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Report of the Task Force on Property Tax Administration

Assembly Committee on Revenue and Taxation

Report of the

TASK FORCE ON PROPERTY TAX ADMINISTRATION

PRESENTED

TO THE

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION

WILLIE L. BROWN, JR.

CHAIRMAN

January 22, 1979

Assembly
California Legislature

REVENUE AND TAXATION COMMITTEE

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WILLIE L. BROWN JR.
CHAIRMAN

January 22, 1979

TO: Hon. Willie L. Brown, Jr., Chairperson and
Members, Assembly Committee on Revenue and Taxation

Transmitted herewith is the final report of the Task Force on the Administration of the Property Tax. This report represents several months of intensive study and discussion by members of the Task Force.

In working on this project, the members of the Task Force put in many long hours above and beyond the call of duty and deserve the thanks of all Californians.

Sincerely,

David R Doerr

DAVID R. DOERR

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PREFACE

At the close of the 1978 legislative session, Assemblyman Willie L. Brown, Jr., Chairman of the Committee on Revenue and Taxation, directed that a task force be formed to study existing property tax statutes in light of Proposition 13, and to make recommendations to the Committee in January 1979, as to appropriate law changes. Special attention was to be given to the issues of 1975 base values, changes in ownership, new construction, and declines in value under Proposition 8.

Under the direction of the Revenue and Taxation Committee staff, a group of knowledgeable individuals from a wide variety of interests and organizations was assembled to carry out this charge. The Task Force met every 10 to 14 days for 3½ months to assemble the findings and recommendations which culminated in this final report, which the Task Force is pleased to transmit to the Revenue and Taxation Committee. Appendix I of this report lists the names of the Task Force members and alternates. In addition, the Task Force permitted guests to participate freely in its deliberations; a list of these participants is included in Appendix I.

Interests represented on the Task Force included:

- county assessors
- county tax counsels
- private tax attorneys
- Board of Equalization staff
- legislative staff
- administration staff
- representatives of bankers, land title companies, retailers, and taxpayer associations

The Task Force endeavored to reach consensus recommendations in each area of concern. These recommendations are summarized on pages 4-9. The body of the report details appropriate background and the rationale for each recommendation, followed by suggested language adopted by the Task Force. These recommendations are deeply interrelated, and a change made in one recommendation might well require compensating changes to be made in several <u>other</u> recommendations.

It should not be inferred, however, that each Task Force member listed in this report supports <u>each</u> recommendation. There have been vigorous disagreements on issues. However, each recommendation represents the view of the majority of the Task Force on that issue. Additional comments or minority viewpoints by Task Force members are included herein. It must also be emphasized that the views and work product of the Task Force members are their's as individuals.

The Task Force was chaired by David R. Doerr, Chief Consultant to the committee. Production of the Task Force Report and working documents, and supervision of statutory drafting, was done by Robert C. Leland, Consultant.

The committee staff is deeply grateful for the long hours and devotion of all the Task Force members. Special thanks for extraordinary contributions to the drafting of statutes and text for this report go to Task Force members Robert Morris, Margaret Shedd, Joe Kase and Ralph Simoni.

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INTRODUCTION

Prior to the passage of Proposition 13, taxable property was assessed at 25% of "full value" which, for most property, meant the property's current value in the open market as of the lien date (March 1). If all appraisals of market value could be kept up to date, property owners' tax burdens would accurately guage one owner's degree of property wealth relative to that of other owners, i.e., for a given tax rate, the owner of a $80,000 house would pay twice as much as the owner of a $40,000 house.

However, appraisals frequently lagged behind actual market values, due both to lack of adequate resources at the disposal of the assessor, and, especially beginning around 1974 and 1975, a rapidly escalating real estate market that left newly-established values behind true market values almost as soon as the assessor could update the assessment roll. This permitted inequities among taxpayers, and, at such time as the assessor's cyclical reappraisal was finally made, the taxpayer affected experienced a tremendous increase in "catch-up" assessment.

Effective with the 1978-79 tax year, Proposition 13 has changed the rules of the game by newly-defining "full cash value". (See Appendix II for text of original Proposition 13, and the ballot pamphlet analysis and proponent/opponent statements.) This term now appears to mean the market value of property as of March 1, 1975, unless the property changed ownership or was newly-constructed subsequent to that date, in which case market value is determined as of the date of that ownership change or new construction. This initial or revised "base value" may be increased annually by no more than a 2% inflation adjustment, barring future new construction or changes in ownership, which would result in a new "base value".

The meanings of the terms used in Proposition 13 were not clearly defined in that measure. The State Board of Equalization has adopted Rules 460-471 (See Appendix III) to assist county assessors in valuing properties. The Legislature has enacted SB 154, SB 2212, SB 1571 and SB 2241, provisions of which serve to implement, for fiscal year 1978-79 only, the new assessment standards imposed by Proposition 13. (For text of these provisions, see Appendix IV. For further detail on these changes, see Summary of Legislation Implementing Proposition 13: Fiscal Year 1978-79 (October 2, 1978) by the Assembly Revenue and Taxation Committee; Assembly Publication #703).

On September 22, 1978, the California Supreme Court issued an opinion in the case of Amador Valley Joint Union High School District v. State Board of Equalization (22 Cal 3d 208), herein after cited as Amador Valley, that upheld the constitutionality of Proposition 13 on several grounds (See Appendix V for summary, headnotes and text of the decision).

Neither the Board nor the Legislature has yet been able to respond formally to the passage of Proposition 8 on the November 1978 ballot (See Appendix VI for amendments made to Article XIIIA by Prop. 8, and the ballot materials pertaining thereto.) This measure responded to the need to allow for declines in value, which Prop. 13 did not. However, this proposal also raises further questions regarding the appropriate manner of implementation.

1975 BASE VALUES

The initial subject addressed by the Task Force was the subject of what constitutes the appropriate 1975 base value of real property. It was the unanimous opinion of the Task Force members that the Legislature should clarify the existing statutes, to the extent permitted by the Constitution and the courts.

There are differences of opinion as to what extent property today can be reappraised for 1975, especially if that property was formerly reappraised for 1975, and to what level of full value should such reappraisals be made. These differences of opinion are shared not only by taxpayers and assessors, as witnessed by the differing assessment approaches taken by the various counties, but by the Task Force membership as well.

Ambiguities in Article XIIIA

Much of this confusion stems from the construction of Article XIIIA, as added by Proposition 13. Section 2 of that article presently reads as follows:

> Section 2. (a) The full cash value means the county assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real property not already assessed up to the 1975-76 full cash value may be reassessed to reflect that valuation. For purposes of this section, the term "newly constructed" shall not include real property which is reconstructed after a disaster, as declared by the Governor, where the fair market value of such real property, as reconstructed, is comparable to its fair market value prior to

the disaster.

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

In subsection (a), there are three ambiguities in particular which bear on the determination of an appropriate 1975 base value. The first is the use of the phrase "as shown on the 1975-76 tax bill under 'full cash value'". The second is the reference to property "not already assessed up to the 1975-76 full cash value" (formerly "1975-76 'tax levels'", before the original Proposition 13 language was modified by Proposition 8 on the November 1978 ballot). The third is the use of "appraisal" and "reassessment" interchangeably.

With respect to the first phrase, Section 2611.5 (R&T Code) specifies that the term "full value," rather than "full cash value," be placed on the tax bill, although the <u>actual</u> practice appears to vary among counties. Thus, in some counties the phrase "full cash value" may not have even <u>appeared</u> on 1975-76 tax bills.

The second phrase appears to contradict the first, that is, the assessor apparently does <u>not</u> use the value which actually appeared on the 1975-76 tax bill, if that value is less than the 1975-76 full cash value.

The terms "appraisal" and "reassessment" are used interchangeably, even though each has a separate meaning: all properties are <u>assessed</u> every year (Sec. 401.3 R&TC), but not all property receives an updated value based on an <u>appraisal</u> (Sec. 405.5 R&TC).

Evidence Considered

In making an interpretation of Section 2(a), there are at least three guides available to the Task Force. The first is the Legislative Analyst's analysis of Prop. 13 in the June 1978 ballot pamphlet, the second is a statement by Paul Gann, a co-author of Prop. 13, before the legislative conference committee on SB 154, and the third is language of the State Supreme Court in holding Article XIIIA constitutional in the landmark Amador Valley decision.

In the Legislative Analyst's ballot analysis, his point number three reads:

> "Restrictions on the growth in assessed values. Initially this measure would roll back the current assessed values of real property in the values shown on the 1975-76 assessment roll. However county assessors could adjust the values shown on the 1975-76 assessment roll if these values were lower than the estimated market value as of March 1, 1975. The adjusted values could then be increased by no more than 2 percent per year as long as the same taxpayer continued to own the property. For property which is sold or newly constructed after March 1, 1975, the assessed value would be set at the appraised (or market) value at the time of sale or construction. As a result, two identical properties with the same market value could have different assessed values for tax purposes if one of them has been sold since March 1, 1975." (emphasis added)

Before the SB 154 Conference Committee, Paul Gann and Assembly Speaker Leo T. McCarthy had the following exchange:

> SPEAKER McCARTHY: Mr. Gann, I know you are aware of action taken by the State Board of Equalization on a couple of related issues. One is what the language in Proposition 13 meant as to the 1975 year used as a cash basis for the property rolls in that year.

The State Board of Equalization, as I understand it, has arrived at two conclusions which, in effect, could treat taxpayers assessed in 1967 and 1968 exactly the same as taxpayers reassessed in 1978 because they are saying that at least the utilities could be taxed in 1978 terms, but the 1975 year basis could mean people that in some counties were not reassessed dating back as far as 1967 and 1968. What is your opinion of that State Board of Equalization action?

MR. GANN: The reason that we included in the amendment the right for those taxes to be raised up to the 1975-76 level is that many assessors throughout the state had told us that there could be as much as 20 or 25% of the property in this state that hadn't been brought up to that level and we thought that it should be brought up to that level. We still think it should, and we'll ask the courts to make a decision as to whether it should or not. We think it should.

And in Amador Valley the court stated:

"By reason of section 2, subdivision (a), of the article, except for property acquired prior to 1975, henceforth all real property will be assessed and taxed at its value at date of acquisition rather than at current value (subject, of course, to the 2 percent maximum annual inflationary increase provided for in subdivision (b)). This "acquisition value" approach to taxation finds reasonable support in a theory that the annual taxes which a property owner must pay should bear some rational relationship to the original cost of the property, rather than relate to an unforeseen, perhaps unduly inflated, current value. Not only does an acquisition value system enable each property owner to estimate with some assurance his future tax liability, but also the system may operate on a fairer basis than a current value approach. For example, a taxpayer who acquired his property for $40,000 in 1975 henceforth will be assessed and taxed on the basis of that cost (assuming it represented the then fair market value). This result is fair and equitable in that his future taxes may be said reasonably to reflect the price he was originally willing and able to pay for his property, rather than an inflated value fixed, after acquisition, in part on the basis of sales to third parties over which sales he can exercise no control. On the other hand, a person who paid $80,000 for similar property in 1977 is henceforth assessed and taxed at a higher level which reflects, again, the price he was willing and able to pay for that property. Seen in this light, and contrary to petitioners' assumption, section 2 does not unduly discriminate against persons who acquired their property after 1975, for those persons are assessed and taxed in precisely the same manner as those who purchased in 1975, namely, on an acquisition value basis predicated on the owner's free and voluntary acts of purchase. This is an arguably reasonable basis for assessment. (We leave open for future resolution questions regarding the proper application of article XIII A to involuntary changes in ownership or new construction.)

In addition, the fact that two taxpayers may pay different taxes on substantially identical property is not wholly novel to our general taxation scheme. For example, the computation of a sales tax on two identical items of personalty may vary substantially, depending upon the exact sales price and the availability of a discount. Article XIII A introduces a roughly comparable tax system with respect to real property, whereby the taxes one pays are closely related to the acquisition value of the property.

In converting from a current value method to an acquisition value system, the framers of article XIII A chose not to "roll back" assessments any earlier than the 1975-76 fiscal year. For assessment purposes, persons who acquired property prior to 1975 are deemed to have purchased it during 1975. These persons, however, cannot complain of any unfair tax treatment in view of the substantial tax advantage they will reap from a return of their assessments from current to 1975-76 valuation levels. Indeed, the adoption of a uniform acquisition value system without some "cut off" date reasonably might have been considered both administratively unfeasible and incapable of producing adequate tax revenues. The selection of the 1975-76 fiscal year as a base year, although seemingly arbitrary, may be considered as comparable to utilization of a "grandfather" clause wherein a particular year is chosen as the effective date of new legislation, in order to prevent inequitable results or to promote some other legitimate purpose."

Legislature's Response

Legislative action preceded the Amador Valley case, but the ballot analysis and statement of the initiative's co-author were available to the Legislature when SB 154 and SB 2212 were enacted.

As amended by SB 2212, Section 110.1(b) of the Revenue and Taxation Code reads in part:

> "The value determined pursuant to subdivision (a) shall be the "base year value." If property has not been appraised pursuant to Section 405.5 to its appropriate base year value, "full cash value" means the reappraised value of such property as of the base year lien date. Such reappraisals may be made at any time, notwithstanding the provisions of Section 405.6." (For complete text, refer to Appendix IV at page 147.)

Legislative consideration was given to an alternative wording of Section 110.1. SB 2223 as amended August 21, 1978, would have substituted the language shown in Appendix VII, which was subsequently deleted (SB 2223 eventually failed to gain passage from the Senate of its conference committee report). The purpose of this language was to preclude reassessments of property to levels in excess of similar properties which were actually appraised for 1975.

Based on the foregoing evidence, the Task Force determined that those properties appraised prior to 1975 should receive an updated 1975 base year value. Members differed, however, on just what this level of value should be, and whether properties appraised in 1975 should be changed. Three clear options emerged:

(1) Bring all property, regardless of the year of appraisal, to the March 1, 1975, "full cash value," or, using the Supreme Court's terminology in Amador Valley, "acquisition value;"

(2) Bring properties appraised prior to 1975 up to March 1, 1975, "full cash value," and leave properties appraised for 1975 alone; or

(3) Bring properties appraised prior to 1975 up to the same percentage of"full cash value" (same level of assessment below true market value) as all other properties in that "class"

were assessed on March 1, 1975, and leave properties appraised for 1975 alone.

The Task Force was able to agree on various other points relative to time allowed to make reassessments, limitations on escape assessments, presumptions as to 1975 values established by a court, and retroactivity in application of any statutory change which affects taxpayer's 1978-79 tax bills.

1. DETERMINATION OF 1975 BASE VALUE

Rather than present a single recommendation, with less than the majority support of the members, the Task Force approved the following advantages and disadvantages of the three options outlined above. A disadvantage relative to each of the three is that some adjustment of 1978 assessments may be required, thus necessitating added workload and cost for assessors.

OPTION 1

Full cash value is the acquisition value as of March 1, 1975. Where values on the 1975 roll are not true March 1, 1975 acquisition values, full cash value means the reappraised value to the March 1, 1975 acquisition value.

Advantages:

1. Closely conforms to court decision in *Amador Valley*.
2. Provides for statewide uniformity and equality of tax burden on taxpayers, at least for the beginning base year under Prop. 13.
3. Sets identifiable standard for taxpayers in appeals process, and for tax administrators in revising values.

Disadvantage:

May require some increases in values, with possible negative public reactions, that were established in 1975 by physical reappraisals in that year.

OPTION 2

Full cash value is the assessor's appraised value in 1975, if the property was reappraised for that year. If the property was not reappraised, full cash value means the full cash value as of March 1, 1975 and such properties may be reappraised to establish such value.

Advantages:

1. Provides for substantial statewide uniformity of assessments for property not reappraised in 1975 in base year.
2. Sets a standard for property not reappraised in 1975.
3. Probably most closely parallels the factors making up the 1978 assessment roll, therefore will require fewest revisions in work already done.

Disadvantages:

1. May cause some non-uniformity of assessment within a county among taxpayers, if 1975 reappraisals by assessor were less than full cash value.
2. May lead to disputes as to what is a reappraisal since that term is uncertain in this context due to variations in assessment practice.

OPTION 3

Full cash value is the assessor's appraised value in 1975, if property was physically reappraised for that year. If the property was not reappraised, full cash value is the same percentage of market value as properties of the same class were appraised at in 1975. Property would fall into one of three classes: residential, rural, and all other.

Advantages:

1. Provides relative uniformity within individual classes of property within each county.
2. Will result in reduction in value for some taxpayers, however, a taxpayer's value may increase, if his 1978 value is lower than the "standard" value of the class for that property.

Disadvantages:

1. May preserve non-uniformity among various classes of property within a county. This would be a defacto "split roll."
2. Will result in non-uniform assessment levels statewide and require the development of a compensation factor if any state bail out funds are to be predicated on local assessment levels or tax collections.
3. May cause confusion and tax appeals. There is no identifiable standard to which properties in a county were assessed. Taxpayers will not know if they are correctly assessed and may appeal on one sample which may not be representative of the class.

OPTIONS 1, 2 and 3: FISCAL IMPACT

The diversity of assessment practices relative to establishing a 1975 vase value for fiscal year 1978-79 make it unclear as to the fiscal implications of any one option; it is not possible to determine just how "close" current practice is to one option versus another.

However, the Board of Equalization staff has identified a revenue spread of $260 million between the three options, and that of making no change to the 1975-76 assessments:

Option Assumed to Most Closely Represent Average Statewide Assessment Practice in 1978-79: ($ in millions)	Fiscal Impact in 1978-79 if Average Statewide Assessment Practice Had Been in Accordance With: Option 1	Option 2	Option 3	No Change in Actual 1975-76 Assessments
Option 1	-	$ -37	$ -111	$ -260
Option 2	+37	-	-74	-223
Option 3	+111	+74	-	-149

2. ESTABLISHING 1975 BASE VALUES; TIME LIMITS

The Task Force recommends that all 1975 base year values be established by June 30, 1980, and that after that date, values may change only due to change in ownership, new construction, or the 2% inflation change (or CPI, whichever is less).

This date allows assessors sufficient time to make necessary reappraisals back to the 1975 lien date. A date certain for completion is needed to protect taxpayers from the uncertainty of changes in assessment. Present law allows assessors to reappraise a property indefinitely; this provision establishes a cut-off date as a protection to the taxpayer. There is no identifiable fiscal impact to this recommendation.

3. ESCAPE ASSESSMENTS

The Task Force recommends that escape assessments not be allowed in 1978-79 or 1979-80 for real property where the assessor establishes a revised 1975 base year value.

To allow such escape assessments would subject taxpayers to unanticipated tax liabilities, creating hardship and ill will.

The Task Force points out, however, that there will be inequities among taxpayers who were correctly reappraised to their 1975 value in 1978, and those reappraised to their 1975 value in 1979 or 1980. The former will pay, in the aggregate, more taxes, if escapes are not levied against the latter.

In addition, the question of constitutionality has been raised, as the court has stated that the assessor has a duty to levy escape assessments where an incorrect assessment has been made.

There would be a loss of some one-time property tax revenue to local government if this recommendation is adopted; magnitude is unknown.

4. PRESUMPTION OF 1975 BASE VALUE: COURT OR APPEALS BOARD DECISION

The Task Force recommends that, if Option 1 is selected, the value determined by an appeals board or court for the 1975 assessment be the 1975 base year value, where such value was established pursuant to a hearing or a stipulation among the parties.

The value established in a hearing or by judicial review is clearly one that is well documented, and the decision of the appeals board or judge is final.

There is no identifiable fiscal impact to this recommendation.

DIVISION 1. PROPERTY TAXATION

PART 1/2. IMPLEMENTATION OF ARTICLE XIIIA

Chapter 1. Base Year Values

(ALL OPTIONS)

Section 50. Determination of Base Year Values

(a) For purposes of subdivision (a) of Section 2 of Article XIII A of the California Constitution, "full cash value" of real property, including possessory interests in real property, means the fair market value as determined pursuant to Section 110 for either:

(1) The 1975 lien date; or,

(2) For property which is purchased, is newly constructed, or changes ownership after the 1975 lien date:

A. The date on which a purchase or change in ownership occurs, or

B. The date on which new construction is completed, and if uncompleted, on the lien date.

Values determined for property which is purchased or changes ownership after the 1975 lien date shall be entered on the roll for the lien date next succeeding the date of the purchase or change in ownership. Values determined after the 1975 lien date for property which is newly constructed shall be entered on the roll for the lien date next succeeding the date of completion of the new construction. The value of new construction in progress on the lien date shall be entered on the roll as of the lien date.

(OPTION 1)

(b) The value determined under subdivision (a) shall be known as the base year value for the property. Notwithstanding any provision of Sections 405.5 and 405.6 if the value of property which was not purchased, newly constructed or changed in ownership after the 1975 lien date, as shown on the 1975-76 roll is not its March 1, 1975, full cash value, a new 1975 lien date base year value shall be determined at any time until June 30, 1980, and placed on the roll being prepared for the current year.

In the event such a determination is made no escape assessment may be levied and the newly determined "full cash value" shall be placed on the roll for the current year only, provided, however, the preceding shall not prohibit a determination which is made prior to June 30 of a fiscal year from being reflected on the assessment roll for the current fiscal year.

(c) If a 1975 assessment was appealed, then the base year value of such real property which is determined pursuant to Section 50(a)(1) shall be the value established by a local board of equalization, originally or upon remand by a court, or by a court, for the 1975-76 tax year.

(OPTION 2)

(b) The value determined under subdivision (a) shall known as the base year value for the property. Notwithstanding any provision of Sections 405.5 and 405.6, if the value of property which was not purchased, newly constructed or changed in ownership after the 1975 lien date as shown on the 1975-76 roll is not its 1975 lien date base year value and if that property had not been reappraised for the 1975-76 assessment roll, a new 1975 lien date base year value shall be determined at any time until June 30, 1980, and placed on the roll being prepared for the current year.

In the event such a determination is made no escape assessment may be levied and the newly determined "full cash value" shall be placed on the roll for the current year only, provided, however, the preceding shall not prohibit a determination which is made prior to June 30 of a fiscal year from being reflected on the assessment roll for the current fiscal year. If the value of any real property as shown on the 1975-76 roll was determined pursuant to a periodic appraisal under Section 405.5, said value shall be the 1975 lien date base year value of the property.

(c) If a 1975 assessment was appealed, then the base year value of such real property which is determined pursuant to Section 50(a)(1) shall be the value established by a local board of equalization, originally or upon remand by a court, or by a court, for the 1975-76 tax year.

(OPTION 3)

(b) The value determined under subdivision (a) shall be known as the base year value for the property. Notwithstanding any provision of Sections 405.5 and 405.6, for property which was not purchased, newly constructed or changed in ownership after the 1975 lien date, if the value as shown on the 1975-76 roll is not its 1975 lien date base year value and if that property had not been reappraised for the 1975-76 assessment roll, a new 1975 lien date base year value shall be determined at any time until June 30, 1980, and placed on the roll being prepared for the current year. In the event such a determination is made no escape assessment may be levied and the newly determined "full cash value" shall be placed on the roll for the current year only, provided, however, the preceding shall not prohibit a determination which is made prior to June 30 of a fiscal year from being reflected on the assessment roll for the current fiscal year.

Such new 1975 lien date base year value shall be adjusted by multiplying it by the "1975 lien date value factor" for the appropriate class of property. The "1975 lien date value factor" for each class of property shall be equal to the total actual 1975-76 roll values for all properties in the county which are of the same class, and which were reappraised for the 1975 lien date divided by the 1975 lien date full cash values of such properties. For purposes of this subdivision, there shall be three classes of property: (1) residential, (2) rural, and (3) all other properties. A separate "1975 lien date value factor" shall be computed for each class of property.

If the value of any real property as shown on the 1975-76 roll was determined pursuant to a periodic appraisal under Section 405.5, said value shall be the 1975 lien date base year value of the property.

DECLINES IN VALUE

Proposition 13 made no provisions for property which has declined in value since 1975. To correct this oversight, Proposition 8 was submitted to the voters on November 7, 1978 and was approved by 78 percent of the voters.

