increase of California property owners.”¹³

¹⁰ Bill Analysis. Accessed July 6, 2020.

http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200ACA11.

¹¹ Revenue and Taxation, CONCURRENCE IN SENATE AMENDMENTS ACA 11 (Mullin, et al.) As Amended June 20, 2020, A. 2020-11, at 5 (Cal. June 20, 2020). Accessed July 6, 2020.

http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200ACA11#

¹²Ibid.

¹³ Revenue and Taxation, CONCURRENCE IN SENATE AMENDMENTS ACA 11 (Mullin, et al.) As Amended June 20, 2020, A. 2020-11, at 5 (Cal. June 20, 2020). Accessed July 6, 2020.

http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200ACA11#.



Opponents of the previous California Property Tax Transfers and Exemptions Initiative (2020) include Protect Prop 13.

References

“A.G. File No. 2019-003.” Property tax assessment. [Ballot]. Legislative Analyst's Office, August 22, 2019. <https://lao.ca.gov/BallotAnalysis/Initiative/2019-003>.

Bill Analysis. Accessed July 6, 2020.

http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200ACA11.

“Bill Text.” Bill Text - ACA-11 The Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act. Accessed July 6, 2020.

http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200ACA11.

Creel, Alexander. Initiative No. 19-0003/1864 WITHDRAWAL (Conditional) § (2020).

<https://files.constantcontact.com/c1d64240601/961308f1-a0a3-4b81-9dff-ccc5b6f80baa.pdf>.

“California Property Tax Transfers and Exemptions Initiative (2020).” Ballotpedia. Accessed July 6, 2020.

[https://ballotpedia.org/California_Property_Tax_Transfers_and_Exemptions_Initiative_\(2020\)](https://ballotpedia.org/California_Property_Tax_Transfers_and_Exemptions_Initiative_(2020)).

California Proposition 5: Portable Real Estate Tax Break.” CALmatters 2018 Election Guide. Accessed July 6, 2020. https://elections.calmatters.org/2018/california-ballot-measures/proposition-5-portable-real-estate-tax-break/?_ga=2.217650070.1255963148.1593802308-1809558843.1593802308.

“California Proposition 19, Property Tax Transfers, Exemptions, and Revenue for Wildfire Agencies and Counties Amendment (2020).” Ballotpedia. Accessed July 6, 2020.

[https://ballotpedia.org/California_Proposition_19_Property_Tax_Transfers_Exemptions_and_Revenue_for_Wildfire_Agencies_and_Counties_Amendment_\(2020\)](https://ballotpedia.org/California_Proposition_19_Property_Tax_Transfers_Exemptions_and_Revenue_for_Wildfire_Agencies_and_Counties_Amendment_(2020)).

Meyers, John. “Essential Politics: One Policy, Two Ballot Measures?” Los Angeles Times. Los Angeles Times, June 29, 2020. <https://www.latimes.com/politics/newsletter/2020-06-29/will-california-voters-see-two-ballot-measures-doing-the-same-thing-politics-newsletter-essential-politics>.

Reyes, Steve. “Re: Initiative No. 19-0003/1864,” Re: Initiative No. 19-0003/1864 § (2020),

<https://files.constantcontact.com/c1d64240601/79c580d3-b5fe-4d61-b668-15628ae067fd.pdf>.



Revenue and Taxation, CONCURRENCE IN SENATE AMENDMENTS ACA 11 (Mullin, et al.) As Amended June 20, 2020, A. 2020-11, at 5 (Cal. June 20, 2020). Accessed July 6, 2020.

http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200ACA11#

.Shiner, Meghan, and John Knobel. "Proposition 5: PROPERTY TAX TRANSFER Initiative Constitutional Amendment and Statute ." University of the Pacific. McGeorge School of Law, 2018. <https://www.mcgeorge.edu/documents/Publications/prop5Nov2018.pdf>.

CONFIDENTIAL DRAFT