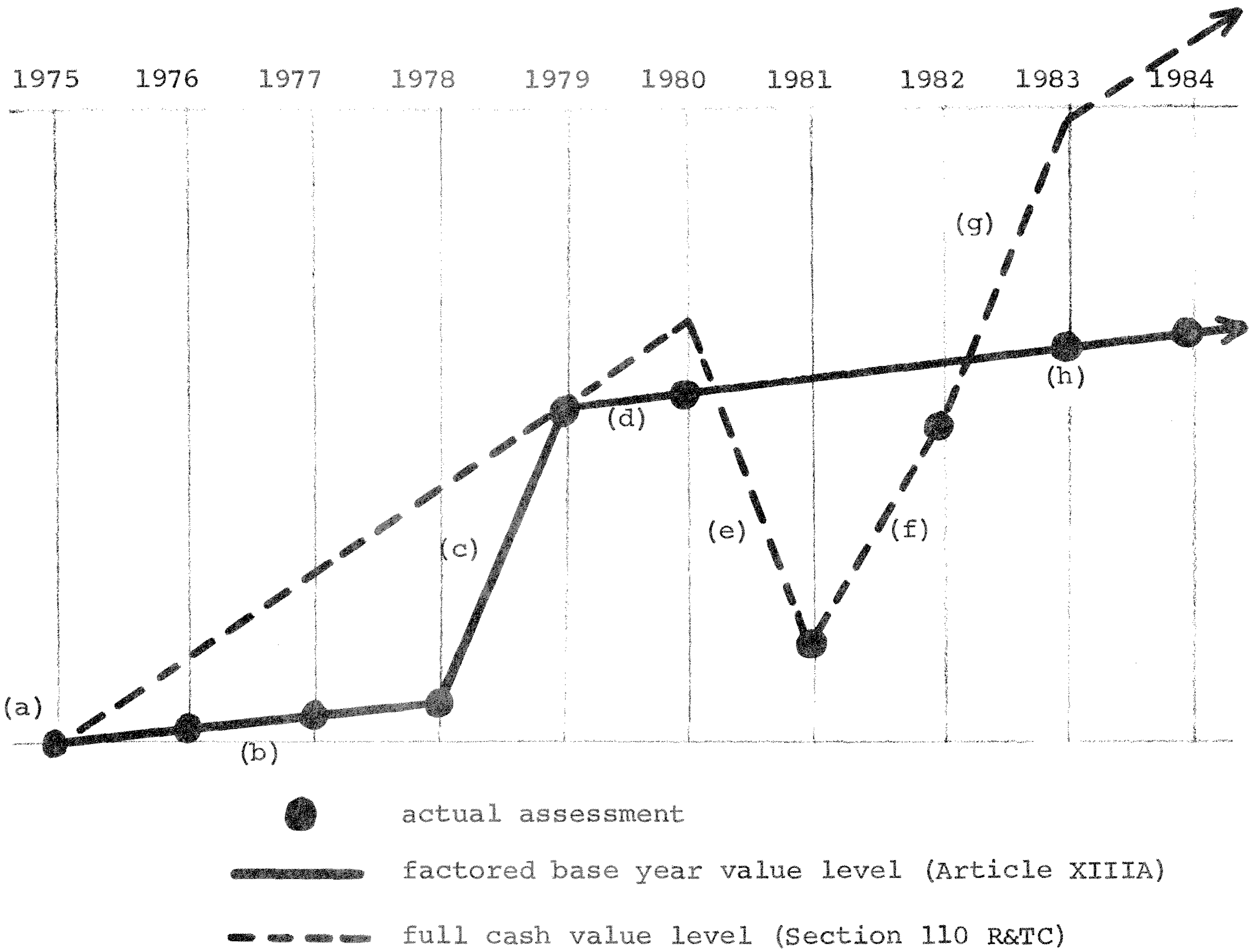
Proposition 8 amended Section 2 of Article XIIIA as follows:

> Section 2. (a) The full cash value means the ~~County Assessors~~ *county assessor's* valuation of real property as shown on the 1975–76 tax bill under "full cash value"; or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has ~~occured~~ *occurred* after the 1975 assessement. All real property not already assessed up to the 1975–76 ~~tax levels~~ *full cash value* may be reassessed to reflect that valuation. *For purposes of this section, the term "newly constructed" shall not include real property which is reconstructed after a disaster, as declared by the Governor, where the fair market value of such real property, as reconstructed, is comparable to its fair market value prior to the disaster.*
>
> (b) The ~~fair market~~ *full cash* value base may reflect from year to year the inflationary rate not to exceed ~~two~~ *2* percent ~~(2%)~~ for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction~~.~~*, or may be reduced to reflect substantial damage, destruction or other factors causing a decline in value.*

The Task Force recommends that the assessed value of real property be the lesser of the Prop. 13 base value compounded annually by 2%, or full cash value. These changes will be measured by that appraisal unit which is commonly bought and sold in the market, or which is normally valued separately.

In other words, the assessor will always carry an updated base year value for each property pursuant to Article XIIIA, and this value will be used in any year where the full cash value meets or exceeds the factored base year value. The value of the property may rise by <u>more</u> than 2% annually <u>only</u> if the full cash value remains below that year's factored base year value for the property. This is illustrated by the following graph which charts the on-going values of a sample property:

ILLUSTRATION OF ALLOWABLE VALUATION
INCREASES AND DECREASES
FOR HYPOTHETICAL PROPERTY



(a) 1975 base year value

(b) 2% annual growth

(c) revised base year, due to hypothetical change in ownership, for increase of 30%, to full cash value

(d) 2% annual growth

(e) decline in value occurs (e.g. disaster losses), for 25% decrease

(f) partial increase in value, but not yet to factored 1979 base year value; increase in excess on 2% allowable as long as factored base year value is not exceeded (assume 20% increase here)

(g) value rises to previous full cash value levels

(h) since full cash value now exceeds factored base year value, actual assessment stops here, and continues to increase at 2% annually

The Task Force felt that the purpose of Prop. 13 was to place a cap on the value of property in any one year, while Prop. 8 sought to allow values to rise and fall without restriction at any point below this cap, should actual market values so dictate.

The purpose of the "appraisal unit" concept is to ensure that these increases or declines in value be measured in the same manner as such property was appraised prior to Prop. 13.

Prop. 8 itself will result in a substantial revenue loss to local governments from the levels established by Prop. 13, which themselves were substantially reduced from pre-Prop. 13 law. This recommendation simply clarifies the implementation of Prop. 8.

Section 51. Limitations on Taxable Values

For purposes of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for each lien date after the lien date in which the base year value is determined pursuant to Section 50, the taxable value of real property shall be the lesser of:

(a) Its base year value, compounded annually since the base year by an inflation factor, which shall be the percentage change in cost of living, as defined in Section 2212; provided, that any percentage increase shall not exceed 2 percent of the prior year's value, or

(b) Its full cash value, as defined in Section 110, as of the lien date, taking into account reductions in value due to damage, destruction, depreciation, obsolescence or other factors causing a decline in value.

For purposes of this section, "real property" means that appraisal unit which persons in the market place commonly buy and sell as a unit, or which are normally valued separately.

SPECIAL TYPES OF PROPERTY

California's Constitution contains assessment provisions for special types of property. Such provisions were not changed by Prop. 13. They require use value assessments for non-profit golf courses and permit use value assessments for enforceably restricted timberland, agricultural and open space land and historical property. Special assessment provisions are provided for property owned by a government outside its boundaries.

The Task Force recommends that property assessed pursuant to Article XIII, Sections 8, 3j, 10 and 11 continue to be assessed pursuant to those sections.

The Task Force believes that specific constitutional authorization is controlling over general constitutional principles, even though the general provisions were more recently enacted.

Some property, primarily agricultural and open space land, is assessed pursuant to contractual obligations as authorized by Section 8. These contractual arrangements cannot be abrogated.

This special valuation procedure will carry out the will of the electorate when they enacted these specific provisions in the Constitution. In the case of timberland property, certain changes made since the enactment of Article XIIIA in an effort to conform assessment procedures to the provisions of that article, should be repealed to reinstate the prior law.

There is an unknown impact on local revenues. Some properties may be assessed higher and others lower. In general, however, "use value" assessments (Article XIII) vary little from year to year, while the Article XIIIA assessments mandate a 2% annual growth.

Sec. 52. <u>Property Subject to Special Valuation</u>

(a) Notwithstanding the provisions of this Division, property which is enforceably restricted pursuant to Article XIII, Sec. 8 of the Constitution shall be valued for property tax purposes pursuant to Article 1.5 and Article 1.9 of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code.

(b) Notwithstanding the provisions of this Division, property restricted to timberland use pursuant to Article XIII, Section 3(j) of the Constitution shall be valued for property tax purposes pursuant to Article 1.7 of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code.

(c) Notwithstanding the provisions of this Division, property subject to valuation as a golf course pursuant to Article XIII, Section 10 of the Constitution shall be valued for property tax purposes in accordance therewith.

(d) Notwithstanding the provisions of this Division, property subject to valuation pursuant to Article XIII, Section 11 of the Constitution shall be valued for property tax purposes in accordance therewith.

TREES AND VINES

The California Constitution (Article XIII, Sec. 3(i)) exempts trees for 4 years after planting and vines for 3 years.

In implementing Prop. 13, the State Board of Equalization directed that the "base year" value of a tree or vine is the value when planted as a seed or seedling.

The Task Force recommends that the correct base year value for an orchard and vineyard is the value when the tree or vine first becomes subject to taxation.

The true base year value should be the base year taxable value. Otherwise the intent of the present provisions of the Constitution have no meaning because the value as a seedling is so much less than that of a mature tree or vine.

After establishing the base year at the time such trees and vines are first subject to tax, such property will be assessed at the lower of (1) the base year value plus 2% per year or (2) the full cash value. This is consistent with the valuation of homes and business property generally.

The fiscal impact of this recommendation is unknown.

Sec. 53. Trees and Vines

The initial base year value for fruit and nut trees and grape vines subject to exemption pursuant to Article XIII, Section 3(i) of the Constitution shall be the full cash value of such properties as of the lien date of their first taxable year.

CHANGE IN OWNERSHIP

Importance

There are three value benchmarks under Proposition 13:

(a) 1975 Base;

(b) Change in ownership (which includes purchases); and

(c) New construction

Of the three, change in ownership is by far the most important, as it is the primary reappraisal "trigger" under Article XIIIA. The 1975 base, while presently the topic of intense public debate, is only a temporary benchmark. New construction is a permanent reappraisal trigger (like change in ownership), but under present law for 1978-79 and the Task Force recommendations for future years, only triggers reappraisal of the portion of any property which is "newly constructed", while as a general rule a reappraisal of the entire property occurs upon change in ownership.

Thus, after 1978 the lion's share of the growth in the property tax base will be triggered by, and dependent on, change in ownership.

Change in ownership, therefore, was the most important subject considered by the Task Force. It deserved - and got - more intensive analysis and discussion than any other topic.

Need For a Common Rationale

The Task Force felt that the hurried 1978 legislation (Section 110.6) lacked any common rationale and was extremely vulnerable to legal challenge on the ground that in approving Proposition 13 the voters could not have read such inconsistent, "checkerboard" results into the single phrase "change in ownership".

The problem with any definition of change in ownership, of course, is that no one, no matter how skilled and imaginative, can foresee and classify as a "change" or "non-change" every possible form of real property transfer. That fact forced the Legislature in 1978 to take the approach of including everything in "change in ownership" (including some things which would not be considered a transfer under general law) and then carving out a few limited exceptions.

The Task Force, instead, sought to distill the basic characteristics of a "change in ownership" and embody them in a single test which could be applied evenhandedly to distinguish between "changes" and "non-changes", both those which the Task Force could and those which it did not foresee. The Task Force was also anxious that the single test be sufficiently consistent with the normal understanding of "change in ownership" to withstand legal attack.

The Three Component Test

The Task Force concluded that a change in ownership is a transfer which has all three of the following characteristics:

1. It transfers a present interest in real property;
2. It transfers the beneficial use of the property; and
3. The property rights transferred are substantially equivalent in value to the fee interest.

An example will help illustrate why each of the three components is necessary:

Present Interest. Everyone would agree that the making of a will is not a change in ownership of the real property covered by the will, because during the testator's life everything is contingent. He can change his will; he can sell his property; or the beneficiary can predecease him. There is no transfer of a present interest in the testator's property. This element is necessary to protect a variety of contingent or inchoate transfers from unintended change in ownership treatment, including future interests, revocable transfers and transfers with retained life estates.

Beneficial Use. Beneficial use is necessary to protect custodianships, guardianships, trusteeships, security interests, and other fiduciary relationships from unintended change in ownership treatment. A father buys land for his minor son, taking title as custodian for the son. There is a change in ownership when the father buys the property, however, when the son reaches majority and gets the property outright there is no change in ownership. Why? The father never had the beneficial use of the property. The son was the real owner from the outset and when he reached majority there was no transfer of the beneficial use.

Value Equivalence. The "value equivalence" test is necessary to determine who is the primary owner of the property at any given time. Often two or more people have interests in a single parcel of real property. Leases are a good example. The landlord owns the reversion; the tenant, the leasehold interest. Suppose the landlord sells the property subject to the lease and the lessee assigns the lease. Which sale or transfer is the change in ownership?

The example illustrates that in determining whether a change in ownership has occurred it is necessary to identify but one primary owner. Otherwise assessors would be forced to value, and account for separate base year values for landlords and tenants on all leases, and for other forms of split ownership. This would enormously complicate the assessor's job.

A major purpose of this third element, therefore, is to avoid such unwarranted complexity by identifying the primary owner, so that only a transfer by him will be a change in ownership and when it occurs the whole property will be reappraised. If the hypothetical lease previously mentioned was a short term lease (the landlord owned the main economic value), the landlord's sale, subject to the lease would count. If, on the other hand, the lease was a long term lease (the lessee's interest was the main economic package), the lease assignment would count. In either case the entire fee value of the leased premises would be reappraised.

The Task Force recommends that its general definition of change in ownership (proposed Section 60 Rev & Tax Code) should control all transfers, both foreseen and unforeseen. The Task Force also recommends the use of statutory "examples" to elaborate on common transactions. Lay assessors and taxpayers would otherwise have difficulty applying legal concepts such as "beneficial use" and "substantially equivalent". Thus, common types of transfers were identified and concrete rules for them were set forth in proposed Sections 61 and 62.

It is important that the specific statutory examples be consistent with the general test. The entire statutory design would be destroyed by providing statutory treatment for specific transfers which are inconsistent with the general test. In that case, the general test would be overruled by the specific rules and the entire statutory design might be held invalid because of the lack of any consistent, rational interpretation of the constitutional phrase, "change in ownership".

Specific Statutory Examples

1. Leases. Leases are a good illustration of the necessity of concrete statutory examples. Both taxpayers and assessors need a specific test - rather than the broad "value equivalence" test - to determine the tax treatment of leases. The specific test however, must be consistent with the "value equivalence" rule and have a rational basis. Lenders will lend on the security of a lease for 35 years or longer. Thus 35 years was adopted as the concrete dividing line. If the term of a lease, including options to renew, is 35 years or more, the creation of the lease is a change in ownership and so is its expiration. If a lessee under such a lease assigns or sublets for a term of 35 years or more, that is another change in ownership. However, if the lease, including options, is for less than 35 years the lessor remains the owner and only the transfer of his interest is a change. In all cases, the entire premises subject to the lease in question are reappraised.

2. Possessory Interests. The creation, assignment or sublease of possessory interests in tax exempt property are changes in ownership regardless of their term. That is not inconsistent with private leases, however. In possessory interest there is only ONE 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.

3. Tenancies-In-Common and Joint Tenancies. Tenancies-in-common and joint tenancies create undivided interests in land, with

each co-tenant owning a percentage (fractional) interest. Transfer of any fractional interest is a change of ownership, but results in a reappraisal ONLY of the percentage interest transferred.

Unfortunately, such treatment imposes a new administrative burden on assessors. It requires them to keep separate accounting records and base year values for the fractional interests which are created or transferred at different times. The Task Force saw no means of avoiding the new burden altogether, but did its best to minimize the burden.

Under the Task Force recommendations separate accounting is not required for "family" joint tenancies, which are the great majority of joint tenancies in this state. Thus the new burden on assessor's is limited only to co-tenancies which don't fit under the "family" joint tenancy rule and are not interspousal co-tenancies. That group of co-tenancies should not be numerous.

4. "Family" Joint Tenancies. Probably the vast majority of joint tenancies in California (other than interspousal joint tenancies) are those in which a parent places his property in joint tenancy with children. The special aspect of a joint tenancy (as distinguished from tenancy-in-common) is that the surviving joint tenant (or joint tenants) succeeds to the entire property by operation of law on the death of the other joint tenant. For that reason joint tenancy is often used as a substitute for a will. The same consideration which justifies excluding the making of a will from change in ownership also supports exclusion of the creation of a joint tenancy where the

transferor (e.g., a parent) is one of the joint tenants. The rights of the new joint tenants (e.g., the children) to obtain the entire property outright are contingent upon their surviving the transferor joint tenant. Creation of such joint tenancies is not a change in ownership, but the entire property is reappraised when the joint tenancy terminates. Again, fractional accounting and reappraisal by the assessor is avoided.

The rule recommended by the Task Force is general; it covers any joint tenancy created by a person who, after the creation of the joint tenancy, is one of the joint tenants, whether or not it is a parent-child joint tenancy. However, most such joint tenancies are created within a family.

5. Trusts. Revocable living trusts are merely a substitute for a will. The gifts over to persons other than the trustor are contingent; the trust can be revoked or those beneficiaries may predecease the trustor. Transfers into trust are not changes in ownership if either:

(a) The trust is revocable, or;

(b) The creator of the trust is its sole beneficiary during his lifetime.

If the trust is revocable it is excluded because the rights conferred are contingent. If the trustor is the sole beneficiary during his lifetime, his retained interest is considered to be "substantially equivalent in value" to the fee interest in any real property covered by the trust. He is therefore the true owner and the change in ownership does not occur until the property passes to the remaindermen on the trustor's death.

6. Retained Life Estates. 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

Interspousal Transfers

The one exclusion from change in ownership which is not consistent with the 3-element general definition is interspousal transfers. They are therefore provided for separately (proposed Section 63) rather than being one of the examples of exclusions under the general test.

The Task Force saw no policy reason for limiting the interspousal exclusion to community property and joint tenancy interests. If, for example, a husband left separate real property to his wife by will, rather than putting it in joint tenancy with her, there seemed to be no reason why the transfer on the husband's death should have two opposite results. Thus, all interspousal transfers were excluded.

Legal Entities

The Task Force considered at length the question of whether the transfer of ownership interests in legal entities (such as corporate stock or partnership interests) should be treated as indirect changes in ownership of the real property owned by the legal entity. There are two fundamental alternatives:

(a) Look through the legal entity for a change in ultimate control, or;

(b) Respect the separate identity of the legal entity.

Under the "ultimate control" theory, a change in ownership of real property belonging to a corporation would occur when a single shareholder gains majority control of the corporation through the purchase of shares. Take a simple case. John Doe, Inc., is a wholly owned corporation of John Doe. It owns a grocery store. George Smith buys all the shares of the corporation. Under the ultimate control approach that would constitute a change in ownership of the grocery store. The same thing would occur on transfers of partnership interests, joint venture interests, association memberships, etc., so long as a new person gained control of the legal entity through the acquisition of ownership shares.

The separate entity theory would give effect to the general laws of the state which endow corporations, partnerships, joint ventures, associations and so forth with an identity separate from its owners. Shareholders of a corporation have no possessory rights in corporate real property. Nor do partners - even in a general partnership - since their rights to partnership real property are limited to using the real property for partnership purposes.

The Task Force carefully considered both approaches. There was general consensus that, whichever approach was chosen, it should be followed consistently and without special exclusions. The Legislature should recognize that either approach, if applied consistently, results in reappraisals for some transfers which might justifiably be considered changes in form, rather than changes in ownership.

For example, incorporation of a sole proprietorship would be, an ownership change under the separate entity theory. On the other hand, under the separate entity theory, the property of many corporations will never be fully reappraised, since no "change in ownership" will ever occur.

Thus, it is impossible to tell which general approach - ultimate control or separate entity - would result in more changes in ownership and reappraisal for transfers which might be considered mere changes in form.

The Task Force recommends the SEPARATE ENTITY approach. The main reasons were two:

> (a) The <u>administrative and enforcement</u> problems of the ultimate control approach are monumental. How is the assessor to learn when ultimate control of a corporation or partnership has changed? Moreover, when the rules are spelled out (and the Task Force actually drafted ultimate control statutes) it becomes apparent that without trying to cheat many taxpayers as well as assessors would simply not know that a change in ownership had occurred. The separate entity approach is vastly simpler for taxpayers and assessors to understand, apply and enforce.

Transfers between individuals and entities, or among entities, will generally be recorded. Even if unrecorded the real property will have to be transferred (by unrecorded deed or contract of sale, for example). Taxpayers can justifiably be expected to understand that a transfer of real property is a change in ownership and must be reported to the assessor.

(b) The ripple effects of ignoring the general separate entity laws of the state could not be predicted. The ultimate control theory threatened unknown disruptions of business organizations and practices. The separate entity approach avoids that pitfill by adopting the existing structure of corporate, partnership, etc., laws and building on them.

With respect to housing cooperatives, the Task Force recognizes that transfers of shares among members in effect constitutes transfer of a dwelling unit, i.e., that portion of the cooperative owned by the transferror. The Task Force recommends that such a transfer trigger reappraisal, but only for that portion of the entire property (the cooperative itself) that actually changes hands.

Fiscal Effect

Based on the sum total of the above recommendations on the definition of "change in ownership," it was generally believed by the Task Force that the revenue generated in 1979-80 by these recommendations would be less than that generated by SB 154/SB2212, if the provisions of the latter were simply extended an additional year to apply to 1979-80. The magnitude of this difference is inquantifiable.

Chapter 2. Change in Ownership and Purchase

60. Definition of Change in Ownership

A "change in ownership" means a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest.

Sec. 61. Change in Ownership: Included Transfers.

Except as otherwise provided in Section 62, change in ownership as defined in Section 60 includes, but is not limited to:

(a) Oil, Gas and Mineral Interests. The creation, renewal, sublease, assignment or other transfer of the right to produce or extract oil, gas or other minerals for so long as they can be produced or extracted in paying quantities;

(b) Possessory Interests. The creation, renewal, sublease or assignment of a taxable possessory interest in tax exempt real property for any term;

(c) Leases. (1) The creation of a lease-hold interest in taxable real property for a term of 35 years or more (including renewal options), the termination of a leasehold interest in taxable real property which had an original term of 35 years or more (including renewal options), and any transfer of a leasehold interest having a remaining term of 35 years or more (including renewal options); (2) any transfer of a lessor's interest in taxable real property subject to a lease with an original term (including renewal options) of less than 35 years;

(d) Joint Tenancies. The creation, transfer, or termination of any joint tenancy interest, except as provided in subdivision (f) of Section 62 and in Section 63;

(e) Tenancies-in-common. The creation, transfer, or termination of any tenancy-in-common interest, except as provided in subdivision (a) of Section 62 and in Section 63;

(f) Future Interests. Any vesting of a remainder or reversionary interest which occurs upon the termination of a life estate or other similar precedent property interest;

(g) Trusts. Any interests in real property which vest in persons other than the trustor (or, pursuant to Section 63, his spouse) when a revocable trust becomes irrevocable;

(h) Stock Transfers. The transfer of stock of a cooperative housing corporation as defined in Section 17265, vested with legal title of real property which conveys to the transferee the exclusive right to occupancy and possession of such property, or portion thereof.

Sec. 62. Change in Ownership: Excluded Transfers

Change in ownership shall not include:

(a) Co-owners. Any transfer between co-owners which results in a change in the method of holding title to the real property but not in a change in the proportional interests of the co-owners, such as a partition of a tenancy-in-common;

(b) Perfecting Title. Any transfer for the purpose of perfecting title to the property;

(c) Security Interests. (1) The creation, assignment, termination or reconveyance of a security interest; and (2) the substitution of a trustee under a security instrument;

(d) Trusts. Any transfer into a trust, if (1) the transferor is the sole beneficiary of the trust during his lifetime, or (2) the trust is revocable; or any transfer by a trustee of such a trust described in either (1) or (2) back to the trustor and/or the spouse of the trustor.

(e) Retained Life Estates. Any transfer in which the transferor retains beneficial use of the property for his lifetime.

(f) Certain Joint Tenancies. The creation or transfer of a joint tenancy interest if the transferor, after such creation or transfer, is one of the joint tenants;

(g) Leases. Any transfer of a lessor's interest in taxable real property subject to a lease with an original term (including renewal options) of 35 years or more.

63. Interspousal Transfers.

Notwithstanding Sections 60, 61, 62 and 65, any interspousal transfer, including (a) transfers to a trustee for the beneficial use of a spouse, or by a trustee of such a trust to the spouse of the trustor, (b) transfers which take effect upon the death of a spouse, or (c) transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation, shall not constitute a change in ownership.

Sec. 64. <u>Legal Entities</u>.

Except as provided in Section 61(h), the purchase or transfer of ownership interests in legal entities, such as corporate stock or partnership interests, shall not be deemed to constitute a transfer of the real property of the legal entity.

Sec. 65. Property Interest to be Appraised.

Whenever real property is purchased or a change in ownership of real property occurs, the assessor shall reappraise such real property at its full cash value.

(a) Upon the termination of any joint tenancy interest created as provided in Section 62(f), the entire real property shall be reappraised.

(b) Except as provided in subdivision (a), if an undivided interest in or a portion of real property is purchased or changes ownership, then only the interest or portion transferred shall be reappraised.

(c) If a unit or lot within a cooperative housing corporation, community apartment project, condominium, planned unit development, shopping center, industrial park or other residential, commercial or industrial land subdivision complex with common areas or facilities is purchased or changes ownership, then only the unit or lot transferred and the share in the common area reserved as an appurtenance of such unit or lot shall be reappraised.

PURCHASE

Proposition 13 provides that property shall be reappraised when it is "purchased." There were basically two ways to define purchase:

1. Any transfer for fair monetary consideration, whether or not the transfer was a "change in ownership;" or

2. Any transfer for any monetary consideration, but only if the transfer was a "change in ownership."

The Task Force recommends the second standard for two main reasons. The first standard would drag the assessors into the quagmire of determining how much money was necessary to make a transfer a purchase. Taxpayers would be uncertain and confused by the indefinite standard. Also, the Task Force labored hard in defining "change in ownership" to draw the proper dividing line between transfers which should trigger reappraisals and transfers which should not. Assuming the Task Force made the correct distinction between transfers that "count" and those that don't, it would make no difference whether the transfer was a gift or a sale.

The definition chosen by the Task Force is the ultimate in simplicity of administration. Assessors and taxpayers can ignore "purchase" altogether. The only operative test is whether a given transfer is or is not a "change in ownership."

Sec. 66. Purchase.

"Purchased" or "purchase" means a change in ownership for consideration.

SHIFT IN TAX BURDEN

Not all properties change ownership at the same rate. The Task Force members are concerned that commercial and industrial property has historically changed ownership much less frequently than has residential property, in the aggregate. In the long run, this would cause a shift in tax burden to residential taxpayers.*

The Task Force admits that some of its own recommendations, such as those regarding legal entities, while the best of a seemingly "no-win" choice of options and adopted to mitigate administrative difficulties, may, in the long run, further exacerbate this shift to residential property because it will result in fewer potential commercial and industrial property transfers being recognized for reappraisal purposes.

The Task Force discussed a constitutional change which a number of the members felt would correct many of the inequities in assessment practice now arising from Article XIIIA, although the group as a whole felt it was beyond the charge of the Task Force to promote it as a formal recommendation.

This proposal is to provide for the periodic reappraisal of commercial and industrial properties. This is designed to prevent an aggregate shift of a greater portion of the overall tax burden to homeowners, by placing commercial and industrial properties on roughly the same assessment cycle. Such a constitutional change would also result in far greater simplicity in the treatment of legal entities. If commercial and industrial properties were to be periodically reappraised for reasons <u>other than</u> change in ownership, the difficult and controversial policy issues in choosing between the "ultimate control" approach or "separate entity" approach, outlined previously, would be largely avoided.

The Task Force commends the principle of such a change to the Legislature for additional study.

* The Assembly Revenue and Taxation Committee staff notes that the staffs of the Board of Equalization, Department of Finance and Legislative Analyst are preparing estimates of this apparent shift, under a variety of assumptions. While unavailable for inclusion in this report, these figures may be released upon their completion as a technical addendum.

NEWLY CONSTRUCTED

Article XIIIA provides for a full cash value appraisal of property newly constructed after the 1975 lien date. There is no definition of new construction in either Article XIIIA or present statute. The State Board of Equalization has adopted a rule in defining new construction as any addition or improvement to land or alteration of an existing improvement which results in a conversion to another use or which extends the economic life of the property.

The Task Force recommends that "new construction" be defined by statute as additions to real property or the alteration of the land or an improvement which converts the property to a different use or which is a major rehabilitation. Major rehabilitation is defined as the renovation which converts an improvement to the equivalent of a new improvement.

"New construction" does not include timely reconstruction of property damaged or destroyed by a disaster to a level equivalent to the damaged or destroyed property. Only that portion of a new property which exceeds the substantially equivalent rebuilt structure will be re-appraised. For example, if a 2000 sq. ft. house is rebuilt to 3000 sq. ft. after fire damage, the procedurally the assessor would reappraise the entire property to current full cash value, but would count only one-third of this value as "new construction", which would constitute a new base value for that portion of the property. The remaining two-thirds would retain the former base base year value of the property. (See Section entitled Disaster Relief for further discussion.)

The value of the new construction will be appraised at the date of completion, or if uncompleted, the value on the lien date. For property which is uncompleted on the lien date, the value for the additional new construction in the following year shall only be that value added after the lien date. There shall be no total revaluation of an entire property upon completion if portions were valued as new construction.

After considerable discussion, the Task Force with some reservations decided that the present definition of "new construction", as adopted by the Board of Equalization, should be revised to remove the "economic life" test and replace it with a "major rehabilitation" test. It was persuasively argued that normal maintenance and repair should not occasion a new valuation. For example, if a homeowner adds a new roof, which increases the "economic life" of a structure, such addition would require an added value under the Board's rule. Under the proposed Task Force recommendation, this would not add value to the property.

The "value added" concept in putting new construction on the roll also was the subject of heated controversy among Task Force members. At several meetings, representatives of the County Assessors Association proposed that the assessors have a shot at revaluing the <u>whole</u> of the new construction upon completion. This view was not accepted by the Task Force for the following reasons:

1. New construction should be valued and put in the assessment roll during the progress of the new construction. To go back and re-appraise at the time of completion would not be fair to taxpayers

who had already received an increase due to partial new construction. Conversely, to avoid assessing a major partially completed building on the lien date would create a major loophole and leave many millions of dollars of value off the tax roll. In fact, it was pointed out that many structures are never completed and they could avoid taxes altogether if the new revaluation for new construction occurred only at the time of completion.

2. Proposition 13 has moved away from the true value concept and it was thought by the majority of Task Force members that to only assess the amount of new construction "added" each year was consistent with the intent of Proposition 13.

3. While administrative problems were raised, the majority of the membership believed that it is not a difficult task to add to the assessment the value of the structure added each year.

This recommendation may result in a reduction in property tax revenue to local government--primarily from the exclusion of minor rehabilitation as "new construction"--of an unknown amount. In general, however, the "value added" concept of treating new construction is consistent with present Board rules, so there is no fiscal effect by continuing this policy.

Chapter 3 Newly Constructed

Section 70. Definition of Newly Constructed and New Construction.

(a) "Newly constructed" and "new construction" means:

(1) Any addition to real property, whether land or improvements (including fixtures), since the last lien date; and

(2) Any alteration of land or of any improvement (including fixtures) since the last lien date which constitutes a major rehabilitation thereof or which converts the property to a different use.

(b) Any rehabilitation, renovation or modernization which converts an improvement or fixture to the substantial equivalent of a new improvement or fixture is a major rehabilitation of such improvement or fixture.

(c) Notwithstanding the provisions of subdivisions (a) and (b), where real property has been damaged or destroyed by misfortune or calamity, "newly constructed" and new construction" does not mean any timely reconstruction of the real property, or portion thereof where the property after reconstruction is substantially equivalent to the property prior to damage or destruction. Any reconstruction of real property, or portion thereof, which is not substantially equivalent to the damaged or destroyed property, shall be deemed to be new construction and only that portion which exceeds substantially equivalent reconstruction shall have a new base year value pursuant to Section 50.

Sec. 71. <u>Assessment of Newly Constructed Real Property</u>.

The assessor shall determine the new base year value for the portion of any taxable real property which has been newly constructed. The base year value of the remainder of the property assessed, which did not undergo new construction, shall not be changed.

Sec. 72. Building Permits

A copy of any building permit issued by any city, county, or city and county, shall be transmitted by each such entity to the county assessor as soon as possible after the date of issuance.

DISASTER RELIEF

Proposition 8

The original purpose of Proposition 8 was to alleviate tax burdens on property damaged in Governor-declared disasters by excluding certain value attributable to the ensuing reconstruction from "new construction."

The Task Force recommends that property damaged or destroyed by any misfortune or calamity, not just those disasters so declared by the Governor, be assessed at the original base year value if the reconstructed property at the time of reconstruction is substantially equivalent to the property as existed before the damage. The excess value, if any, shall be deemed new construction.

To reassess the totality of a property rebuilt due to a disaster as new construction under Proposition 13 would be totally unfair, as the property owner had no control over the events that caused the new construction. Proposition 13 predicates assessment changes only at times when the taxpayer has some control over the change.

However, by relying on comparability of value, rather than of the reconstruction itself, it is possible that the language of Prop. 8 would have forced a more restrictive interpretation to property reconstructed after a Governor-declared disaster than would be accorded to all other damaged properties under the existing Board of Equalization Rule No. 463. That rule allows for no reappraisal if the reconstructed property is comparable to the old property, even if its value is higher. Prop. 8 would require such excess value to count as "new construction." Under Rule 463, excess value is counted only when that value is attributable to reconstruction which is not comparable to the old property. This recommendation seeks to codify the present Board rule.

The intent of Prop. 8 was certainly not to penalize this class of taxpayers. Therefore, the procedure outlined is recommended, so that no taxpayer will be disadvantaged. There is no fiscal impact to this recommendation, since it is a continuation of present law.

The Task Force also recommends that the Legislature submit to the voters a constitutional amendment which incorporates all disaster assessment and decline-in-value provisions into a single coherent section under Article XIIIA. The current language is unclear, and in some cases more restrictive than the pre-Prop. 8 law.

Existing Disaster Assessment Statutes

Under existing law, counties may adopt ordinances to reduce assessments of property which are damaged after the lien date. There are presently three separate code sections which deal with this issue: Section 155.1 R&TC (Governor-declared disasters), Section 155.13 (individual misfortune or calamity), and Section 155.14 (individual misfortune to a possessory interest by drought).

The Task Force recommends these sections be consolidated, and in line with the general decline in value principle, that any reduction will be authorized only when the full cash value after destruction (after the statutory minimum destruction has occurred) is lower than the value carried on the current assessment roll. The Governor-declared disaster ordinance is permitted to remain in effect year after year, rather than requiring the county to enact the ordinance annually, as at present.

The Task Force also recommends that $5,000 worth of damage be the threshold for the Governor-declared disaster provision (which is $1,000 under present law), to conform with the $5,000 threshold now in effect for the other damage or misfortune provisions. Under the lowered Proposition 13 tax burdens, a $4,500 disaster, occurring six months after the lien date would amount to only $22.50 savings in tax. The administrative costs of processing small amounts will be in excess of the savings to the taxpayer.

SEC. . (See proposed subdivision (c) appearing on page)

SEC . Chapter 2.5 is added to Part 1 of Division 1 of the Revenue and Taxation Code, to read:

Chapter 2.5. Disaster Relief

170. (a) Notwithstanding any provision of law to the contrary, the board of supervisors may, by ordinance, provide that every person who at 12:01 a.m. on March 1 was the owner of, or had in his possession, or under his control, any taxable property, or who acquired such property after such lien date and is liable for the taxes thereon for the fiscal year commencing immediately following July 1, which property was damaged or destroyed in excess of five thousand dollars ($5,000) without his fault, after such lien date, by

(1) a major misfortune or calamity, in an area or region subsequently proclaimed by the Governor to be in a state of disaster, if such property was damaged or destroyed by the major misfortune or calamity which caused the Governor to proclaim the area or region to be in a state of disaster, or

(2) a misfortune or calamity, or

(3) misfortune or calamity to a possessory interest in land owned by the state or federal government and the permit or other right to enter upon the land has been suspended without his fault, because of a misfortune or calamity,

may, within the time specified in the ordinance, or if no time is specified within 60 days of such misfortune or calamity, apply for reassessment of such property by delivering to the assessor a written application requesting reassessment showing the condition and value, if any, of the property immediately after the damage or destruction, and the dollar amount of the damage. The application shall be executed under penalty of perjury, or if executed outside the State of California, verified by affidavit.

An ordinance may be made applicable to a major misfortune or calamity specified in paragraph (1) or to any misfortune or calamity specified in paragraph (2), or to both, as the board of supervisors determines. An ordinance may not be made applicable to a misfortune or calamity specified in paragraph (3) unless an ordinance making paragraph (2) is operative in the county. The ordinance may specify a period of time within which the ordinance shall be effective, and if no period of time is specified it shall remain in effect until repealed.

As used in paragraph (1), "damage" includes property which was diminished in value as a result of restricted access to the property where such diminution in value was caused by the major misfortune or calamity. As used in paragraph (3), "damage" means a possessory interest in land owned by the state or federal government wherein the permit or other right to use the land has been suspended because of a misfortune or calamity such as the drought condition in California.

(b) Upon receiving a proper application, the assessor shall reassess the property according to its full cash value immediately before and after the damage or destruction. The assessor shall notify the applicant in writing of the amount of the proposed reassessment. The notice shall state that the applicant may appeal the proposed reassessment to the local board of equalization within 14 days of the date of mailing the notice. If an appeal is requested within the 14-day period, the board shall hear and decide the matter as if the proposed reassessment had been entered on the roll as an assessment made outside the regular assessment period. The decision of the board regarding the damaged value of the property shall be final, provided that a decision of the local board of equalization regarding any reassessment made pursuant to this section shall create no presumption as regards the value of the affected property subsequent to the date of the damage.

(c) If the damaged full cash value of the property as determined above is

(1) for property subject to paragraph (1) of subdivision (a), not at least one thousand dollars ($1,000) less than the full cash value shown on the assessment roll for the year in question, or

(2) for property subject to paragraph (2) or (3) of subdivision (a), not at least five thousand dollars ($5,000) less than the full cash value shown on the assessment roll for the year in question,

no adjustment shall be made to said roll and no taxes shall be canceled or refunded. Those reassessed values resulting from reductions in full cash value of amounts, as determined above, shall be forwarded to the auditor by the assessor or the clerk of the local equalization board, as the case may be. The auditor shall enter the reassessed values on the roll. After being entered on the roll, said reassessed values shall not be subject to review except by a court of competent jurisdiction.

(d) If no such application is made and the assessor determines that a property has suffered damage caused by misfortune or calamity, which may qualify the property owner for relief under an ordinance adopted under this section, the assessor shall provide the last known owner of the property with an application for reassessment. The property owner shall file the completed application within 30 days of notification by the assessor. Upon receipt of a properly completed, timely filed application, the property shall be reassessed in the same manner as required above.

(e) The tax rate fixed for property on the roll on which the property so reassessed appeared at the time of its original assessment shall be applied to the amount of the reassessment determined in accordance with this section. In the event that the resulting figure is less than the tax theretofore computed, the tax shall be determined as follows:

(1) With respect to property on the secured roll a prorated portion of the tax due on the property as originally assessed at the rate established for property on the secured roll for the current fiscal year, such proration to be determined on the basis of the number of months in the year during which the property was in an undamaged condition plus a proration of the tax due on the property as reassessed in its damaged or destroyed condition at the rate established for property on the secured roll for such fiscal year, such proration to be determined on the basis of the number of months in the year in which the property was in a damaged condition, including the month in which the damage was incurred.

(2) With respect to property on the unsecured roll, he shall be liable for a prorated portion of the tax computed on the original assessment of the property and a prorated portion of the tax computed on the reassessment of the property as determined in the preceding paragraph.

(f) Any tax paid in excess of the total tax due shall be refunded to the taxpayer pursuant to Chapter 5 (commencing with Section 5096) of Part 9 of this division, as an erroneously collected tax or by order of the board of supervisors without the necessity of a claim being filed pursuant to Chapter 5.

(g) The assessment of the property, in its damaged condition, as determined by this section, shall be reviewed at the lien date next following the date of the misfortune or calamity and shall be assessed in the same manner as prescribed by law for any other assessable property.

(h) This section applies to all counties, whether operating under a charter or under the general laws of this state.

(i) Any ordinance in effect pursuant to Section 155.1, 155.13, or 155.14 shall remain in effect as if such ordinances were adopted pursuant to this section.

SEC. ____. Section 155.1 of the Revenue and Taxation Code is repealed.

SEC.______. Section 155.13 of the Revenue and Taxation Code is repealed.

SEC.______. Section 155.14 of the Revenue and Taxation Code is repealed.

ASSESSMENT APPEALS

The Task Force recommends that taxpayers be given the opportunity to appeal their 1975 base year value until June 30, 1980. If the appeal is successful, the change in the base year value would be prospective. The Task Force believes that the cut-off date for both the assessors and taxpayers is consistent with the Supreme Court's "grandfather clause" rationale in Amador Valley for sustaining the 1975 base year.

The Task Force recommends that there be no change in the present law on assessment appeals with respect to change in ownership base values and new construction base values. The present law is that each year's assessment is a new assessment. If a property was revalued in 1980 due to new construction to by an increase of, say, $75,000, and the taxpayer filed no 1980 assessment appeal, the taxpayer could nonetheless file an assessment appeal in 1985 to seek to prove that the 1980 new construction only had a value of, say, $50,000.

Of course, in any year the taxpayer will continue to have the right to appeal the full cash value of his property, as well as his new construction or change in ownership base value.

Some counties are taking the position that if a taxpayer didn't appeal the 1975 assessment in 1975, the issue is closed and no further appeal on that value is permissable unless the assessor changes the value.

Because of the new ground rules of Prop. 13, and the long range significance of the base year value the Task Force believed it to be "fair play" to allow taxpayers to appeal this value through 1980.

The cut off was set as it was believed this could be adequate time to file this appeal and such appeals of a 1975 (or 1976, 1977 or 1978) value should not be an issue many years after the fact.

Under this recommendation there will be a unknown increase in local costs of dealing with taxpayer appeals.

Chapter 4. Assessment Appeals

(OPTIONS 1 and 2)

Section 80. Equalization of Assessments Using 1975 Base Year Value.

Except as provided in subdivision (c) of Section 50, where real property has been assessed for the 1978-79, 1979-80 or 1980-81 tax years using a 1975 lien date base year value, the applicant in equalization proceedings pursuant to Chapter 1 (commencing with Section 1601 of Part 3 of this Division) may establish the correct full market value of the property as of the 1975 lien date.

For tax years after 1980-81, for purposes of equalization, it shall be conclusively presumed that the 1975 lien date base year value shown on the 1980-81 assessment roll is correct.

Section 81. Equalization of Assessments Using Other Than 1975 Base Year Value.

Where real property has been assessed using a base value other than the 1975 base value, the applicant in equalization proceedings pursuant to Chapter 1 (commencing with Section 1601 of Part 3 of this Division) may establish the correct base year value applicable to the current year's assessment.

TAXPAYER REPORTING

From the outset all members of the Task Force recognized that, because reappraisal of property under Article XIII A is triggered only by (a) change in ownership, (b) purchase, or, (c) new construction, an adequate system for reporting those events to assessors should be devised.

Various reporting systems were proposed and studied. Burden on taxpayers was weighed against the assessors' needs for additional information and the cost of obtaining it. The Assessors' Association was particularly concerned with the cost of mailing new questionnaires and processing them.

After extensive discussion, the Task Force agreed upon, and recommends the following scheme of taxpayer reporting.

At the time of recording any real property transfer, the person seeking to record will be provided a questionnaire on a form prescribed by the State Board of Equalization. The questionnaire will be confidential and will elicit information necessary to determine whether the transfer is or is not a change in ownership or purchase and may seek other information necessary for valuation purposes, if the transaction is a purchase or ownership change. The transferee's failure to file the completed questionnaire with the recorder at the time of recording or with the assessor within 45 days after the recordation date or receipt of the form, whichever is later, would result in a penalty of 10% of the current year's taxes or $100, whichever is greater.

In an effort to reach the comparatively smaller number of persons who do not record their property transfers, the Task Force recommends that assessors be given the authority to send a notice to taxpayers requesting those that acquired property through an unrecorded transfer to file a change in ownership statement with the assessor. Although this statement will be required to be filed within 45 days of the date of the transfer, no penalty will apply until 45 days after receipt of the assessor's request. It is anticipated that most assessors will include this notice/request in the tax bills mailed in the fall.

The Task Force acknowledges that, should persons involved in such unrecorded transfers choose not to respond to the request, it may prove difficult to locate them. However, at such time as the assessor does discover such a transfer, all applicable penalties will apply and back taxes will be collected pursuant to existing statutes.

Section 441(a) of the Revenue and Taxation Code now provides that persons owning $30,000 or more of taxable personal property ("business taxpayers") must file an annual Business Property Statement. Other exisitng sections of the Code provide that the State Board shall prescribe the form and provide filing deadlines and penalties. This is a known and operating system.

The Task Force recommends that the State Board include in the Business Property Statement forms all questions necessary to elicit new construction, change in ownership and purchase information from these business taxpayers. No statutory changes are required.

The Assessor's Association stated that their existing statutory authority and information-gathering techniques are adequate to gather the necessary information on new construction from the non-business taxpayers. The assessors believed that the mailing and processing of new forms to elicit this information from this class of taxpayers would be costly, wasteful and non-productive.

These recommendations will result in some increase administrative cost for assessors. However, the burden of discovering these ownership changes is a present mandate on the assessor. If this process eases the task of administering the ownership change provisions and uncovers such transfers more quickly, then the increased revenues to counties may offset these costs.

Chapter 5. Taxpayer Reporting.

Sec. 90. Assessees shall report change in ownership information to the assessor as provided in Article 2.5 (commencing with Section 480) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code.

Section ____. Section 27280 of the Government Code is amended to read:

27280. (a) Any instrument or judgment affecting the title to or possession of real property may be recorded pursuant to this chapter.

All under-scored

(b) Any instrument or document submitted for recordation which effectuates a change in ownership may be accompanied by a change in ownership statement as provided for in Section 480 of the Revenue and Taxation Code. Upon receipt of such change in ownership statement, the recorder shall transmit, as soon as possible, the original statement or true copy thereof to the county assessor along with the recorded document as required by Section 255.7 of the Revenue and Taxation Code. The change in ownership statement shall not be recorded nor open and available to public inspection and shall at all times remain confidential, except as provided in Section 408 of the Revenue and Taxation Code.

SEC. ____. Section 27321 of the Government Code is amended to read:

27321. The recorder shall endorse upon each instrument the book and page in which it is recorded, and shall thereafter mail, or if specified to the contrary, deliver it to the person named in the instrument for return mail, and if no such person is named, to the party leaving it for record.

All in Italics

Where any recorded instrument or document effectuating a change in ownership is not accompanied by a change in ownership statement, the recorder shall either include with the return of any such recorded instrument or document a change in ownership statement as provided in Section 480 of the Revenue and Taxation Code or specifically identify those recorded documents not accompanied by an ownership statement when providing the assessor with a copy of the transfer of ownership document pursuant to Section 255.7 of the Revenue and Taxation Code.

Sec. ____. Article 2.5 (commencing with Section 480) is added to Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code, to read:

Article 2.5. Change in Ownership Reporting

480. Whenever any change in ownership of real property occurs, the transferee shall file a signed change in ownership statement in the county where the real property is located, as provided for in subdivision (b).

(a) The change in ownership statement shall be declared to be true under penalty of perjury and shall give such information relative to the real property acquisition transaction as the board shall prescribe. Such information shall include, but not be limited to, a description of the property, the parties to the transaction, the date of acquisition, the amount, if any, of consideration paid for the property, whether paid in money or otherwise, and the terms of the transaction. The change in ownership statement shall not include any question which is not germane to the assessment function. The statement shall contain a notice that is printed in at least 14-point boldface type in the following form:

Important Notice

The law requires any person acquiring an interest in real property to file a change in ownership statement with the county recorder or assessor. The change in ownership statement must be filed within 45 days of the date of recording or, if the transfer is not recorded, within 45 days of the date of the change in ownership. The failure to file a change in ownership statement within 45 days after receipt of a written request by the assessor results in a penalty of $100 or 10 percent of the current year's taxes on the real property, whichever is greater. This penalty will be added on the current assessment roll and becomes a lien against your real property in the same manner as any other property tax, unless paid by the end of the month following the month in which it is enrolled. Thereafter, the lien will be subject to interest and penalties as any other delinquent tax on real property.

(b) If the document evidencing a change in ownership is recorded in the county recorder's office, then the statement shall be filed either (1) with the recorder at the time of recordation or (2) with the assessor within 45 days from the date of recordation. If the document evidencing a change in ownership is not recorded, then the statement shall be filed with the assessor no later than 45 days from the date the change in ownership occurs.

(c) Whenever a change in ownership statement is filed with the county recorder's office, the recorder shall transmit, as soon as possible, the original statement or a true copy thereof to the assessor along with a copy of every recorded document as required by Section 255.7.

(d) The change in ownership statement may be filed with the assessor through the United States mail, properly addressed with the postage prepaid.

(e) Upon receipt of a change in ownership statement which has either been transmitted by the county recorder's office or been filed directly by the transferee, the assessor shall enter the prior assessment year value and an indication as to whether a change in ownership, as defined in Section 60, has occurred on the statement.

(f) In the case of a corporate transferee of property, the change in ownership statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign such statements on behalf of the corporation.

481. All information requested by the assessor pursuant to this article or furnished in the change in ownership statement shall be held secret by the assessor. The statement is not a public document and is not open to inspection, except as provided in Section 408.

482. If any person who is requested by the assessor to make a change in ownership statement fails to file such statement within 45 days from the date of request, a penalty of the greater of $100 or 10 percent of the current year's taxes on the real property shall be added to the assessment made on the current roll. The penalty shall be added to the current assessment roll and shall become a lien against the real property in the same manner as any other property tax, unless paid by the end of the month following the month in which it is enrolled. Thereafter, the lien shall be subject to interest and penalties as any other delinquent tax on real property.

Notice of any penalty added to the roll pursuant to this section shall be mailed by the assessor to the assessee at his address as contained in any recorded instrument or document evidencing a change in ownership or at any address reasonably known to the assessor.

483. If the assessee establishes to the satisfaction of the county board of supervisors that the failure to file the change in ownership statement within the time required by Section 480 was due to reasonable cause and not due to willful neglect, and has filed the statement with the assessor, the board of supervisors may order the penalty abated, provided the assessee has filed with the board of supervisors written application for abatement of the penalty no later than 60 days after the date on which the assessee was notified of the penalty.

If the penalty is abated it shall be canceled or refunded in the same manner as an amount of tax erroneously charged or collected.

484. With the exception of the penalty provision of Section 463, the provisions of Article 2 of this Part shall be available to the assessor for the purposes of securing change in ownership information required for assessment purposes.

485. If after written request by the assessor, any person fails to comply with any provision of law for furnishing information required by Sections 480, the assessor, based upon information in his possession, shall estimate the value of the property and, based upon this estimate promptly assess the property.

Sec. ___. Section 2516 is added to the Revenue and Taxation Code, to read:

2516. Upon the failure of a transferee to file a change in ownership statement required by Section 480, the assessor or the auditor shall immediately enter on the assessment records applicable to the real property, the fact that a penalty has been added to the assessment roll and specify the date and amount thereof.

TAX RATE REPORTING

To monitor tax rate limits imposed by SB 90 (1972), the Legislature established a system of monitoring by the Controller with respect to tax rates levied in excess of maximum rates.

The Task Force recommends that local jurisdictions must certify to the county that any property tax rate levied is exempt from the limit of Article XIII A. Such rates shall be reported to the Controller within 15 days after the rate is levied. The Controller must determine whether any rates so reported are ineligible to be levied under the limitations of Article XIII A. If the Controller determines that a local agency's proposed rate is in error, that agency will be immediately notified to either eliminate such rate, or reduce it by an appropriate amount, for the current fiscal year. A penalty applies to any local agency which fails to report such proposed levies to the Controller in timely fashion.

A system of monitoring and controlling tax rates is necessary to insure tax rates are not being levied at a level above that permitted by Article XIII A.

Since override rates must be reported to the Controller under prior law, this recommendation should have no cost impact.

Chapter 6. Tax Rate Reporting

95. Any local agency, school district, county superintendent of schools, community college district, or any other agency or officer on whose behalf an ad valorem property tax is collected, shall certify to the tax levying authority that the property tax is exempt from the application of Article XIII, Section 1(a). The certification may be based upon the opinion of counsel, in which event it may so state. The levying authority shall rely upon this certificate in making such levy. If the agency levies its own taxes, the certification shall be filed with the tax levying records of the agency as a public record. Each agency or officer on whose behalf such a tax is levied shall report the facts of such levy as required by this chapter.

96. Annually, no later than 15 days after the property tax rate for a local agency, including a school district, county superintendent of schools and community college district, or any other agency or officer on whose behalf an ad valorem property tax is collected, has been fixed, each such local agency shall report to the Controller on a form to be specified by the Controller, any property tax rate levied by or on behalf of the agency for the current fiscal year for any ad valorem taxes on real property. Such information shall show the amount of the rate levied which is exempt from such limitation, the reasons for the exemption, and such other information relating thereto as the Controller may require. The Controller shall by regulation require any tax rate exempt from the rate limitation of Section 1(a) of Article XIII-A of the Constitution to be reported in the manner specified in this section.

97. The Controller shall determine on or before October 1 whether any rate reported pursuant to Section 96 is ineligible to be levied pursuant to Section 2237. In the event such an error is determined, the Controller shall immediately notify the local agency of such error, and the local agency shall either eliminate such property tax rate, or reduce such rate by an appropriate amount, for the current fiscal year. In the event

that a local agency fails to make such a reduction in its property tax rate, the Controller shall request the Attorney General to bring an action under Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure to force a reduction in the rate.

98. If a local agency fails to file a report required by Section 96 by October 15, the Controller, in the succeeding fiscal year, shall reduce by 10 percent or five thousand dollars ($5,000), whichever is less, the payment he is required to make to such agency based on claims filed pursuant to Section 16113 of the Government Code.

(uncodified) For the 1978-79 fiscal year, the report required by Section 96 of the Revenue and Taxation Code shall be due by May 15, 1979, or 60 days after the effective date of this section, whichever is later. In succeeding years, the the provisions of Section 98 shall be effective.

REASSESSMENT ON ZONING CHANGES

In valuing real property, the Assessor is required to consider the effect of any enforceable restrictions, such as zoning (Sec. 402.1 R&T Code). However, under the newly adopted Article XIII-A of the California Constitution, change in an enforceable restriction may not affect the value of the land for tax purposes.

Whenever zoning covering a property is changed from one zone to another, or a zoning variance or conditional use permit is granted, the responsible city or county must notify the assessor of such action (Sec. 65863.5 Govt. Code). Following the receipt of this notice the assessor must reassess the property as of the next succeeding lien date (Sec. 402.2).

Also, if the zoning change or variance or conditional use permit was requested by other than the owner of record, the city or county must notify the owner of the property of (1) the fact that such notice has been sent to the assessor, (2) of the assessor's duty to reassess the property, and (3) of the owner's right to protest the new assessment and file an equalization proceeding (Sec. 65863.5).

The Task Force recommends the deletion of the requirements that the city or county notify the property owner that the Assessor has been notified of the zoning change, variance or conditional use permit .

Inasmuch as the change of zone or the granting of a variance or conditional use permit may not trigger a new assessment under Article XIII-A, it does not appear that the notice to the property owner of the change is necessary. The assessor already is required to give notice of any increase in assessment before the assessment filing time (R&T Code Sections 619 or 621) and his failure to give this notice extends the filing time until after the tax bill bearing the increased value is received (Sec. 620).

This recommendation will save local governments the administrative expense of mailing these forms.

Section ______. Section 65863.5 of the Government Code is amended to read:

65863.5. Whenever the zoning covering a property is changed from one zone to another or a zoning variance or conditional use permit is granted with respect to any property, the governing body of the city or county shall, within 30 days, notify the county assessor of such action. ~~and,-if-the-zoning-change-or-variance-or-conditional-use-permit-was-requested-by-other-than-the-owner-of-record,-shall-simultaneously-notify-the-owner-of-such-property-of-the-fact-that-such-notice-has-been-sent-to-the-assessor, of-the-assessor's-duty-under-Section-402.2-of-the-Revenue-and-Taxation-Code,-and-of-the-rights-and-process-of-assessment-protest-and-equalization-hearing-as-provided-in-Part-3-(commencing-with-Section-1601)-of-Division-1-of-the-Revenue-and-Taxation-Code.~~

Notwithstanding Section 65803, this section shall apply to charter cities.

Section ______. Section 402.2 of the Revenue and Taxation Code is amended to read:

Section 402.2. If during the assessment year the assessor receives the notice required by section 65863.5 of the Government Code, the assessor shall reassess the property as of the next succeeding lien date, to the extent permitted by sections 110 and 110.1.

EFFECTIVE DATE

The Task Force recommends that all proposed changes in assessment provisions be "retrospective" in nature. For example, any transfers since March 1, 1975 which resulted in reappraisals of property for 1978-79 under SB 154/SB 2212, which would not constitute reappraisals under the Task Force recommendations, would be ignored for purposes of the 1979-80 assessment roll and thereafter, and that property would be returned to its factored 1975 base year value. However, there will be no escape assessments or refunds made for 1978-79 itself, as assessments made in that year were validly made under the law at that time (SB 154/SB 2212).

The assessors argued for a delay in the effective date until 1980-81, and for making all changes prospective only. They pointed out that there is a potentially large administrative cost to going back and trying to ferret out such changes in a wholesale revaluation. Unless counties are willing to budget such increased costs, assessors will be unable to make automatic adjustments. This implies that changes will in many counties have to be made on a case-by-case basis via taxpayer appeal.

However, not to make these changes retrospective would create an inequity for those taxpayers who would otherwise be forced to forever pay higher taxes than would have been required under these recommendations. It would also allow one more year (1979-80) in which taxpayers might incur such increased liabilities (under SB 154/SB 2212) that would not be incurred under these recommendations.

There would be a one-time cost to local governments if this recommendation is adopted; magnitude is unknown. Costs may be avoided or reduced if counties choose to rely on taxpayers coming in on appeal to correct their assessments to the proper levels.

With respect to leases, the Task Force recommends that unless a lease fits the provisions recommended (35 year or greater duration), then it shall not constitute a change in ownership for purposes of the 1978-79 assessment roll.

According to the Assessor's Association, no assessor in the state has gotten around to adding any 10 year or greater leases to the 78-79 roll as a change in ownership under the provisions of SB 154/SB 2212, and since the duration of the lease is now proposed as 35 years, the Task Force felt it was better to simply wipe the slate clean.

Because of the complex legal issues involved with these recommendations, the Task Force recommends that any implementing legislation contain a severability clause.

Sec. ___. Notwithstanding the provisions of Sections 110.1 and 110.6 as added to the Revenue and Taxation Code and amended by Chapters 292 and 332 of the Statutes of 1978, the provisions of this act shall be effective for the 1979-80 assessment year and thereafter, except as provided in the following section.

Sec. _____. No creation, termination, assignment or sublease of a leasehold interest on or after March 1, 1975, and no transfer of property subject to a lease on or after March 1, 1975, shall constitute a change in ownership, unless it is defined as a change in ownership under subdivision (c) of Section 61 and subdivision (g) of Section 62.

ADDITIONAL AND MINORITY VIEWS

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January 12, 1978

Mr. David Doerr
Chief Consultant
Assembly Committee
on Revenue and Taxation
State Capital, Room 2013
Sacramento, California 94814

Dear Dave:

The following comments are by way of "minority views" for inclusion in the task force report.

1. 1975 Base Year. I believe that Option 1 is the only fair and workable basis for establishing values. As the committee discussions indicated, Option 2 would be difficult to implement and Option 3 is literally impossible. As a task force whose principal charge has been to recommend workable definitions, I believe we mislead the legislature by suggesting that Options 2 and 3 are feasible.

2. Change in Ownership. It has been assumed that the exclusion of transfers between spouses is necessary as a matter of policy. While I accept the policy, I believe we again tend to mislead the legislature by implying that it has authority to exclude certain transfers of real property from the application of Art. XIII A. Such exclusions require a constitutional amendment.

Very truly yours,

Paul Baker

Paul W. Baker

PWB:rk

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January 12, 1979

Mr. David R. Doerr
Chief Consultant
Assembly Revenue and Taxation
Committee
State Capitol, Room 2013
Sacramento, California 95814

Re: Task Force
Minority Report

Dear Dave:

Please include this letter in "Minority Views", although it is more a letter of suggestions than of dissent. Of necessity it is addressed to the January 9, 1979 draft of the report and does not cover any changes which may occur at the January 15, 1979 meeting.

I.

TASK FORCE RECOMMENDATIONS

1975 BASE YEAR

I urge the Legislature to adopt "Option 1". The Task Force is nearly unamimous in that view. Moreover, because no one took the other "Options" seriously, we did not adequately provide for their side effects (e.g., assessment appeals).

Option 3 is very dangerous to the legislators. I sincerely hope that the trap is explained to them. The trap is that no taxpayer could possibly meet the burden of proving the "1975 lien date percentage" on which his relief is conditioned under Option 3. Thus the Option holds out nothing but a false hope of relief. Once that fact were discovered by the public, the legislators would be severely criticized.

CHANGE IN OWNERSHIP

I believe the exemption of interspousal transfers is invalid, because it goes beyond any conceivable meaning of "change in ownership" - the only phrase in the constitutional provision. No one can seriously contend, for example, that a husband's transfer of his separate property to his wife is not a "change in ownership".

I don't question the policy wisdom of the exemption. I suggest, rather, that it can only be accomplished by a constitutional amendment. If it is provided by an invalid statute, I am afraid many spouses will rely on the statute, later to be hit by escape assessments. Again, I sincerely hope the legislators understand this trap.

TAXPAYER REPORTING

I still believe the fairest, most comprehensive taxpayer reporting system would be a reinstatement of the pre-1967 requirement of an annual property tax statement from all taxpayers. It would require very little statutory change and would build on an already tested and working reporting system.

The system recommended by the Task Force, although "corner cutting" and incomplete to my view, will work reasonably well if - and only if - the "separate entity" approach to change in ownership of property belonging to legal entities is adopted. If the "ultimate control" approach (or some variant of it) is adopted, small businesses will unwittingly and unfairly be visited with penalties for failure to report technical, difficult to understand changes in ownership of which they were innocently unaware.

NEW CONSTRUCTION

Although the Task Force discussed "new construction" in depth, it changed its approach to the problem so often that the approach finally adopted is not well articulated in the recommended statute.

I do not question the approach, but respectfully suggest that the statute provides inadequate guidance. Such terms as "major rehabilitation", "substantially equivalent of a new improvement or fixture" and "timely reconstruction" are regrettably loose. Further study should be devoted to trying to make the statutory scheme more concrete.

Certain portions of the draft report seem to me to imply - contrary to the Task Force intent and the recommended statutes - that the entire property, not just the newly constructed portion, is reappraised when new construction is completed. The report text should be revised in those places to make it clear that in all cases only the newly constructed portion is revalued.

DECLINE IN VALUE

The Task Force recommends that when the full cash value of a property is less than its factored base value, the assessment will be at the lower full cash value, but the base value shall not be revised down to that figure. I suggest we made that decision too rapidly. Article XIIIA, as revised by Proposition 8, clearly requires revision of the base value.

I therefore believe the Task Force recommendation is unconstitutional.

VARIOUS LAST MINUTE PROPOSALS

The Task Force thoroughly studied and discussed major Proposition 13 subjects, but many items came up only at the last meeting or, for the first time, in the draft of report. I do not think they have been adequately considered and seriously urge that they should not be, and cannot responsibly be, recommended by the Task Force.

I therefore urge that the following subjects only be the recommendations of the Assembly Revenue and Taxation Committee staff and be deleted entirely from the Task Force Report:

Special Types of Properties
Revision of Existing Disaster Laws
Tax Rate Reporting
Reassessment On Zoning Changes

II.

SUGGESTIONS FOR THE FUTURE

A. CONSTITUTIONAL AMENDMENT

At the outset of the Task Force I suggested that many desired objectives might only be achieved by constitutional amendment. I have kept a list of them which may be helpful to the Revenue and Taxation Committee:

(a) Preventing a tax shift to homeowners,
(b) Interspousal Exemption,
(c) Simplification of the property tax system (cost saving), and
(d) Tax Court.

1. Preventing Shift. The Legislature is already aware of this result of Proposition 13. Homes change ownership far more frequently than commercial and industrial properties. "Change in ownership" and "newly constructed" cannot be defined arbitrarily to place business properties on the same cycle of reappraisal as houses. A constitutional amendment is necessary for that purpose.

2. Interspousal Exemption. This has already been discussed.

3. Simplification. I have always believed (perhaps you have statistics to prove or disprove it) that property tax is the most inefficient tax of all of California's taxes. It costs more per dollar of revenue to collect and administer than any other tax. Now that the property tax rate has been cut by roughly 60% and a ceiling has been placed on valuations I am certain that my belief is correct. It will continue to be a highly inefficient tax so long as the 58 assessors' staffs, 58 tax collectors' staffs, 58 assessment appeals boards or boards of equalization and the State Board property tax staff remain at roughly their present levels.

I do not mean to criticize the property tax staffs. I recognize the overall justice of their complaint that even with the present size of the staffing and cost of administration, they are hard pressed to do the job.

The point is that the tax itself - the measurement of the base, the collection, the overseeing functions necessary for equalization - is awkward and unavoidably leads to an inefficient ratio of cost to revenue produced. I had hoped that the Supreme Court's "acquisition value" rationale of Proposition 13 might usher in a tax which would only require assessors to check with the recorder for transfers and require but a small appraisal staff to value cash equivalence of unusual sales and value of transfers without consideration (gifts, etc.). But the Task Force has now worked through the main issues of Proposition 13 and 8 and we have a system nearly as complex as the old one.

Assessors object to an annual property statement for changes in ownership and new construction as too costly to mail and too bulky for their existing staffs to process. They object to separate assessments for joint ownerships as too burdensome on their staffs; to the incremental approach to new construction for the same reason. It seems clear, therefore, that Proposition 13 did NOT make property tax more efficient. The assessors tell us they need at least their present staff levels; yet revenues are reduced to about one-third. WE NOW HAVE A SYSTEM 3 TIMES AS INEFFICIENT AND COSTLY AS BEFORE.

I still cling to the hope that simplification of the property tax system could be achieved, using the basic idea of Proposition 13 and the Supreme Court, if the triggering events were not so complex.

Such simplification would require a serious study and ultimately constitutional amendment. If the work has not already been done by the "Post Committee", the Assembly Revenue and Taxation Committee may wish to establish a new Task Force for such a study.

4. Tax Court. I sincerely believe that a Tax Court replacing the 58 assessment appeals boards and the various boards which decide sales tax, income tax and other state tax matters would prove an economy over the present system.

With Proposition 13 the law, moreover, most assessment appeals will involve threshold legal issues; for examples:

(a) Is the property entitled to a 1975 base?
(b) Did it change ownership?
(c) What, if anything, was newly constructed?
(d) Is a partial or total reappraisal allowed?

The appeals boards are not staffed to handle legal questions. Most boards decline to decide them. Others do entertain them, are reversed on appeal, and have to hold at least a second hearing on remand. It makes no sense whatever that taxpayers should have to submit legal questions to the boards, but the law is such that no one but an idiot or stuntman would dare not to do so. The government cost of those futile proceedings is great. The public cost to the appealing taxpayers is greater.

It truly is time that we fess up to the weaknesses of our assessment appeals system, form a Tax Court capable of deciding the legal and valuation issues and, I submit, save government and private costs in the process.

A constitutional amendment would be needed.

B. FUTURE STUDY GROUPS

The Assembly Revenue and Taxation Committee should consider forming two study groups:

(a) A technical group to consider cleaning up the R. & T. Code in light of Propositions 13 and 8 ("Technical Group"); and
(b) A group to study constitutional amendments ("Constitutional Amendment Group"), the purposes of which have already been mentioned.

The purpose of the Technical Group would be to complete, and mop up after, the Task Force's work. The Task Force was only able to address major, obvious Proposition 13 and 8 issues. A new, much smaller group, should be formed to review the entire property tax code with a view to removing now unncessary sections and streamlining the code. It would address obvious issues which we did not reach such as whether many property tax functions of the State Board are still needed. At its inception at least it might be a rather small committee, comprised primarily of property tax technicians. Most of the work would be technical. Policy issues might be noted by the small committee and submitted to a larger policy group before being remanded to the small technical group for statutory drafting.

2. Constitutional Amendment Group. The reasons for such a group and its basic purposes have already been outlined.

Sincerely,

EHRMAN, FLAVIN, MORRIS & McMAHAN, INC.

Bob

Robert H. Morris

RHM:mf

Cal-Tax
CALIFORNIA
TAXPAYERS'
ASSOCIATION
SUITE 800 · 921 11th ST.
SACRAMENTO, CA 95814
(916) 441-0490

January 16, 1979

Mr. David R. Doerr
Chief Consultant
Assembly Revenue and Taxation
Committee
State Capitol
Sacramento, California 95814

Subject: Report of Task Force on Property Tax Administration

Dear Dave,

On behalf of Cal-Tax, I would like to express our gratitude for the opportunity to participate as a member of the Task Force on Property Tax Administration. Regardless of any disagreement we may express regarding any recommendation of the report, we have no complaint with the conduct of task force proceedings, which were fairly conducted, with adequate opportunity for full participation extended to all members. The committee staff effort was, as usual, excellent, and we particularly appreciated the quick editing and return of task force minutes, reports, and other documents; another superb effort by Bob Leland.

While we in the Task Force have referred to these letters as "minority reports," I must say that this communication reflects dissent with no specific recommendations in the report. Rather, we present a recommendation and observations on two important issues which were discussed extensively by the group. On one of these issues - determination of 1975 base year values - the task force achieved no consensus. The other issue, a potential shift of assessed values toward single family residential properties under Article XIIIA, while noted in the report, was felt to be beyond the charge to the task force.

Base year values. This issue and three options for establishing base year values are adequately discussed in the task force report. I wanted to note here that there was some discussion of a possible fourth option by the task force which dealt specifically with the properties that still carry pre-1975 assessed values. That proposal was to use the countywide ratio of assessed to full market value as established by the State Board of Equalization for 1975.

This approach, which has the administrative advantage of an easily applied, fixed, countywide standard, was not fully considered on grounds of a shift in property tax burden toward single family residential properties. We plan to pursue evaluation of this option further, as it may yet prove to be the least onerous of all options. We will at least review the countywide ratios for 1975, the ratio of the various components to the countywide ratio in those counties that were sampled for 1975, and the percentage of properties in each county that still carry a pre-1975 appraisal. In short, I think we need to know more precisely if, and how much shift would occur under this particular approach before it is totally rejected.

With respect to properties that were appraised in 1975, and that have not since changed ownership, undergone new construction, or declined in value, it is our position that those appraisals should stand. It is also our position that any assessor's change in the 1975 values by whatever method, physical appraisal, computer trending, etc. should constitute a 1975 appraisal. We acknowledge the ambiguities in Article XIIIA language on this point; we noted and commented on similar ambiguities prior to the June 1978 vote on Proposition 13. Since the proposition was not drafted by Legislative Counsel but by lay persons it does not reflect precision with respect to property tax terms. Therefore, rather than focusing on "ambiguities" in Article XIIIA with respect to the 1975 base year, it seems more important - and responsible - to concentrate on the widespread public understanding of Proposition 13: properties carrying a 1975 appraisal would be left alone.

Quite aside from Proposition 13 expectations, it seems unfair to allow the assessor to go back, armed with the knowledge of post-1975 values, and re-do appraisals to which he originally subscribed in 1975. It seems worth noting that the assessor is required, under Revenue and Taxation Code 616, to sign the following affidavit:

> 616. Assessor's affidavit. On or before July 1, annually, the assessor shall complete the local roll. He shall make and subscribe an affidavit on the roll substantially as follows:
>
> "I, _______________, Assessor of _____________ County, swear that between the lien date and July 1, 19 ___, I have made diligent inquiry and examination to ascertain all the property within the county subject to assessment by me, and that it has been assessed on the roll, according to the best of my judgment, information, and belief, at its value as required by law; and that I have faithfully complied with all the duties imposed on the assessor under the revenue laws; and

> that I have not imposed any unjust or double assessment through malice, ill will, or otherwise; nor allowed anyone to escape a just and equal assessment through favor, reward, or otherwise."
>
> The failure to make or subscribe this affidavit, or any affidavit does not affect the validity of the assessment.
>
> The assessor may require from any of his deputies an affidavit on the roll similar to his own.

The signing of this affidavit, we assume, is more than an idle act, Option 1, we would submit, is contrary to the spirit of Proposition 13 and simply unfair. The assessor should have only one opportunity. Two shots at an appraisal is double jeopardy for the taxpayer.

The basic problem, therefore, in setting 1975 base year values is <u>not</u> with respect to properties that were appraised in 1975; the problem is with the standard that is used to bring those pre-1975 values up to 1975. We feel it is important that the assessor be provided with a direction. Therefore, Option 2, which retains 1975 appraisals but gives the assessor no guidelines in appraising properties not appraised in 1975, is inadequate. Option 3, which directs the assessor to bring unappraised properties to a 1975 level by class of property is, of course, property tax classification, albiet a retrospective application of local assessment practice.

Obviously, a standard for establishment of pre-1975 values needs more work. We plan to explore the countywide ratio solution further. Recognizing the potential for shift in the countywide ratio approach, we must also ask, could not the results in the liability under Option 1 be heavier? Whatever method is adopted in resolving this issue, the result should be the lowest cost solution for all taxpayers. The real problem - the only one - is to design a formula to achieve parity in the base year between those properties carrying a pre-1975 value with those which were in fact reappraised or otherwise revalued.

<u>Change of ownership</u>. This is a response to those pages in the task force report which touch on the potential for a shift in overall tax burden in the direction of residential property. This potential is seen as a phenomenon which may be exacerbated under Article XIIIA because residential property "turns over" much more frequently than commercial and industrial. The solution suggested in the report is to provide for periodic reappraisal of commercial and industrial properties.

We acknowledge that the potential for shift does exist, but that its direction and magnitude needs careful study. We would urge that the solution to the problem, to the extent it is demonstrated to exist, be in the direction of specific relief rather than a differential in assessment practice between residential and all other properties. We are currently exploring an approach which would relieve all, or a portion of, the homeowner's increase over pre-transfer value - as one possible solution to this as-yet undetermined shift.

In anticipating and addressing this potential shift, it seems important to us to remember a number of factors:

1. Any increase in valuation that occurs to any kind of property as a result of change in ownership is now occurring in the context of a 1% property tax limit, which is one-half to one-third of what property tax liability would have been prior to Proposition 13. We submit that it is not abstract "shift" that is burdensome to the taxpayer, but the actual property tax levy as it affects that specific taxpayer.

2. Under the new concept of "acquisitional valuation," the taxpayer now has the option to accept or reject an ownership transaction based on property tax consequences. The new base, if accepted, is understood, and will only increase due to factoring at 2% or new construction. There is an implied ability and willingness to pay the purchase price and the resulting taxes.

3. The potential of "shift" is fairly academic to those homeowners who are not in the market, and who wish to spend retirement years in the family home.

In individual taxpayer terms, therefore, shift may, or may not be, a real problem.

In statistical examination of shift, we think it also important to include and recognize the significant segments of non-residential property that remains on a current assessment basis, such as state-assessed properties and personal property. Non-residential new construction which could prove to be a strong factor in balancing shift, should be isolated statistically, and residential new construction should also be recognized specifically.

Recognizing that the completion of the task force's effort and the filing of the report with the committee is not the end, but a beginning, we look forward to continued work with the Legislature to resolve these issues in the best interests of all California taxpayers.

Very truly yours,

RP Simpson

Richard P. Simpson
Assistant Vice President

RPS:la

State of California

Board of Equalization

Memorandum

322-2376

To : Bob Leland
Assembly Revenue and Taxation Committee

Date : January 12, 1979

From : Larry Augusta

Subject: Minority Report - Task Force on Property Tax Administration

The staff of the Board of Equalization respectfully disagrees with the majority of the members of the task force on a number of the final recommendations and, accordingly, submits this minority report. The opinions expressed herein are those of staff members who served on the task force, and should not be interpreted to represent the opinion or position of our elected board members.

1. Base year values. The report should recommend Option 1 rather than presenting alternatives. We believe that Option 1 is the only option which treats all taxpayers reasonably and equitably, and recognizes the variations in assessment practice prior to passage of Proposition 13.

We are opposed to Options 2 and 3 for reasons stated under disadvantages in the main report, and in addition for these reasons: (a) they are inequitable in the treatment of taxpayers within a county; (b) there are substantial administrative difficulties due to the fact that what constitutes an appraisal is subject to controversy and because the recordkeeping necessary would be fairly large; (c) they lock in undervaluation of properties; (d) they are not consistent with the acquisition value concept established by the California Supreme Court in the *Amador Valley* case.

2. Time limits on establishing 1975 base values.

The task force recommends that afer June 30, 1980, the assessor will have no authority to change the 1975 base year value. While we support the deadline for completing 1975 base year value work, we must note a potential problem this creates with respect to the Board's intercounty equalization activities. Article XIII, section 18 requires the State Board to measure county assessment levels and bring those levels into conformity throughout the state by adjusting, where necessary, the entire secured local assessment roll. If the Board determines in their sample that a county is below the acceptable assessment ratio and would be prepared to issue an equalization order, the June 30, 1980 time limits creates a paradox: On the one hand the Board is ordering a correction of values in the year for which the ratio is determined to be low, on the other hand the assessor is prohibited from adjusting any of his 1975 base year values so as to correct roll values and thereby avoid periodic board orders.

One solution would be to place a phrase in the appropriate portion of Section 50, paragraph (b), to the effect that such values can be adjusted to reflect an intercounty equalization order by the State Board of Equalization.

3. Section 51 decline in value.

The staff of the State Board of Equalization takes exception to the task force recommendation that property that has declined in value in a particular year can be increased in subsequent years to a value that does not exceed its base year value factored forward. We believe the correct rule to be this: In no case can the increase in assessed value exceed 2% of the previous year's enrolled assessed value.

The task force recommendation: (1) is inconsistent with the language of Proposition 13; (2) is discriminatory since property that decreased in value prior to the 1975 lien date and has since increased in value for whatever reason cannot be increased more than 2% per year, unless new construction or an ownership change occurs; (3) can result in an increase in property value enough where no restoration has taken place after damage; and, (4) creates wasteful recordkeeping requirements in the assessor's office.

4. Section 53, Trees and Vines.

While this provision will result in greater assessed value, we find it unsupportable. The basis for adding the value of newly planted trees and vines is the "newly constructed" phrase of Article XIII A. The new construction obviously takes place when the trees and vines are planted, not when they first become taxable.

5. Treatment of leases as a change in ownership. Sections 60, 61 and 62.

The staff of the Board sees some difficulties in the treatment of leases under the task force report. The staff believes that leases, no matter what the term, should not be considered a change in ownership, and any change in ownership of the fee should be a change.

6. Estate planning devices - exclusions from change in ownership.

Proposed Section 62(d), trusts, (e), life estates, and (f), joint tenancies, provide for the exclusion from change in ownership of certain transfers which typically are utilized for estate planning purposes. We object to the exclusions. All of these devices are utilized either to avoid probate expenses or federal or state taxes. We believe the fact that property taxes may be increased should be one of the factors considered by individuals creating these transfers rather than creating an additional tax saving by excluding such devices from the definition of change in ownership.

7. Interspousal transfers.

While this has an intense amount of popular appeal, we find exclusion of interspousal transfers to be legally unsupportable.

8. Section 66, appraisal of partial interests.

The staff of the Board is opposed to subsection (b) on the basis the appraisal of partial interests causes significant record-keeping, appraisal and other administrative problems for assessors and does not correct any inequities. Those who transfer a partial interest in property (other than by way of partition) sell an interest in the entire property.

Property tax rule 462(a) adequately covers this subject of undivided and divided property interests. We cannot support placing increased work loads on assessors just to eliminate tax increases on certain property owners who enter into these arrangements with knowledge of the consequences.

9 . New construction.

After considering the proposed Section 70, the Board staff is of the opinion that no statute should be enacted defining new construction. The proposed definition does not seem to be an improvement over the Board rule; rather it substitutes the problems surrounding a definition of major rehabilitation for the problem which was previously pointed out with respect to the Board's economic life test. We propose that this matter is more appropriately handled in the Board rule making process where detailed provisions can be provided, and which lends itself more easily to revision with new information.

10. Partial appraisal of newly constructed real property.

Proposed Section 71 provides that every property under construction on the lien date will have at least two base years because a fractional appraisal is advocated. We believe that all new properties under construction on the lien date should be subject to at least one total property appraisal using traditional value indicators, and should have a sound value base as a beginning point. The completion date of the new construction is the time to perform the total property reappraisal. Partial reappraisals of property during the course of construction should be made and carried forward until completion at which time they are merged into the final value rather than having them carried as separate base year values for portions of the property.

11. Taxpayer reporting.

There are two additions we believe need to be made to the taxpayer reporting provision:

(a) In order to facilitate the Board's intercounty equalization work which leads to ratio determination and the Collier factor, we suggest that a section be added requiring the assessor to submit change in ownership information to the Board periodically, including such data as requested by the Board. The assessor will receive this information via the taxpayer reporting provisions.

(b) We believe the most effective way to insure timely and complete taxpayer reporting is to make the filing of the change in ownership statement a condition of accepting documents for recording.

LAA:rl

CALIFORNIA ASSESSORS' ASSOCIATION

OFFICE OF PRESIDENT
450 H STREET
CRESCENT CITY, CA 95531
(707) 464-3115

January 12, 1979

Mr. David R. Doerr
Chief Consultant
Assembly Revenue & Tax Committee
State Capitol, Room 2013
Sacramento, CA 95814

Dear Mr. Doerr:

Re: Minority Report
California Assessors' Association

The attached letters are the Minority Reports submitted on behalf of the California Assessors' Association.

We hope that our reports would be incorporated into the final bill prior to its enactment.

Very truly yours,

Gerald D. Cochran

GERALD D. COCHRAN
President

GDC:cs

Attch.

CALIFORNIA ASSESSORS' ASSOCIATION

OFFICE OF PRESIDENT
2555 MENDOCINO AVENUE
SANTA ROSA, CALIFORNIA 95401

January 12, 1979

Assembly Revenue and Taxation Committee
Task Force Proposition 13 Chairman David Doerr
Capitol Building
Sacramento, California

Subject: Base Year Values Minority Report
California Assessors' Association

Pages 12-27 of January 8, 1979 Report:

The definition contained within the constitutional amendment, as well as the three legislative bills chaptered for implementation of Proposition 13, defines the base year value as full cash value for 1975. The only option in the Task Force recommendation that is practical and administratively reasonable is Option #1. The California Assessors' Association feels that implementation of Option #2 and #3 could not be administered with the existing State Board of Equalization Rules and other recommendations contained within the Task Force Report.

We favor Option #1 which is stated on Page 26 of the report.

OFFICE OF PRESIDENT
2555 MENDOCINO AVENUE
SANTA ROSA, CALIFORNIA 95401

Page 2
Jan. 12, 1979
Chairman David Doerr

Subject: Assessment Appeals Minority Report
California Assessors' Association

Pages 76-78 of January 8, 1979 Report:

The California Assessors' Association urges the adoption of procedures that would allow the initial challenge to the base year of value of property as it is enrolled under Proposition 13. Once the base year value has been enrolled, the assessor will adjust that value on an annual basis whereby he will apply the addition of a cost of living index (CPI) or under Proposition 8, a decrease in value by recognizing depreciation. In essence, the 1979 assessment roll would be the 1978 base year value as adjusted by the aforementioned items, and should not be continually subjected to annual review of base year value.

OFFICE OF PRESIDENT
2555 MENDOCINO AVENUE
SANTA ROSA, CALIFORNIA 95401

Page 3
Jan. 12, 1979
Chairman David Doerr

Subject: New Construction Minority Report
California Assessors' Association

Pages 62-75 of January 8, 1979 Report:

The California Assessors' Association asks that this section of the report be titled "Newly Constructed" rather than "New Construction".

"The term "newly constructed" means and includes additions to real property, whether classified as land or improvements for purpose of enrollment; and any accession or alteration resulting in a conversion to another use, major rehabilitation or the curing of functional obsolescence.

Excluded from alterations that qualify as new construction is any alteration or alterations made since the prior lien date, the sum total of which represents an increase in current full cash value of $1,500 or less.

(b) When real property is newly constructed after the 1975 lien date, the assessor shall ascertain the fair market value of such "newly constructed property" as of the date of completion. This will establish a new base year value for only that portion of the real property which is newly constructed.

New construction in progress on the lien date shall be appraised at its fair market value on such date and each lien date thereafter until the date of completion, at which time the entire portion of property which is newly constructed shall be reappraised at its fair market value."

The triggering of revaluation under the term "newly constructed" should be applied as a unit valuation to the total property. The judgement of the amount of rehabilitation and/or extension of economic life is an appraisal judgement that should be defined in the individual case as the appraiser reviews the property.

OFFICE OF PRESIDENT
2555 MENDOCINO AVENUE
SANTA ROSA, CALIFORNIA 95401

Subject: Mandatory Reporting Minority Report
California Assessors' Association

Pages 82-90 of January 8, 1979 Report:

The California Assessors' Association urges the adoption of mandatory reporting so that they can accomplish their task of identifying those partners continuing in a transfer of title or change of ownership through instruments that are not recorded or made public. The key issue the assessor must face is the identification of those documents if they are private contracts and are known only to the concerned parties.

We urge legislation that will recognize reporting to the assessor this type of information so that he may judge as required under Proposition 13 those documents that require action and revaluation. The recorded material is readily available to the assessor at this point in time.

COUNTY OF DEL NORTE

COURTHOUSE

CRESCENT CITY, CALIFORNIA 95531

AREA CODE 707
Tel. 464-3115

OFFICE OF THE ASSESSOR

January 12, 1979

Mr. David R. Doerr
Chief Consultant
Assembly Revenue & Tax Committee
State Capitol, Room 2013
Sacramento, CA 95814

Dear Mr. Doerr:

Subject: Minority Report
Reassessment on Zoning Changes

It is the position of the California Assessors' Association that rezoning or zoning variances or conditional use permits granted must have a mandatory report under the existing code Section 65863.5 of the Government Code inasmuch as the re-assessment may decrease the value of the property.

We also feel that the rezoning is similiar to new construction, which should trigger a new appraisal under Article XIIIA because it's adding to property rights of an individual.

Sincerely yours,

GERALD D. COCHRAN
Assessor
County of Del Norte

GDC:cs

County of Los Angeles
OFFICE OF ASSESSOR
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012
(213) 974-3101

ALEXANDER H. POPE
ASSESSOR

January 12, 1979

Mr. Dave R. Doerr
Chief Consultant
Assembly Revenue and Taxation
Committee
State Capitol, Room 2013
Sacramento, California 95814

Dear Dave:

RE: RECOMMENDATIONS OF THE TASK FORCE ON THE ADMINISTRATION OF THE PROPERTY TAX

I am enclosing statements of minority views on positions taken by the Task Force majority with respect to undivided interests, new construction and the effective date of proposed changes.

The enclosed materials will become a part of a larger packet to be submitted to you at the next Task Force meeting by Jerry Cochran on the behalf of the California Assessors' Association.

In any event, we want to be sure that the views as expressed in these statements are included in the final report of the Task Force for presentation to your Committee on January 22, 1979.

Sincerely,

Sherrill

Sherrill D. Luke
Chief Deputy Assessor

SDL:wh
Enclosures
cc: All Task Force Members

UNDIVIDED INTERESTS

The California Assessors' Association rejects the treatment proposed by the Task Force majority for undivided interests in land, which calls for reappraisal of only the percentage interest transferred whenever any fractional interest of the whole property changes ownership.

The minority view is consonant with State Board of Equalization Rule No. 462 which provides that the transfer of any portion of an undivided interest triggers revaluation of the entire property.

Applying the Task Force rule would create an administrative nightmare for assessors. It would require that separate accounting records be kept for every fractional interest transferred. For each such transfer, a different base year value would have to be established.

For example, if two equal partners complete the development of a commercial building in 1978 and one of them dies in 1980, leaving his one-half interest to his two children in equal shares, the surviving partner's one-half interest would retain a 1978 base year value, while the children's one-quarter interest each would have a 1980 base year value.

Carrying the same example one step further, if one of the surviving children transferred his one-quarter interest to a third party in 1982, causing the reappraisal of such interest as of the date of transfer, the third party's one-quarter interest would have a new 1982 base year value.

Although it is impossible to quantify the magnitude of the problem, either in terms of administrative costs or revenues lost, such allocations of assessed value to various base years for multiple owners of property would increase the record-keeping burden of assessors to onerous proportions.

In consequence, the Assessors' Association recommends retention of the present rule providing for reappraisal of the whole property where the transfer of any part of an undivided interest occurs.

NEW CONSTRUCTION

The California Assessor's Association takes issue with the position of the Task Force majority that there shall be no total revaluation of an entire property upon completion if portions were valued after each lien date during which the new construction was in progress.

The minority view favors reappraisal of the whole of the new construction at its fair market value upon the date of completion.

Adoption of the majority rule would mean that the base year value for a completed property would be the summation of values for each of the lien dates during which the construction developed. As a result, assessors would be almost forced to use the cost approach,to value without ever having the opportunity to apply the income approach under which a base year value could be established that bears a reasonable relationship to the market value of the completed development.

The problems with the Task Force recommendation are that it would discriminate against any new construction started and completed within one assessment year; it would thrust upon assessors the administrative burden of establishing different base years for each year during the progress of the new construction; and it would result in a substantial revenue loss, the amount of which would be in inverse proportion to the size of the project.

In Los Angeles County, for example, a major project such as the Delta Towers in Century City would have a taxable value of about $200 million based on the summation of all the lien date values. If the minority approach were followed, revaluation of the entire property upon completion of the new construction would produce a taxable value of over $300 million.

Therefore, total reappraisal upon completion of new construction is recommended by the Assessors' Association in order to equate the treatment accorded to major commercial and industrial developments with that given to smaller projects for which the base year value relates to the market value of the finished product.

EFFECTIVE DATE

The California Assessors' Association disagrees with the recommendation of the majority of Task Force members to the effect that all the proposed changes set forth in the Final Report be made effective for the 1979-80 assessment year.

The minority view is that any new rules and procedures should not go into effect until 1980-81 (beginning with the March 1, 1979 lien date).

The rationale for this position is that its adoption would enable assessors to complete the work (started on March 1, 1978) of preparing the 1979-80 assessment roll based on the change in ownership provisions contained in the enabling statutes passed by the Legislature in 1978.

Compliance with the earlier date recommended by the Task Force majority would impose on assessors the enormous task of reviewing all those change in ownership documents which are already being processed to make sure that they conform with the requirements of the new rules.

In Los Angeles County, for example, the Task Force recommendation would require the Assessor's Office to review over 300,000 transfer documents recorded since March 1, 1978, to determine whether any different reappraisal consequences flow from the application of the new rules.

Reprocessing such documents, while at the same time meeting other responsibilities with respect to the 1980-81 roll, would be administratively impossible, because post-Proposition 13 budget reductions and personnel losses have left assessors without adequate resources to handle the extra workload.

Even if the State provided reimbursement for the administrative costs necessary to perform the new functions required of assessors-- as the Assessors' Association believes the State should do-- it would be difficult to find replacements for those experienced employees leaving the public service.

For these reasons, the Assessors' Association recommends that new rules be given prospective effect only, having application to the 1980-81 assessment year and thereafter.

<u>OIL AND GAS PROPERTIES</u>

The Task Force recognized that oil and gas reserves pose a special problem in attempting to define "new construction" and appropriate base year values.

The Assessor's Association recommends that "reserves" be defined as those volumes of crude oil and natural gas which geological and engineering information indicate, to be recoverable in the future from oil and gas reservoirs under reasonably expected economic and operating conditions. Additions to reserves should be valued as of the next lien date. Production of oil and gas constitutes a removal of real property and the value should be reduced accordingly, based on economic data that applied in the appropriate base year.

The fiscal impact of this recommendation is unknown; assessors in counties with substantial oil and gas properties indicate that, in any event, they are now or will be assessing such properties in accordance with this procedure.

Section . <u>Oil and Gas Producing Properties</u>

Petroleum, natural gas and other fluid hydrocarbons are natural substances of the earth, and are classified as land. The right to remove such hydrocarbons is a taxable property interest. The volume of these hydrocarbons that will be removed from the land consists of the amount that is classified at a given time as "proved reserves." Proved reserves are the volumes of crude oil and natural gas which geological and engineering information indicate with reasonable certainty, to be recoverable in the future from oil and gas reservoirs under reasonably expected economic and operating conditions. The addition of reserves from economic or physical changes constitutes new construction and additions to real property. The reduction of reserves from production of oil and gas and economic and physical changes constitutes a removal of real property.

(a) the taxable value of an oil or gas producing property shall be adjusted for changes in reserves.

(b) The value attributable to the reduction of reserves shall be determined annually employing the economic data that applied in the base year.

(c) Any addition to reserves after the current lien date shall be valued as of the next lien date.

WELLS FARGO BANK
NATIONAL ASSOCIATION

JOHN E. BALLUFF
Legislative Counsel

January 16, 1979

Mr. David R. Doerr
Chief Consultant
Assembly Revenue and Taxation
Committee
State Capitol
Sacramento, CA 95814

Re: Report of Task Force on Property Tax Administration

Dear Dave:

Now that the deliberations of the Task Force on Property Tax Administration have concluded, I wish to express my appreciation for having had the opportunity to participate in this important undertaking. My hat goes off to you and Bob Leland and your office for all of the patience and fairness with which this sensitive subject was treated, not to mention the endless hours which all of you put in on this project.

Richard Simpson, on behalf of Cal-Tax has submitted a letter to you containing some observations regarding the Task Force Report which I will not repeat here but which I commend to you and the members of the Revenue and Taxation Committee for careful consideration, but to which I would like to add some personal observations.

Given limited time available to the Task Force, as well as the parameters laid down for its deliberations, the underlying tax shift issue deserves further consideration. Without question the recommendations of the Task Force affect this perceived issue one way or another. Specifically, whether to adopt the legal entity or ultimate control principle with respect to corporate and partnership property needs further examination because of the rather extreme results inherent in the adoption of either approach.

Additionally, no factual data or interpretive opinion was provided to the Task Force with respect to the "Turnover of Property" portion of the report which led me to suggest its deletion. However, there is no question but that there is a perceived tax shift issue with respect to owner-occupied

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residential property which I feel should be fully explored so that all parties are satisfied that all of the facts and possible interpretations are fully considered.

I look forward to the presentation of the Report on January 22, and the deliberations that follow.

Very truly yours,

John E. Balluff

John E. Balluff
Vice President

APPENDICES

Appendix I

TASK FORCE MEMBERS AND ALTERNATES

Cliff Allenby Lonnie Mathis	State Department of Finance
Larry Augusta Margaret Shedd	State Board of Equalization (Legal)
Bob Gustafson Jeff Reynolds	State Board of Equalization (Research and Statistics)
Paul Baker	Chairman-Committee on Property Taxation, State Bar Association Attorney - Johnston and Klein; Oakland
John Balluff	Wells Fargo Bank
Jerry Cochran	Assessor - Del Norte County
Ernest Comalli	Assessor - Sonoma County
Dave Doerr Bob Leland Lilly Spitz	Assembly Revenue & Taxation Committee
Tim Gage	Legislative Budget Committee
Dennis Graves	Deputy County Counsel - Contra Costa Co.
Vance Hansen	Senate Revenue and Taxation Committee
Martin Helmke	Senate Office of Research
Les Howe	California Retailers Association
Mary Jane Jagodzinski	Assembly Ways and Means Committee
Joe Janelli Steve DeJong	California Farm Bureau Federation
Joseph Kase, Jr.	Assistant County Counsel - San Diego Co.
Sean McCarthy Ralph Simoni	California Land Title Association
Dwane McWaters	Ventura Co. Auditor - Controller's Office

Robert Morris	Attorney - Ehrman, Flavin, Morris and McMahan; Monterey Member - Committee on Property Taxation, State Bar Association
Dan Nauman	Assembly Republican Caucus
Alex Pope Sherrill Luke	Assessor - Los Angeles Co. Chief Deputy Assessor
Blair Reynolds	California Bankers Association
Fred Silva	Senate Local Government Committee
Dick Simpson Kirk West	California Taxpayers Association
Steve Smith	California Tax Reform Association
Jack Watson	Senate Finance Committee

Other Participants

Bruce Allen	California Society of CPA's
Bruce Bayless	California Forest Protective Association
Ted Cleveland	Butte Co. Assessor's Office
Gus Demas	State Controller's Office
Kurt Fiedler	Sacramento County Assessor's Office
Ray Flynn	Assessor - Humboldt County
Dick Frank	Assessor - San Luis Obispo County
Don Hutcheson	Assessor - Alameda County
Ralph King	San Diego Co. Assessor's Office
Barry Loncke	Assembly Speaker's Office
Bill Lynch	Assessor - Sacramento County
Art Packenham	Assembly Office of Research
Frank Seeley	Assessor - Riverside Co.
Walt Senini Vern Walton	State Board of Equalization (Assessment Standards)
Robert Shellenberger	Assessor - San Joaquin County

13 Tax Limitation—Initiative Constitutional Amendment

Official Title and Summary Prepared by the Attorney General

TAX LIMITATION—INITIATIVE CONSTITUTIONAL AMENDMENT. Limits ad valorem taxes on real property to 1% of value except to pay indebtedness previously approved by voters. Establishes 1975–76 assessed valuation base for property tax purposes. Limits annual increases in value. Provides for reassessment after sale, transfer, or construction. Requires ⅔ vote of Legislature to enact any change in state taxes designed to increase revenues. Prohibits imposition by state of new ad valorem, sales, or transaction taxes on real property. Authorizes imposition of special taxes by local government (except on real property) by ⅔ vote of qualified electors. Financial impact: Commencing with fiscal year beginning July 1, 1978, would result in annual losses of local government property tax revenues (approximately $7 billion in 1978–79 fiscal year), reduction in annual state costs (approximately $600 million in 1978–79 fiscal year), and restriction on future ability of local governments to finance capital construction by sale of general obligation bonds.

Analysis by Legislative Analyst

Background:

The following are some basic facts about California property taxes.

1. Under existing law cities, counties, schools and special districts are permitted to levy local property taxes. During the 1977–78 fiscal year these governments will collect about $10.3 billion in property taxes.

2. The state will give $1.2 billion to local governments to replace the property taxes that cannot be collected because a portion of a business's inventory and a homeowner's property value is exempt from taxation.

3. Total local property tax revenues (tax collections plus state tax relief payments), therefore, will be about $11.5 billion during 1977–78.

4. The share of total income that comes from property tax revenues is higher for some types of local governments than it is for others.

a. Cities receive about 27 percent of their income from property tax revenues,
b. Counties receive about 40 percent from property tax revenues,
c. Schools receive about 47 percent from property tax revenues, and
d. In many special districts the property tax is the only significant source of revenue. For example, fire districts receive about 90 percent of their income from property tax revenues.

5. In addition to property tax revenues, many local governments impose other taxes and receive federal and state funds to pay for the services they provide. However, some of these revenues can only be used for certain purposes such as transportation, education, health or welfare. Therefore such revenues are not available to replace property taxes, except to the extent they eliminate the need to use property tax revenues for such purposes.

6. The total local property tax roll consists of county assessments on real property (land and buildings) and personal property (inventories) and state assessments on public utilities and railroads. Total assessments are updated periodically to reflect changes in value due to inflation, new construction, and a greater volume of personal property.

7. Total local property tax revenues are equivalent to 2.7 percent of the full cash value of all taxable property in California.

Proposal:

This initiative would: (1) place a limit on the amount of property taxes that could be collected by local governments, (2) restrict the growth in the assessed value of property subject to taxation, (3) require a two-thirds vote of the Legislature to increase state tax revenues, and (4) authorize local governments to impose certain nonproperty taxes if two-thirds of the voters give their approval in a local election.

In several instances the exact meaning of language used in this measure is not clear. Where this occurs we have based our analysis on an opinion of the Legislative Counsel regarding the probable court interpretation of such language.

The following is a summary of the main provisions of this initiative:

1. *Property tax limit.* Beginning with the 1978–79 fiscal year, this measure would limit the amount of property taxes that could be collected from an owner of county assessed *real* property to 1 percent of the property's full cash value. This measure does not mention county assessed personal property (such as business inventories), or state assessed property (such as public utilities), but the Legislative Counsel advises us that the 1 percent limit would apply to *all* types of taxable property.

This measure does not permit local voters to raise the

1 percent limit; that would require a new constitutional amendment. The limit could be exceeded only to repay bonded debt approved by the voters *before* July 1, 1978. The limit could not be exceeded to repay bonded debt approved by the voters on or *after* July 1, 1978.

Property taxes to repay existing bonded debt correspond to about ¼ of 1 percent of the full cash value of taxable property in California.

The limit on property taxes plus the restrictions on assessed values noted below, would substantially reduce local property tax revenues.

2. *Distribution of remaining property tax revenues.* The reduced property tax revenues which could be raised under the 1 percent limit would be collected by the counties and then distributed "according to law to the districts within the counties".

At present there is no state law which would provide for the distribution of these revenues. Therefore we are unable to determine how the substantial reductions in property tax revenues would be distributed among cities, counties, schools and special districts.

Also, this measure refers only to the distribution of property tax revenues to "districts within the counties". It does not say whether cities and counties (which technically are not "districts") could share in these revenues. However, the Legislative Counsel advises us that unless the ballot arguments by the proponents of this measure, which are included in this pamphlet, make it clear that counties and cities are *not* to receive property taxes, they could continue to receive some portion of these revenues.

3. *Restrictions on the growth in assessed values.* Initially this measure would roll back the current assessed values of real property to the values shown on the 1975–76 assessment roll. However county assessors could adjust the values shown on the 1975–76 assessment roll if these values were lower than the estimated market value as of March 1, 1975. The adjusted values could then be increased by no more than 2 percent per year as long as the same taxpayer continued to own the property. For property which is sold or newly constructed after March 1, 1975, the assessed value would be set at the appraised (or market) value at the time of sale or construction. As a result, two identical properties with the same market value could have different assessed values for tax purposes if one of them has been sold since March 1, 1975.

4. *Increases in state taxes.* Currently state taxes can be increased by a majority vote of both houses of the Legislature and approval by the Governor (that is, if the Governor signs the measure increasing taxes). This initiative would require a two-thirds vote by the Legislature to increase state taxes and would prohibit the Legislature from enacting any new taxes based on the value or sale of real property.

5. *Alternative local taxes.* This measure would authorize cities, counties, special districts and school districts to impose unspecified "special" taxes only if they receive approval by two-thirds of the voters. Such taxes could not be based on the value or sale of real property.

The Legislative Counsel advises us that provisions in the existing Constitution would prohibit general law cities, counties, school districts and special districts from imposing new "special taxes" without specific approval by the Legislature. Such restrictions limit the

Continued on page 60

Text of Proposed Law

This initiative measure proposes to add a new Article XIII A to the Constitution; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED ADDITION OF ARTICLE XIII A

ARTICLE XIII A

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.

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 occured 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.

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.

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.

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.

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.

Arguments in Favor of Proposition 13

Limits property tax to 1% of market value, requires two-thirds vote of both houses of the legislature to raise any other taxes, limits yearly market value tax raises to 2% per year, and requires all other tax raises to be approved by the people. Why then the amendment? President Carter said "our tax system is a National disgrace"..

Our audit figures show loss to local governments at about $5 billion, not $7 billion as claimed by the state finance director.

Assembly leader Paul Priolo said "it's a tough amendment but the state can live with it. It means public officials will have to go to work".

Noted UCLA tax expert Dr. Neil Jacoby writes "This unjust process must be brought to an end". "A 1% limit would still leave property tax revenue *far above* the level required to pay for property-related governmental services, street lighting maintenance, sewers, trash collection and *POLICE* AND *FIRE PROTECTION*".

According to the State Controller's office, state agencies will still collect more than 33 thousand million tax dollars every year after this amendment passes. We think this is more than enough. *The people will save 7 thousand million dollars every year* for themselves.

This amendment will make rent reductions *probable.* Otherwise *rent raises are certain as property taxes go up.* It will help farmers and keep business in California. It will make home and building improvements possible *and create thousands of new jobs.*

The amendment DOES NOT reduce property tax exemptions for senior citizens. DOES NOT remove tax exemptions for churches or charities. DOES NOT prohibit the use of property tax money for schools.

To make California taxes FAIR, EQUAL and WITHIN THE ABILITY OF THE TAXPAYERS TO PAY, vote YES on Proposition 13.

HOWARD JARVIS
Chairman, United Organizations of Taxpayers

PAUL GANN
President, Peoples Advocate

The Legislature will not act to reduce your property taxes. As a Senator and Legislator for 11 years, I, like you, have been totally frustrated with the Legislature's failure to enact a meaningful property tax relief and reform bill.

What Ronald Reagan describes as the "spenders coalition" of spendthrift politicians and powerful special interests are spending millions to defeat Proposition 13.

Your Yes vote will NOT require a reduction of vital services like police or fire, nor any tax increase. Your Yes vote will require a tough Governor take the lead in cutting wasteful, unnecessary government spending 10 to 15%.

More than 15% of all governmental spending is wasted! Wasted on huge pensions for politicians which sometimes approach $80,000 per year! Wasted on limousines for elected officials or taxpayer paid junkets. Now we have the opportunity to trade waste for property tax relief!

If we want to permanently cut property taxes about 67%, we must do it ourselves. Join Democratic Senator Robert "Bob" Wilson and me, a Republican Senator, in voting Yes on Proposition 13.

JOHN V. BRIGGS
State Senator, 35th District

Rebuttal to Arguments in Favor of Proposition 13

PROPOSITION 13:

GIVES nearly two-thirds of the tax relief to BUSINESS, INDUSTRIAL property owners and apartment house LANDLORDS;

TRANSFERS your LOCAL CONTROL over neighborhood and community program funding to state and federal government bureaucracies;

PROVIDES absolutely NO TAX RELIEF for RENTERS;

REDUCES drastically police patrol services and fire protection while INCREASING home insurance COSTS by 50% to 300%;

REQUIRES new taxes to preserve CRITICAL SERVICES. Doubling the sales tax, substantially increasing the income tax or increasing the bank and corporation tax by 500% are the potential alternatives;

SLASHES current local funding for PARKS, BEACHES, MUSEUMS, LIBRARIES and PARAMEDIC PROGRAMS;

PENALIZES our school CHILDREN by CUTTING operating school budgets by nearly $4 billion, further lowering the quality of education;

PLACES a disproportionate and unfair tax burden on anyone purchasing a home after July 1, 1978;

INCREASES your state and federal INCOME TAXES and HANDS the IRS nearly $2 BILLION of your tax dollars.

Check the FACTS. Talk to your local officials; talk to your schools and talk to your business and labor organizations and demand to know what cutbacks in essential services would occur if Proposition 13 passes.

JOIN the LEAGUE OF WOMEN VOTERS
CALIFORNIA TAXPAYERS ASSOCIATION
LOS ANGELES CHAMBER OF COMMERCE
LEAGUE OF CITIES
COUNTY SUPERVISORS ASSOCIATION
CALIFORNIA RETAILERS ASSOCIATION

and countless others who are opposed to this IRRESPONSIBLE MEASURE which CUTS $7 BILLION from critical services.

VOTE NO ON 13!

HOUSTON I. FLOURNOY
Dean, Center for Public Affairs,
University of Southern California
Former State Controller

TOM BRADLEY
Mayor, City of Los Angeles

GARY SIRBU
State Chairman, California Common Cause

Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency.

Argument Against Proposition 13

Proposition 13 invites economic and governmental chaos in California. It will drastically cut police and fire protection and bankrupt schools unless massive new tax burdens are imposed on California taxpayers. It will take decision-making away from the local level and weaken home rule.

Proposition 13 is a vague, poorly drafted and incomplete proposal which will seriously damage the economic stability of state and local governments. Shocking increases in state and local taxes are virtually inevitable. Many homeowners who expect to benefit will actually suffer a net tax increase.

Homeowners will be in for several unpleasant economic surprises if Proposition 13 is adopted. They will be paying higher federal income taxes, yet at the same time the community they live in will lose its rightful share of federal revenue sharing funds. Homeowners living in identical side-by-side houses will pay vastly different property tax bills.

Millions of renters will be doubly jeopardized. Renters have no guarantee that their landlord's property tax savings will be voluntarily passed through to them. But they can be certain they will be forced to pay the new or additional taxes necessary to keep our local governments out of bankruptcy.

Passage of Proposition 13 will slash $7 billion from school and local government budgets—an amount nearly equal to one-half of the General Fund budget for the entire State of California. This crippling blow simply cannot be absorbed. For example, it would require a doubling of your present income tax, or the sales tax to simply replace the lost revenues.

Homeowners and renters are most in need of property tax relief. But Proposition 13 gives two-thirds of the property tax decrease to commercial and industrial property owners.

Proposition 13 will seriously cripple local government services, including police and fire protection. Proposition 13 will force default on many redevelopment and revenue bond issues and prohibit future general obligation bond issues to pay for needed schools, hospitals, and water facilities. Business will not locate or expand in California if the local services necessary for economic development and new jobs are slashed.

This irresponsible initiative is not a solution. Proposition 13 goes too far. It is an invitation to poor community services, less local control and inequitable taxation for all Californians.

Vote "no" on Proposition 13.

HOUSTON I. FLOURNOY
Dean, Center for Public Affairs,
University of Southern California
Former State Controller

TOM BRADLEY
Mayor, City of Los Angeles

GARY SIRBU
State Chairman, California Common Cause

Rebuttal to Argument Against Proposition 13

We who own homes, farms, property or rent must not let the political horror stories scare us. We must vote proposition 13 into law June 6, 1978. We must not let the spendthrift politicians continue to tax us into poverty. *Proposition 13 will NOT cut fire protection, police protection, sewers, streets, and lighting or garbage collection. All property related services. It will cut spending about 15%.*

Proposition 13 will NOT give business a NEW WINDFALL. It does NOT change the tax ratio between residences and business property in effect for 75 years. It will stop business from leaving California and bring new companies to California, creating thousands of new jobs. Proposition 13 will *NOT* prohibit the use of property taxes to finance schools.

Proposition 13 will make property taxes FAIR, EQUAL and within the *ABILITY to pay for all Californians.*

Proposition 13 will make lower rents certain. It will reduce the monthly impound tax payments on home mortgages.

As expected, the opposition to proposition 13 is signed by 2 persons long on the taxpayers payroll and one person from a tax free foundation. *Proposition 13 makes sense for California. Means thousands of extra dollars for you and your family each and every year. Restores government of, for and by the people.*

Also for 13: Assemblymen Robert Cline (R), Wm. Dannemeyer (R), Mike Antonovich (R) and Senator Bob Wilson (D).

VOTE YES ON PROPOSITION 13, YOUR LAST CHANCE FOR PERMANENT TAX RELIEF.

HOWARD JARVIS
Chairman, United Organizations of Taxpayers

PAUL GANN
President, Peoples Advocate

JOHN V. BRIGGS
State Senator, 35th District

Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency.

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ability of these local governments, even with local voter approval, to replace property tax losses resulting from the adoption of this initiative.

Fiscal Effect:

This measure would have the following direct impact on the state and local governments:

1. Local governments would lose about $7 billion in property tax revenues during the 1978–79 fiscal year. This is because the measure would reduce local property tax revenues (estimated at $12.4 billion under current law) by 57 percent, statewide. Some counties would lose more, and others would lose less.

2. The ability of local governments to sell general obligation bonds in the future would be severely restricted. These bonds are used to finance the construction of new schools, local government buildings, and a variety of other facilities such as parks and sewage treatment plants.

3. The reduction in local property taxes would reduce state costs for property tax relief payments by about $600 million in 1978–79.

The full fiscal impact of this initiative would depend on whether or not the $7 billion in local property tax revenue losses were replaced. Replacement revenues could come from two sources:

1. The initiative permits local governments to raise additional revenues by levying other unspecified taxes. Under existing law, most local governments would have to receive specific approval from the Legislature before levying new taxes. If the initiative is approved, new taxes would also have to be approved by two-thirds of the local voters. Thus the initiative would restrict the ability of local governments to impose new taxes in order to replace the property tax revenue losses.

2. Although there is nothing in the initiative or in current law that would require the state to replace any part of the property tax revenue losses, the state could agree to do so.

If these property tax revenue losses *were substantially replaced,* local governments could maintain the existing level of government services and employment. Part of these revenue losses could be covered *temporarily* by using the state surplus. Additional revenues to pay for these services would have to come from higher state or local taxes such as those imposed on personal income, sales and corporations. Depending upon which tax sources were used to replace local property tax losses, there could be a shift in who initially bears the tax burden. This is because most sales and personal income taxes are paid by nonbusiness taxpayers, whereas about 65 percent of property taxes are initially paid by business firms.

If the $7 billion in local property tax revenue losses *were not substantially replaced,* there would be major reductions in services now provided by local governments and in local government employment. We cannot predict which particular local services (such as schools, law enforcement, fire protection, health and welfare) would be affected because we do not know how the remaining property tax revenues would be distributed. Because state law requires local governments to pay for certain local programs at specified levels (for example, unemployment compensation benefits and most local welfare costs), the cuts could not be made in these areas without further action by the Legislature.

The 2 percent limit on assessment increases would not allow property tax revenues to rise as rapidly as prices are expected to increase. This limit would tend to require additional cutbacks in local government services and employment in future years unless additional replacement revenues were available. By requiring that property be reassessed when sold, this initiative would, over time, cause homeowners to pay an increasing proportion of local property taxes because homes are sold more often than other types of property such as commercial and industrial.

If the state surplus is used to cover part of local revenue losses in 1978–79, it would not be available to maintain the level of government services in subsequent years.

In the long run, a major *net* reduction in property tax revenues and local spending could have significant economic effects on the level of personal income and employment in California. Such changes, in turn, eventually would produce unknown additional state and local fiscal effects.

APPENDIX III

State of California

BOARD OF EQUALIZATION

PROPERTY TAX DEPARTMENT

PROPERTY TAX RULES AND REGULATIONS

Chapter 1. State Board of Equalization – Property Tax
Subchapter 4. Equalization by State Board
Article 3. Taxable Property of a County, City or Municipal Corporation

Reference: Sections 110, 110.1, 110.5, 110.6, Revenue and Taxation Code.

Rule No. 460. (Cal. Adm. Code) GENERAL APPLICATION.

(a) Sections 1 and 2 of Article XIII A of the Constitution provide for a limitation on property taxes and a procedure for establishing the current taxable value of locally assessed real property by reference to a base year full cash value which is then modified annually to reflect the inflation rate not to exceed two percent per year.

(b) The following definitions govern the construction of the terms in the rules pertaining to Sections 1 and 2 of Article XIII A.

(1) BASE YEAR. The assessment year 1975-76 serves as the original base year. Thereafter, any assessment year in which real property, or a portion thereof, is purchased, is newly constructed, or changes ownership shall become the base year used in determining the full value for such real property, or a portion thereof.

(2) FULL CASH VALUE.

(A) The full cash value of real property means the "full cash value" as defined in Section 110 of the Revenue and Taxation Code, as of:

1. The lien date in 1975, for the base year 1975-76, or

2. The date such real property is purchased, is newly constructed, or changes ownership after the 1975 lien date, the full cash value of which shall be enrolled on the lien date next succeeding the date when such real property, or portion thereof, is purchased, is newly constructed, or changes ownership.

(B) If real property has not been appraised pursuant to Section 405.5 of the Revenue and Taxation Code to its appropriate base year full cash value, then the assessor shall reappraise such property to its full cash value for the appropriate base year lien date. Such reappraisals may be made at any time, notwithstanding the provisions of Section 405.6 of the Revenue and Taxation Code.

(3) RESTRICTED VALUE. Restricted value means a value standard other than full cash value prescribed by the Constitution or by statute authorized by the Constitution.

(4) FULL VALUE. Full value (appraised value) means either the full cash value or the restricted value.

(5) INFLATION RATE. For each lien date after the lien date in which the base year full value is determined, the full value of real property shall be modified to reflect the percentage change in cost of living, as defined in Section 2212 of the Revenue and Taxation Code; provided that such value shall not reflect an increase in excess of 2 percent of the taxable value of the preceding lien date.

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(6) TAXABLE VALUE. Taxable value means the base year full value factored annually by the inflation rate.

(7) PROPERTY TAX RATE. The property tax rate is the rate calculated in accordance with the ad valorem tax limitations prescribed by Section 1 of Article XIII A of the Constitution.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.

Rule No. 461. (Cal. Adm. Code) REAL PROPERTY VALUE CHANGES.

Section 2 of Article XIII A of the California Constitution provides that real property shall be reappraised if purchased, newly constructed (Section 463) or a change in ownership occurs (Section 462) after the original base year. A purchase is any transfer of title or right to the use, occupancy, possession or profit a prendre of real property, or portion thereof, for a consideration, other than a transfer included in the definition of change of ownership or specifically excluded therefrom by Section 462. The creation of a lease in nontaxable publicly owned property and publicly owned property subject to tax under Section 11 of Article XIII of the Constitution, which lease constitutes a possessory interest as the term is defined in Section 21 (b) of this code, is regarded as a purchase regardless of the period of the lease. Such an interest shall be appraised at its full value as of the date of creation.

Unless otherwise provided for in this chapter, real property which was not subject to valuation in any prior base year, such as newly discovered or additional proved oil and gas reserves, shall be appraised at full value on the lien date immediately following discovery.

Except for annual modification by the inflation rate or changes in value resulting from calamity or the removal of property or a portion thereof, the taxable value of real property shall not reflect any actual market value depreciation or appreciation, whether caused by zoning changes or otherwise, after the base assessment year full value has been established.

The taxable value of real property, or portion thereof, physically removed from the site shall be deducted from the property's taxable value, provided that such net taxable value shall not be less than zero.

The taxable value of real property damaged or destroyed by a misfortune or calamity is to be adjusted in accordance with the Revenue and Taxation Code. If the property is restored, the assessor shall on the lien date following restoration enroll it at its former value plus the appropiate inflation adjustment unless it is determined that new construction has occurred, in which case the market value of the portion newly constructed shall be ascertained and combined with the former value as provided in Section 463.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.

Rule No. 462. (Cal. Adm. Code) CHANGE IN OWNERSHIP.

There shall be a reappraisal of real property as of the date of the change in ownership of that property. The reappraisal will establish a new base year full value and will be enrolled on the lien date following the change in ownership. Except as otherwise provided in this section, "change in ownership" refers to all transfers of property whether by grant, gift, devise, inheritance, trust, contract of sale, addition or deletion of an owner, property settlement, or any other change in the method of holding title, whether by voluntary or involuntary transfer or by operation of law. A change in the name of an owner of property not involving a change in ownership is excluded from the term "transfer" as used in this section.

(a) A transfer of the full fee title to land and/or improvements by any means is a change in ownership requiring reappraisal of the property transferred. This includes transfers of units in planned developments as defined in Section 11003 and 11003.1 of the Business and Professions Code, units in cooperative housing developments controlled by cooperative housing corporations as defined in Section 17265 of the Revenue and Taxation Code and condominiums as defined in Section 783 of the Civil Code.

The transfer of an undivided interest in property constitutes a change of ownership in the entire property except as provided in (h) (2) and (4) while the transfer of a divided interest results in a change in ownership only in the property or portion thereof transferred.

(b) A transfer of equitable title is a change in ownership.

(c) The creation, sublease or assignment of the right to beneficial use and possession of taxable or nontaxable real property and the transfer of the lessor's interest in any leased property constitutes a change in ownership of real property or not as follows:

(1) The creation, sublease or assignment of a taxable possessory interest or of a lease in real property for a term or the remainder of a term in excess of 10 years is a change in ownership of the interest transferred.

(2) The creation, sublease or assignment of a lease for 10 years or less in taxable property is not a change in ownership

(3) The transfer of a lessor's interest regardless of the term of the lease is a change in ownership.

(a) The transfer of a lessor's interest in property subject to a lease in excess of 10 years is a change in ownership only to the extent of the reversionary interest transferred.

(b) The transfer of a lessor's interest in property subject to a lease for 10 years or less is a change in ownership of the entire property transferred, including the leasehold interest.

(c) The transfer of a lessor's interest in property subject to one or more leases in excess of 10 years and one or more leases of 10 years or less is a change in ownership to the extent of the reversionary interest(s) in the property subject to the lease(s) in excess of 10 years and to the extent of the property transferred, including the leasehold interest(s), in the property subject to the lease(s) of 10 years or less.

Note: The determination of the term of possession for a lease or a taxable possessory interest shall be pursuant to the provisions of Section 23 of this code.

(d) Foreclosure.

(1) Morgage or deed of trust foreclosed by judicial action is a sufficient change in ownership only:

(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.

(2) Deed of trust foreclosed by trustee's sale shall cause a reappraisal after the sale has taken place.

(e) Tax deed and tax sale. A tax sale to the state will not cause reappraisal, but a sale by the state of tax-deeded property will cause reappraisal. The reappraisal will take place whether the original owner redeems from the state or a new owner purchases from the state.

(f) Inter vivos trust. A change in ownership occurs upon the creation of, and the transfer of real property to, a revocable or irrevocable inter vivos trust. Similarly, the revocation of the trust by the trustor constitutes a change in ownership. A change in ownership does not occur, however, upon the cessation of a precedent interest which entitles the owner of what was a future interest to the immediate possession and enjoyment of such real property.

Rule No. 462. (Cal. Adm. Code) CHANGE IN OWNERSHIP. (Continued)

(g) Partnership. Real property which is contributed to either a limited or general partnership or which is acquired, by purchase or otherwise, 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. Partnership property is owned by the partners as tenants in partnership and any addition or deletion of a partner, therefore, constitutes a change in ownership of the partnership real property.

(h) The following transfers do not constitute a change of ownership:

(1) The transfer of bare legal title.

(2) Any interspousal transfer to create or terminate a community property or joint tenancy interest.

(3) Any transfer caused by the substitution of a trustee pursuant to the terms of a security or trust instrument.

(4) Any transfer between or among joint tenants whether voluntary, involuntary or by operation of law.

(5) Any transfer to an existing assessee for the purpose of perfecting title to the property.

(6) 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.

(7) Any transfer of stock of a corporation vested with legal title which does not convey to the transferee(s) the exclusive right to occupancy and possession of the real property or portion thereof.

(i) Date of change in ownership. For purposes of reappraising real property as of the date of change in ownership of real property, the following dates shall be used:

(1) Sales. The date all parties' instructions have been met in an escrow or the date the essential elements of a contract of sale have been met.

In the event that the foregoing dates cannot be ascertained, the change in ownership shall be the date of recordation of the deed or similar document evidencing transfer of either legal or equitable title.

(2) Leases. The date the lessee has the right to possession.

(3) Inheritance (by will or intestate succession). The date of death of the decedent.

(4) Inter vivos trusts. The date the trust instrument is executed or revoked by the trustor.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.

Rule No. 463. (Cal. Adm. Code) NEWLY CONSTRUCTED PROPERTY.

(a) The term "newly constructed" means and includes 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 extension of the economic life of the improvement.

Examples of alterations that qualify as "newly constructed" and thereby require current market value appraisal of the alteration are those that result in any increase in the usable square footage of a structure, the renovation of what was formerly residential property to make it usable for commercial purposes and vice versa, the conversion of property from one commercial use to another, and any alteration that increases the usefulness of the structure, such as the addition of a bathroom.

Excluded from alterations that qualify as "newly constructed" is construction or reconstruction performed for the purpose of routine or normal maintenance and repair, e.g., interior or exterior painting, replacement of roof coverings and the addition of aluminum siding. Also excluded are alterations which do not result in an increased usefulness of existing facilities, such as occurs in the modernization of a kitchen.

For purposes of Section 2(a) of Article XIII A of the Constitution, the definitions of land and improvements contained in Sections 121 and 122, respectively, and the examples contained in Section 124, shall apply.

Rule No. 467. (Cal. Adm. Code) TAXABLE POSSESSORY INTERESTS.

The assessor shall ascertain the full value of all taxable possessory interests as defined in Section 21 of this code and created prior to March 1, 1975, as of that date. Possessory interests newly created subsequent to March 1, 1975, shall be appraised at their full value as of the date of creation.

Possessory interests subleased or assigned for a term in excess of ten years shall be appraised as of the date the sublessee or assignee obtains the right to occupancy or use of the property.

New improvements erected for the purpose of exercising the rights granted by the possessory interest held in land shall be valued as of the date of the completion of construction. When improvements owned by the holder of the possessory interests are in the course of construction for a period that covers more than one lien date, they shall be appraised in accordance with Section 463.

When it appears that the term of the possessory interest, determined in accordance with Section 23, will end at the conclusion of the estimated term, there shall be no reduction of full value as the term draws to an end. The value in this instance remains the taxable value.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.

Rule No. 468. (Cal. Adm. Code) OIL AND GAS PRODUCING PROPERTIES.

Petroleum, natural gas, and other fluid hydrocarbons are natural substances of the earth, and are classified as land. The volume of these hydrocarbons that will be removed from the land consists of the amount that is classified at a given time as "proved reserves." Proved reserves are the volumes of crude oil and natural gas which geological and engineering information indicate, beyond reasonable doubt, to be recoverable in the future from oil and gas reservoirs under existing economic and operating conditions. The development of proved reserves by drilling and completing wells and by installing production systems constitutes an addition to real property and the production of oil and gas constitutes a removal of real property.

(a) The full value of an oil or gas producing property is its base year full value adjusted for depletion of reserves. The value attributable to such depletion shall be determined annually employing the economic data that applied in the base year.

(b) The base year of newly developed reserves shall be the date of completion of the well or the installation of the production system.

History: Adopted June 29, 1978, effective July 3, 1978.

Rule No. 469. (Cal. Adm. Code) MINES AND QUARRIES.

Organic and inorganic minerals and rocks are natural substances of the earth, and are classified as land. The volume of minerals or rocks of acceptable quality that may be removed from the land under existing economic and operating conditions are classified as reserves. The creation of reserves by exploration or by development constitutes an addition to real property and the production of the minerals or rocks from a reserve constitutes a removal of real property.

(a) The full value of a mine or quarry is its base year full value adjusted for the depletion of reserves. The value of the depleted reserves shall be determined annually employing the economic data that applied to the establishment of the reserves in the base year.

(b) The base year of new reserves shall be the year in which either development or mining occurs.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978

Rule No. 463. (Cal. Adm. Code) NEWLY CONSTRUCTED PROPERTY. (Continued)

(b) When real property, or a portion thereof, is newly constructed after the 1975 lien date, the assessor shall ascertain the full value of such "newly constructed property" as of the date of completion. This will establish a new base year full value for only that portion of the real property which is newly constructed. The taxable value of property which is removed during construction shall be deducted from the taxable value of pre-existing property; provided that such net taxable value shall not be less than zero.

New construction in progress on the lien date shall be appraised at its full value on such date and each lien date thereafter until the date of completion, at which time the entire portion of property which is newly constructed shall be reappraised at its full value.

For purposes of this section, the date of completion is the date the property or portion thereof is available for use for the purpose intended as indicated by the design of the structure. In determining whether the structure or a portion thereof is available for use, consideration shall be given to the date of the final inspection by the appropriate governmental official, or, in the absence of such inspection, the date the prime contractor fulfilled all of his contract obligations.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.

Rule No. 464. (Cal. Adm. Code) EXEMPTIONS.

Article XIII A does not repeal any property tax exemptions granted or authorized by the Constitution on or before July 1, 1978. The property tax rate shall apply to the current taxable value less any exemptions applicable to a specific property. Examples of the application of partial exemptions are as follows:

(a) Homeowners' exemption. The property tax rate applies to the current taxable value of property qualifying for the homeowners' exemption less the value of the exemption.

(b) Veterans' exemption. The sum of 25 percent of the taxable value of taxable assets and 100 percent of the current full cash value as defined in Revenue and Taxation Code Section 110 for nontaxable assets will determine the limitation for the veterans' property tax exemption. Article XIII A contains no provision for reconsidering the granting of the exemption prior to 1978. The property tax rate applies to the current taxable value of property qualifying for the veterans' exemption less the value of the exemption.

(c) Disabled veterans' exemption. The property tax rate applies to current taxable value of property qualifying for the disabled veterans' property tax exemption less the value of the exemption.

History: Adopted June 29, 1978, effective July 3, 1978.

Rule No. 465. (Cal. Adm. Code) NONPROFIT GOLF COURSES.

When appraising real property used exclusively for nonprofit golf course purposes in accordance with the provisions of Section 10 of Article XIII of the California Constitution, the assessor shall ascertain the value of such property on the basis of such use, plus the full value attributable to any mineral rights, as of the appropriate base year, regardless of the date such property qualified under the constitutional provisions.

History: Adopted June 29, 1978, effective July 3, 1978.

Rule No. 466. (Cal. Adm. Code) VALUATION AND ENROLLMENT OF TREES AND VINES

The base year value of fruit and nut trees, vines, bushes, or other perennials when planted in orchard, grove, or vineyard form whether or not enforceably restricted shall be the most recent of the following:

(a) The full value as of the 1975 lien date.
(b) The full value as of the date of planting, or
(c) The full value as of the date of a change in ownership.

The full value of trees and vines exempted by Article XIII, Section 3 (i), of the State Constitution shall not be enrolled until the lien date following the expiration of the exemption.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.

Rule No. 470. (Cal. Adm. Code) OPEN–SPACE.

All open–space lands "enforceably restricted" within the meaning of Sections 421 and 422 of the Revenue and Taxation Code shall have a base year restricted value determined by one of the following methods:

(a) If enforceably restricted prior to the 1975 lien date with no subsequent change in ownership, the base year full value is the 1975 restricted value.

(b) If an enforceable restriction is entered into subsequent to the 1975 lien date and no change in ownership has occurred, the base year full value is the value as if restricted in 1975.

(c) If a change in ownership has occurred subsequent to the 1975 lien date, the base year full value shall be the restricted value redetermined as of the date of the most recent change in ownership, regardless of the effective date of the enforceable restriction.

All base year restricted values shall be modified annually by the inflation rate. Subsequent land improvements such as wells and land leveling, will be valued by capitalizing the income attributable to the land improvements using the capitalization rate prescribed in Section 423 (b) of the Revenue and Taxation Code.

When an open–space contract is cancelled, pursuant to the provisions of Sections 51280 through 51285 of the Government Code, the full cash value of the land shall be the appropriate base year full cash value as modified annually by the inflation rate.

When an open–space contract is not renewed it shall be phased out under the provisions of Section 426 of the Revenue and Taxation Code; "the full cash value of the land" shall be the base year full cash value modified annually by the inflation rate. The value of the land by capitalization of income shall be the base year restricted value modified annually by the inflation rate.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.

Rule No. 471. (Cal. Adm. Code) TIMBERLAND.

Consistent with the intent of the provisions of Section 3 (j) of Article XIII of the California Constitution and the legislative interpretation thereof, the base year value for land which has been zoned as timberland pursuant to Sections 51110 or 51113 of the Government Code shall be ascertained from the 1977 statutory timberland site class value schedule and shall be modified annually by the inflation rate.

If, on or after March 1, 1979, timberland, or a portion thereof, is purchased, or otherwise undergoes a "change in ownership" as that phrase is defined in Section 462, its base year value shall be ascertained from the most recent board-adopted timberland site class value schedule to be adopted by the Board on or before January 1, 1980. Base year values for timberland which changes ownership on or after March 1, 1980, shall be ascertained from the board-adopted timberland site class value schedule in effect as of the date of change in ownership.

Values determined as provided in this section shall be enrolled on the lien date next succeeding the date when the timberland, or a portion thereof, changed ownership. Each year following enactment of a new base year value that value shall be modified by the annual inflation rate.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.

APPENDIX IV

ASSESSMENT PROVISIONS OF POST-PROPOSITION 13

LEGISLATION

SEC. 26. Section 110 of the Revenue and Taxation Code is amended to read: SB 154

110. Except as is otherwise provided in Section 110.1, "full cash value" or "fair market value" means the amount of cash or its equivalent which property would bring if exposed for sale in the open market under conditions in which neither buyer nor seller could take advantage of the exigencies of the other and both with knowledge of all of the uses and purposes to which the property is adapted and for which it is capable of being used and of the enforceable restrictions upon those uses and purposes.

SEC. 5. Section 110.1 of the Revenue and Taxation Code, as amended by Chapter 332 of the Statutes of 1978, is amended to read: SB 154, amended by SB 2212, amended by AB 2463

110.1. (a) For purposes of subdivision (a) of Section 2 of Article XIII A of the California Constitution, "full cash value" of real property means the full cash value of property, including possessory interests in real property, as determined pursuant to Section 110 for either:

(1) The lien date in 1975; or

(2) The date the property is purchased, newly constructed, or when a change in ownership has occurred, after the 1975 lien date, which shall be enrolled on the lien date next succeeding the date when real property, including possessory interests in real property, or a portion thereof, is purchased, newly constructed, or when a change of ownership has occurred.

(b) The value determined pursuant to subdivision (a) shall be the "base year value." If property has not been appraised pursuant to Section 405.5 to its appropriate base year value, "full cash value" means the reappraised value of such property as of the base year lien date. Such reappraisals may be made at any time, notwithstanding the provisions of Section 405.6.

(c) For each lien date after the lien date in which the full cash value is determined pursuant to subdivision (a) and (b), the full cash value of real property, including possessory interests in real property, shall reflect the percentage change in cost of living, as defined in Section 2212; provided, that such value shall not reflect an increase in excess of 2 percent of the full cash value of the preceding lien date.

SEC. 28. Section 110.5 of the Revenue and Taxation Code is amended to read: SB 154

110.5. "Full value" means fair market value, full cash value, or such other value standard as is prescribed by the Constitution or in this code under the authorization of the Constitution.

SEC. 26. Section 110.6 as added to the Revenue and Taxation Code by Chapter 292 of the Statutes of 1978, is amended to read: SB 154, amended by SB 2212

110.6. The Legislature finds and declares that a change in ownership of real property means all recorded and unrecorded transfers of legal or equitable title, except the transfer of bare legal title, whether by grant, gift, devise, inheritance, trust, contract of sale, addition or deletion of an owner, property settlement, or any other change in the method of holding title, whether by voluntary or involuntary transfer or by operation of law. The term shall also include, but is not limited to, the transfer of stock of a corporation vested with legal title which conveys to the transferee the exclusive right to occupancy and possession of the real property, or a portion thereof, and the creation of a leasehold or taxable possessory interest, or the sublease or assignment thereof, for a term in excess of 10 years.

The board shall prescribe rules and regulations to govern assessors when determining when a change in ownership of real property occurs.

"Change of ownership," as used in this section, shall exclude any of the following:

(1) Any transfer to an existing assessee for the purpose of perfecting title to the property;

(2) The creation, assignment, or reconveyance of a security interest not coupled with the right to immediate use, occupancy, possession, or profits;

(3) Any interspousal transfer to create or terminate a community property interest or joint tenancy interest;

(4) Substitution of a trustee under the terms of a security or trust instrument;

(5) Any termination of a joint tenancy interest; or

(6) Any transfer of a share of stock in a cooperative housing corporation, as defined in Section 17265, coupled with a possessory interest in a cooperative apartment unit thereof; provided however, that proportion of the value of the cooperative housing corporation attributable to the possessory interest shall be included.

The provisions of this section cease to be operative on July 1, 1979, and as of such date are repealed.

SEC. 35. Any exclusions from the phrase "change in ownership" as defined by Section 110.6 of the Revenue and Taxation Code, whether enacted by this act or by any subsequent statute shall be valid and shall apply retrospectively to any transfer which is covered by such exclusions and which occurred on or after March 1, 1975. SB 2212

The Legislature finds and declares that the time constraints imposed for implementation of Article XIII A of the California Constitution necessitated the provisions of the preceding paragraph.

SECTION 1. Section 155.2 is added to the Revenue and Taxation Code, to read: SB 1571

155.2. For the 1978–79 fiscal year only, the time fixed for the performance of any act by the assessor relating to the preparation of the 1978–79 fiscal year assessment roll shall be not later than August 21, 1978.

SEC. 2. Section 155.3 is added to the Revenue and Taxation Code, to read: SB 1571

155.3. Notwithstanding any other provisions of this division, for the 1978–79 fiscal year only, the mandatory duties imposed by Sections 469, 671, and 1610.2 shall be suspended in counties of more than 4,000,000 population, as determined by the January 1, 1978, Department of Finance revised estimate.

SEC. 3. Section 532.3 is added to the Revenue and Taxation Code, to read: SB 1571

532.3. Notwithstanding the provisions of Section 532, any property which escaped taxation or was underassessed for the 1975–76 fiscal year may be assessed; provided, such assessment is made on or before June 30, 1980.

SECTION 1. Section 619 of the Revenue and Taxation Code is amended to read: SB 2241

619. (a) Except as provided in subdivision (f), the assessor shall, upon or prior to completion of the local roll, either:

(1) Inform each assessee of real property on the local secured roll whose property's full value has increased of the assessed value of that property as it shall appear on the completed local roll; or

(2) Inform each assessee of real property on the local secured roll, or each assessee on the local secured roll and each assessee on the unsecured roll, of the assessed value of his real property or of both his real and his personal property as it shall appear on the completed local roll.

(b) The information given by the assessor to the assessee pursuant to ~~subdivision (a) or (b)~~ *paragraph (1) or (2) of subdivision (a)* shall include a notification of hearings by the county board of equalization, which shall include the period during which assessment protests will be accepted and the place where they may be filed. The information shall also include an explanation of the stipulation procedure set forth in Section 1608 and the manner in which the assessee may request use of this procedure.

(c) The information shall also include the assessment ratio for the county as provided in Section 401 and the full value of the property.

(d) The information shall be furnished by the assessor to the assessee by regular United States mail directed to him at his latest address known to the assessor.

(e) Neither the failure of the assessee to receive the information nor the failure of the assessor to so inform the assessee shall in any way affect the validity of any assessment or the validity of any taxes levied pursuant thereto.

(f) This section shall not apply to annual increases in the valuation of property which reflect the inflation rate, not to exceed 2 percent, pursuant to the authority of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for purposes of property tax limitation determinations.

SEC. 4. Section 1603 of the Revenue and Taxation Code is amended to read:

1603. (a) A reduction in an assessment on the local roll shall not be made unless the party affected or his agent makes and files with the county board a verified, written application showing the facts claimed to require the reduction and the applicant's opinion of the full value of the property. The form for such application shall be prescribed by the State Board of Equalization.

(b) In the case of a county of the first class, the application shall be filed between the third Monday in July and September 15. An application that is mailed and postmarked September 15 or earlier within such period shall be deemed to have been filed between the third Monday in July and September 15. For the 1978–79 fiscal year only, the September 15 deadline shall be extended to September 30.

(c) In the case of a county of the second to ninth class, inclusive, the application shall be filed within the time period beginning July 2 and continuing through and including September 15. An application that is mailed and postmarked September 15 or earlier within such period shall be deemed to have been filed within the time period beginning July 2 and continuing through and including September 15. For the 1978–79 fiscal year only, the September 15 deadline shall be extended to September 30.

(d) In all other counties, the application shall be filed between July 2 and August 26. An application that is mailed and postmarked August 26 or earlier within such period shall be deemed to have been filed between July 2 and August 26. For the 1978–79 fiscal year only, the August 26 deadline shall be extended to September 30.

(e) In the form provided for making application pursuant to this section, there shall be a notice that written findings of facts of the local equalization hearing will be available upon written request at the requester's expense and, if not so requested, the right to such written findings is waived. The form shall provide appropriate space for the applicant to request written findings of facts as provided by Section 1611.5.

(f) This section shall remain in effect only until July 1, 1979, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1979, deletes or extends such date.

SEC. 4.1. Section 1603 of the Revenue and Taxation Code is amended to read: SB 1571

1603. (a) A reduction in an assessment on the local roll shall not be made unless the party affected or his agent makes and files with the county board a verified, written application showing the facts claimed to require the reduction and the applicant's opinion of the full value of the property. The form for such application shall be prescribed by the State Board of Equalization.

(b) The application shall be filed within the time period beginning July 2 and continuing through and including September 15. An application that is mailed and postmarked September 15 or earlier within such period shall be deemed to have been filed within the time period beginning July 2 and continuing through and including September 15.

(c) In the form provided for making application pursuant to this section, there shall be a notice that written findings of facts of the local equalization hearing will be available upon written request at the requester's expense and, if not so requested, the right to such written findings is waived. The form shall provide appropriate space for the applicant to request written findings of facts as provided by Section 1611.5.

SEC. 7. Section 4.1 of this act shall become operative July 1, 1979. SB 1571

SEC. 5. Section 4843 is added to the Revenue and Taxation Code, to read: SB 1571

4843. For the 1978–79 fiscal year only, notwithstanding any other provisions of this division, the assessor may make corrections to the 1978–79 roll during such fiscal year without a prior hearing by, or the prior approval of, the board of supervisors. If the assessment change results in a reduction of taxes which have been paid, the amount of the overpayment resulting from such reduction of taxes may be refunded to the current assessee whether or not a refund claim has been filed by the person who paid the taxes.

SEC. 6. Notwithstanding any other provisions of law to the contrary, the following dates established for the performance of duties imposed on local agencies shall be revised, for the 1978–79 fiscal year only, as follows: SB 1571

(a) The county auditor shall send a statement of property valuations pursuant to Section 51510 of the Government Code on or before August 28, 1978.

(b) The auditor shall send valuations pursuant to Section 305 of the Metropolitan Water District Act on or before August 28, 1978.

(c) The auditor shall send the statement of land values to irrigation districts pursuant to Section 26627 of the Water Code on or before August 28, 1978.

(d) The county auditor shall send a written statement of valuations to each county water district pursuant to Section 31702.2 of the Water Code on or before August 28, 1978.

(e) The Antelope Valley—East Kern Water Agency shall fix and transmit property tax rates pursuant to Section 79 of the Antelope Valley—East Kern Water Agency Law (Chapter 2146, Statutes of 1959) on or before August 28, 1978.

(f) The auditor shall transmit property valuations to the Castaic Lake Water Agency pursuant to Section 47(b) of the Castaic Lake Water Agency Law (Chapter 28, Statutes of the 1962 1st Extraordinary Session) on or before August 28, 1978.

[S.F. No. 23849. Sept. 22, 1978.]

AMADOR VALLEY JOINT UNION HIGH SCHOOL DISTRICT et al., Petitioners, v.
STATE BOARD OF EQUALIZATION et al., Respondents.

[S.F. No. 23850. Sept. 22, 1978.]

COUNTY OF ALAMEDA et al., Petitioners, v.
STATE BOARD OF EQUALIZATION et al., Respondents.

[S.F. No. 23855. Sept. 22, 1978.]

CITY AND COUNTY OF SAN FRANCISCO et al., Petitioners, v.
JOSEPH E. TINNEY, as Tax Assessor, etc., et al., Respondents.

SUMMARY

Various governmental agencies and concerned citizens, invoking the original jurisdiction of the Supreme Court to resolve issues of great public importance, challenged, on multiple constitutional grounds, the validity of Cal. Const., art. XIIIA, on its adoption by the electorate in 1978 as an initiative measure. Petitioners contended that the enactment, which changed the previous system of real property taxation and tax procedure by imposing important limitations upon the assessment and taxing powers of state and local governments, constituted a revision of the Constitution and was therefore not adoptable through the initiative process (Cal. Const., art. XVIII). Petitioners also asserted that the single-subject requirement (Cal. Const., art. II, § 8, subd. (d)) and the title and summary-of-purpose requirements (Cal. Const., art. II, § 10; Elec. Code, §§ 3502, 3503, 3531) for initiative measures had been violated, and that the enactment violated the federal equal protection clause, impaired the constitutional right to travel, would inevitably result in impairment of contracts (U.S. Const., art. I, § 10, cl. 1) such as pension and health plan benefits, labor and other municipal contracts,

and redevelopment agency bonds, and was in any event void for vagueness.

The Supreme Court denied the respective petitions, holding that the enactment survived each of the substantial challenges. The enactment, the court held, was a constitutional "amendment," not a "revision," and was therefore adoptable through the initiative process; and because the several elements of the measure were reasonably germane to, and functionally related in furtherance of, the underlying purpose of effective real property tax relief, the measure did not violate the single-subject requirement. The title and summary of purpose of the measure, though imprecise in certain particulars, substantially complied with the law, especially in view of their subsequent correction in all but two counties and in the voters' pamphlet. The federal equal protection clause, the court held, was not violated by the provision requiring property acquired prior to 1975 to be assessed and taxed at its full cash value as shown on the 1975-1976 tax bill, and property acquired thereafter to be assessed and taxed according to its appraised value at the time of acquisition; there was a rational basis for the provision, namely, the theory that the annual taxes that a property owner must pay should bear some rational relationship to the original cost of the property, predicated on the owner's free and voluntary act of purchase, rather than relate to an unforeseen, perhaps unduly inflated, current value. In any event, there is no legal requirement that property of equal current value must be taxed equally. Nor was the federal equal protection clause violated by the provision requiring that any "special taxes" imposed by a city, county, or special district must be approved by a two-thirds vote of its qualified electors; because persons who vote in favor of tax measures may not be deemed to represent a definite, identifiable class, equal protection principles do not forbid "debasing" their vote, or "favoring" the negative votes, by requiring a two-thirds approval of such measures. With respect to the claim of impairment of the constitutional right to travel resulting from the change from the current value system to the acquisition value method, it could equally be argued that under the former system prospective purchasers of real property might well have been deterred from purchasing (thereby impairing their right to travel) by reason of the unpredictable nature of future property tax liability resulting from unlimited inflationary pressures. The challenge based on the impairment of municipal contracts, the court held, was premature, even assuming petitioners, without producing evidence of any present, specific, and substantial impairments affecting them, had the standing to assert the

claim; the enactment on its face neither directly repudiated any express covenant with municipal obligees nor immediately impaired any contract right. Finally, the court held that the enactment was not so vague in its essential terms as to render it void and inoperable. As with other provisions of the Constitution, it would necessarily require judicial, legislative, and administrative construction, and it was already being implemented by extensive legislation and regulations that, if judicially challenged, could be dealt with on a case-by-case basis. (Opinion by Richardson, J., with Tobriner, Mosk, Clark, Manuel, and Newman, JJ., concurring. Separate concurring and dissenting opinion by Bird, C. J.)

HEADNOTES

Classified to California Digest of Official Reports, 3d Series

(1) **Courts § 27—Supreme Court—Original Jurisdiction—Matters of Great Public Importance.**—The original jurisdiction of the Supreme Court may properly be invoked where there is a need for prompt judicial resolution concerning matters of great public importance.

(2) **Initiative and Referendum § 6—State Elections—Initiative Measures—Supreme Court Review.**—In exercising its original jurisdiction to adjudicate the constitutionality of an initiative measure, such as one adopted by the voters of the state to limit the assessment and taxing powers of the state and local governments, the Supreme Court will restrict itself to an examination, in the light of established constitutional standards, of the principal, fundamental challenges to the validity of the initiative. The court will not consider or weigh the economic or social wisdom or general propriety of the initiative, and will defer analysis of the problems that may arise respecting the interpretation or application of particular provisions of the enactment for future cases in which those provisions are more directly challenged.

(3) **Initiative and Referendum § 6—State Elections—Initiative Measures—Liberal Construction.**—The power of initiative, reserved to the people under Cal. Const., art. IV, § 1, must be liberally construed to promote the democratic process.

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(4a-4c) **Constitutional Law § 3—Adoption and Alteration—Limitations on Taxing Power—Constitutional Amendment Adoptable Through Initiative Process.**—Characterization of Cal. Const., art. XIIIA (changing the previous system of real property taxation and tax procedure by imposing important limitations upon the assessment and taxing powers of state and local governments), as a constitutional "revision" could not validly be predicated on the theory that it would result in the loss of home rule or in a change from a "republican" form of government (lawmaking by elected representatives) to a "democratic" governmental plan (lawmaking directly by the people); the enactment would not necessarily result in the delegation, to the Legislature, of the power to make those revenue and budgetary decisions formerly left to local discretion and control, and § 4 of the enactment (requiring that any "special taxes" imposed by a city, county, or special district must be approved by a two-thirds vote of its qualified electors) was nothing novel to the existing governmental framework of California. The enactment, limited in purpose, could fairly be deemed a constitutional "amendment," and thus validly adoptable through the initiative process.

(5) **Constitutional Law § 3—Adoption and Alteration.**—Under Cal. Const., art. XVIII, the voters may accomplish a constitutional "amendment" by the initiative process, but a constitutional "revision" may be adopted only after the convening of a constitutional convention and popular ratification or by legislative submission to the people.

(6) **Constitutional Law § 2—Definitions and Distinctions—"Revision"—"Amendment."**—Cal. Const., art. XVIII, contemplates that the principles underlying a constitutional "revision," and the substantial entirety of such a revision, shall be of a permanent and abiding nature similar to that of the Constitution itself. The term "amendment," on the other hand, implies such an additional change within the lines of the original constitutional instrument as will effect an improvement, or better carry out the purpose for which it was framed.

(7) **Constitutional Law § 3—Adoption and Alteration—Revision or Amendment—Quantitative and Qualitative Analysis.**—An enactment that is so extensive in its provisions as to change directly the "substantial entirety" of the Constitution by the deletion or altera-

tion of numerous existing provisions may well constitute a revision thereof. However, even a relatively simple enactment may accomplish such far-reaching changes in the nature of our basic governmental plan as to amount to a revision also. Thus, a judicial analysis to determine whether a particular constitutional enactment is a revision or an amendment must be both quantitative and qualitative in nature.

(8) **Municipalities § 13—Legislative Control—"Home Rule."**—The principle of home rule involves, essentially, the ability of local government (technically, chartered cities, counties, and cities and counties) to control and finance local affairs without undue interference by the Legislature.

(9a, 9b) **Initiative and Referendum § 6—State Elections—Initiative Measures—Single-subject Requirement.**—Under Cal. Const., art. II, § 8, subd. (d) (providing that an "initiative measure embracing more than one subject may not be submitted to the electors or have any effect"), an initiative measure will not violate the single-subject requirement if, despite its varied collateral effects, all of its parts are "reasonably germane" to each other.

(10a-10c) **Initiative and Referendum § 6—State Elections—Initiative Measures—Single-subject Requirement—Limitations on Taxing Power.**—Cal. Const., art. XIIIA (changing the previous system of real property taxation and tax procedure by imposing important limitations upon the assessment and taxing powers of state and local governments), did not violate the single-subject requirement of Cal. Const., art. II, § 8, subd. (d) (providing that an "initiative measure embracing more than one subject may not be submitted to the electors or have any effect"). The advance publicity and public discussion of the tax-limiting provisions, as an initiative measure, were massive, and the several elements of the enactment were reasonably germane to, and functionally related in furtherance of, a common underlying purpose, namely, effective real property tax relief.

(11) **Initiative and Referendum § 6—State Elections—Initiative Measures—Single-subject Requirement—Purpose.**—Minimization of the risk of voter confusion and deception was one of the purposes of the single-subject requirement of Cal. Const., art. II, § 8,

subd. (d) (providing that an "initiative measure embracing more than one subject may not be submitted to the electors or have any effect").

(12a-12d) **Property Taxes § 7—Constitutional Provisions; Statutes and Ordinances—Equal Protection—Valuation of Property—Date of Acquisition Versus Current Value.**—The provision in Cal. Const., art. XIIIA, § 2 (requiring property acquired prior to 1975 to be assessed and taxed at its full cash value as shown on the 1975-1976 tax bill, and property acquired thereafter to be assessed and taxed according to its appraised value at the time of acquisition), did not constitute an arbitrary discrimination in violation of the equal protection clause of U.S. Const., 14th Amend. There is no legal requirement that property of equal current value must be taxed equally, and the rollback of an assessed value to the 1975-1976 fiscal year was comparable to the use of a "grandfather" clause similar to legislative provisions that are routinely upheld by the courts. The rational basis underlying § 2, satisfying the essential demand of equal protection, includes the theory that the annual taxes that a property owner must pay should bear some rational relationship to the original cost of the property, predicated on the owner's free and voluntary act of purchase, rather than relate to an unforeseen, perhaps unduly inflated, current value.

(13) **Appellate Review § 126—Constitutional Questions.**—Generally, courts will not reach constitutional questions unless absolutely necessary to a disposition of the case before them.

(14a, 14b) **Constitutional Law § 82—Equal Protection—Classification—Legislative Power and Discretion—Taxation.**—Where taxation is concerned and no specific federal right, apart from equal protection, is imperiled, the states have large leeway in making classifications and drawing lines that in their judgment produce reasonable systems of taxation. The latitude of discretion is notably wide in the classification of property for purposes of taxation and the granting of partial or total exemptions upon grounds of policy.

(15a, 15b) **Constitutional Law § 83—Equal Protection—Classification—Legislative Power and Discretion—Taxation—Judicial Review.**—So long as a system of state taxation is supported by a rational basis, and is not palpably arbitrary, it will be upheld despite the absence of a precise, scientific uniformity. The fact that a tax law discriminates in favor of a certain class does not make it arbitrary if the discrimination is founded upon a reasonable distinction, or difference in state policy, not in conflict with the federal Constitution.

[See Cal.Jur.3d, Constitutional Law, § 178; Am.Jur.2d, State and Local Taxation, § 150 et seq.]

(16) **Constitutional Law § 82—Equal Protection—Classification—Legislative Power and Discretion—Taxation.**—A state is not limited to ad valorem taxation. It may impose different specific taxes upon different trades and professions and may vary the rate of excise upon various products. In levying such taxes, the state is not required to resort to close distinctions or to maintain a precise, scientific uniformity with reference to composition, use, or value.

(17) **Constitutional Law § 97—Equal Protection—Classification—Bases—Voting Rights—Limitation on Local Taxing Power—Two-thirds Vote by Electorate.**—Cal. Const., art. XIIIA, § 4 (requiring that any "special taxes" imposed by a city, county, or special district must be approved by a two-thirds vote of its qualified electors), did not violate the equal protection clause of U.S. Const., 14th Amend. Because persons who vote in favor of tax measures may not be deemed to represent a definite, identifiable class, equal protection principles do not forbid "debasing" their vote, or "favoring" the negative vote, by requiring a two-thirds approval of such measures.

(18a, 18b) **Constitutional Law § 52—First Amendment and Other Fundamental Rights of Citizens—Scope and Nature—Right to Travel—Property Taxes—Change From Current Value to Acquisition Value.**—The right to travel was not unconstitutionally impaired by the provision in Cal. Const., art. XIIIA, changing the assessment and taxation of real property from a current value system to an acquisition value method. Under the former system, prospective purchasers of real property might well have been deterred from purchasing (thereby impairing their right to travel) by reason of the unpredictable nature of future property tax liability resulting from unlimited inflationary pressures.

(19) **Property Taxes § 31—Assessment—Change From Current Value to Acquisition Value—Purpose.**—The change from a current value

system to an acquisition value method provided by Cal. Const., art. XIIIA, § 2 (requiring property acquired prior to 1975 to be assessed and taxed at its full cash value as shown on the 1975-1976 tax bill, and property acquired thereafter to be assessed and taxed according to its appraised value at the time of acquisition), was intended to benefit all property owners, past and future, resident and nonresident, by reducing inflationary increases in their assessments, by limiting tax rates, and by permitting the taxpayer to make more careful and accurate predictions of future tax liability.

(20) **Constitutional Law § 72—Contract Rights, Vested Rights, and Retrospective Laws—Right to Contract and Impairment of Contract—Constitutional Amendment Limiting Taxing Power—Premature Challenge.**—A challenge by various governmental agencies and concerned citizens to Cal. Const., art. XIIIA (changing the previous system of real property taxation and tax procedure by imposing important limitations upon the assessment and taxing powers of state and local governments), on the asserted basis that the operation of the enactment would result in the default of certain preexisting contractual obligations (including pension and health plan benefits, labor and other municipal contracts, and redevelopment agency bonds), and would therefore result in an unlawful impairment of contract (U.S. Const., art. I, § 10, cl. 1), was premature, even assuming petitioners had the standing to assert the claim. The enactment, on its face, neither directly repudiated any express covenant with municipal obligees nor immediately impaired any contract right, and petitioners failed to produce evidence of any present, specific, and substantial impairment affecting them or any specified municipal obligees, bondholders, or creditors.

(21a, 21b) **Initiative and Referendum § 6—State Elections—Initiative Measures—Title and Summary of Purpose—Sufficiency—Initiative Measure Limiting Taxing Power.**—With respect to the initiative measure adopted by the voters as Cal. Const., art. XIIIA, changing the previous system of real property taxation and tax procedure by imposing important limitations upon the assessment and taxing powers of state and local governments, both the title "Initiative Constitutional Amendment—Property Tax Limitation" (though imprecise as implying that only property taxes would be affected) and the summary (though imprecise for failing to mention that § 4 of the measure required that any "special taxes" imposed by a city, county, or special district must be approved by a two-thirds vote of its qualified electors) substantially complied with the law, especially in view of their subsequent correction in all but two counties and in the voters' pamphlet, and in view of the extensive public debates on the measure in all of its several aspects.

(22) **Initiative and Referendum § 6—State Elections—Initiative Measures —Title and Summary of Purpose—Object.**—The requirements that, prior to the circulation of an initiative measure, the Attorney General prepare a title and summary of its chief purposes and points, not exceeding 100 words (Cal. Const., art. II, § 10, subd. (d); Elec. Code, §§ 3502, 3503), and that the statement be true and impartial, and not argumentative or likely to create prejudice for or against the measure (Elec. Code, § 3531), were designed to prevent the public from being misled by inaccurate information.

(23) **Initiative and Referendum § 6—State Elections—Initiative Measures —Title and Summary of Purpose—Sufficiency.**—Generally, the title and summary of an initiative measure, prepared by the Attorney General before its circulation, need not contain a complete catalogue or index of all of the measure's provisions, and are presumed to be accurate. Substantial compliance with the "chief purpose and points" provision (Elec. Code, §§ 3502, 3503) is sufficient, as is the title, if reasonable minds may differ as to its sufficiency.

(24a-24c) **Constitutional Law § 10—Construction of Constitutions—Constitutional Amendment Limiting State and Local Taxing Powers—Validity Despite Vague Terms.**—Cal. Const., art. XIIIA (changing the previous system of real property taxation and tax procedure by imposing important limitations upon the assessment and taxing powers of state and local governments), though imprecise and ambiguous in a number of particulars, was not so vague and uncertain in its essential terms as to render it void and inoperable. As with other provisions of the Constitution, it would necessarily and over a period of time require judicial, legislative, and administrative construction, and was already being implemented by extensive legislation and regulations that, if judicially challenged, could be dealt with on a case-by-case basis.

(25) **Constitutional Law § 11—Construction of Constitutions—Liberality and Flexibility.**—Because a written Constitution is intended as, and is, the mere framework according to whose general outlines specific legislation must be framed and modeled, and is therefore necessarily couched in general terms or language, it is not to be interpreted according to narrow or super-technical principles, but liberally and on broad general lines, so that it may accomplish in full measure the objects of its establishment and so carry out the great principles of government.

(26) **Constitutional Law § 10—Construction of Constitutions—To Uphold Validity.**—In the abstract, provisions in a Constitution should be interpreted when possible to uphold their validity, and courts should construe them to give specific content to terms that might otherwise be unconstitutionally vague.

(27) **Constitutional Law § 12—Construction of Constitutions—Background, Purpose, and Intent of Enactment.**—A constitutional amendment should generally be construed in accordance with the natural and ordinary meaning of its words, but the literal language may be disregarded to avoid absurd results and to fulfill the apparent intent of the framers.

(28) **Constitutional Law § 16—Construction of Constitutions—Contemporaneous and Long-standing Construction—By Legislature and Administration.**—Apparent ambiguities in a new enactment may frequently be resolved by the contemporaneous construction of the Legislature or of the administrative agencies charged with implementing it; additionally, when the enactment follows voter approval, the ballot summary and arguments and analysis presented to the electorate may be helpful in determining the probable meaning of uncertain language.

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OPINION

RICHARDSON, J.—In these consolidated cases, we consider multiple constitutional challenges to an initiative measure which was adopted by the voters of this state at the June 1978 primary election. This measure, designated on the ballot as Proposition 13 and commonly known as the Jarvis-Gann initiative, added article XIII A to the California Constitution. Its provisions are set forth in their entirety in the appendix to this opinion. (See *post*, at p. 257.) As will be seen, the new article changes the previous system of real property taxation and tax procedure by imposing important limitations upon the assessment and taxing powers of state and local governments.

Petitioners, and the amici supporting them, are various governmental agencies and concerned citizens, each of whom has alleged actual or potential adverse effects resulting from the adoption and ultimate operation of the article. (Hereafter we refer jointly to all petitioners and their amici as petitioners, and refer to all respondents herein and those amici urging the validity of XIII A as respondents.) (1) The issues herein presented are of great public importance and should be resolved promptly. Under well settled principles petitioners, accordingly, have properly invoked the exercise of our original jurisdiction. (See *California Housing Finance Agency* v. *Elliott* (1976) 17 Cal.3d 575, 580 [131 Cal.Rptr. 361, 551 P.2d 1193]; *County of Sacramento* v. *Hickman* (1967) 66 Cal.2d 841, 845 [59 Cal.Rptr. 609, 428 P.2d 593].)

(2) We stress initially the limited nature of our inquiry. We do not consider or weigh the economic or social wisdom or general propriety of the initiative. Rather, our sole function is to evaluate article XIII A legally in the light of established constitutional standards. We further emphasize that we examine only those principal, fundamental challenges to the validity of article XIII A as a whole. In doing so we reaffirm and readopt an analytical technique previously used by us in adjudicating attacks upon similar enactments, in which "Analysis of the problems which may arise respecting the interpretation or application of particular provisions of the act should be deferred for future cases in which those provisions are more directly challenged." (*County of Nevada* v. *MacMillen* (1974) 11 Cal.3d 662, 666 [114 Cal.Rptr. 345, 522 P.2d 1345] [declaratory relief action to determine validity of the 1973 conflict of interest law, Gov. Code, § 3600 et seq.].) As will appear, we have concluded that, notwithstanding the existence of some unresolved uncertainties, as to which we reserve judgment, the article nevertheless survives each of the serious and substantial constitutional attacks made by petitioners.

(3) It is a fundamental precept of our law that, although the legislative power under our constitutional framework is firmly vested in the Legislature, "the people reserve to themselves the powers of initiative and referendum." (Cal. Const., art. IV, § 1.) It follows from this that, " '[the] power of initiative must be liberally construed . . . to promote the democratic process.' " (*San Diego Bldg. Contractors Assn.* v. *City Council* (1974) 13 Cal.3d 205, 210, fn. 3 [118 Cal.Rptr. 146, 529 P.2d 570, 72

A.L.R.3d 973] and cases cited; see *Associated Home Builders etc., Inc.* v. *City of Livermore* (1976) 18 Cal.3d 582, 591 [135 Cal.Rptr. 41, 557 P.2d 473].) Bearing in mind the foregoing interpretive aid, we briefly review the basic provisions of article XIII A. We caution that, save only as to the specific constitutional issues resolved, our summary description and interpretation of the article and of the implementing legislation and regulations do not preclude subsequent challenges to the specific meaning or validity of those enactments.

The new article contains four distinct elements. The first imposes a limitation on the *tax rate* applicable to real property: "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 . . . ." (§ 1, subd. (a).) (This limitation is made specifically inapplicable, under subdivision (b), to property taxes or special assessments necessary to pay prior indebtedness approved by the voters.) The second is a restriction on the *assessed value* of real property. Section 2, subdivision (a), provides: "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 . . . ." Subdivision (b) permits a maximum 2 percent annual increase in "the fair market value base" of real property to reflect the inflationary rate.

The third feature limits the method of changes in *state* taxes: "From and after the effective date of this article, any changes in State taxes enacted for the purpose of increasing rates or changes in methods of computation must be imposed by an Act passed by not less than two-thirds of all members . . . 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." (§ 3.) The fourth element is a restriction upon *local* taxes: "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." (§ 4.) (The remaining sections relate to the effective dates (§ 5) and severability (§ 6) of the provisions of the new article.

We examine petitioners' specific contentions.

1. *Constitutional Revision or Amendment*

(4a) The petitioners' primary argument is that article XIII A represents such a drastic and far-reaching change in the nature and operation of our governmental structure that it must be considered a "revision" of the state Constitution rather than a mere "amendment" thereof. (5) As will appear, although the voters may accomplish an amendment by the initiative process, a constitutional revision may be adopted only after the convening of a constitutional convention and popular ratification or by legislative submission to the people. Because a revision may not be achieved through the initiative process, petitioners' first contention strikes at the very validity of article XIII A in its inception and in its entirety. Were we to conclude that the Proposition 13 initiative constituted a revision not an amendment, that would end our inquiry; the initiative would be invalid for its failure to meet the constitutional requirements of a revision.

The applicable constitutional provisions are specific. Article XVIII (entitled "Amending and Revising the Constitution") presently provides in full:

"SEC. 1. *The Legislature* by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, *may propose an amendment or revision* of the Constitution and in the same manner may amend or withdraw its proposal. Each amendment shall be so prepared and submitted that it can be voted on separately.

"SEC. 2. *The Legislature* by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, *may submit* at a general election the question whether to call a convention to *revise* the Constitution. If the majority vote yes on that question, within 6 months the Legislature shall provide for the convention. Delegates to a constitutional convention shall be voters elected from districts as nearly equal in population as may be practicable.

"SEC. 3. *The electors may amend* the Constitution *by initiative*.

"SEC. 4. A proposed amendment or revision shall be submitted to the electors and if approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise. If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail." (Italics added.)

We think it significant that prior to 1962 a constitutional revision could be accomplished *only* by the elaborate procedure of the convening of, and action by, a constitutional convention (art. XVIII, § 2). This fact suggests that the term "revision" in section XVIII originally was intended to refer to a substantial alteration of the entire Constitution, rather than to a less extensive change in one or more of its provisions. (6) Many years ago, in *Livermore* v. *Waite* (1894) 102 Cal. 113, 118-119 [36 P. 424], we described the fundamental distinction between revision and amendment as follows: "The very term 'constitution' implies an instrument of a permanent and abiding nature, and the provisions contained therein for its revision indicate the will of the people that the underlying principles upon which it rests, as well as the substantial entirety of the instrument, shall be of a like permanent and abiding nature. On the other hand, the significance of the term 'amendment' implies such an addition or change within the lines of the original instrument as will effect an improvement, or better carry out the purpose for which it was framed."

While the Constitution itself does not specifically distinguish between revision and amendment, we are considerably aided in an evaluation of petitioners' primary argument by our earlier analysis of the issue in *McFadden* v. *Jordan* (1948) 32 Cal.2d 330 [196 P.2d 787] (cert. den., 336 U.S. 918 [93 L.Ed. 1080, 69 S.Ct. 640]). In *McFadden*, we struck down an initiative measure which would have added 21,000 words to our then existing 55,000-word Constitution. We held that the initiative was "revisory rather than amendatory in nature," because of the "far reaching and multifarious substance of the measure . . ." (p. 332) which dealt with such varied and diverse subjects as retirement pensions, gambling, taxes, oleomargarine, healing arts, civic centers, senate reapportionment, fish and game, and surface mining. We noted that the proposal would have repealed or substantially altered at least 15 of the 25 articles which then comprised the Constitution. (P. 345.)

We held in *McFadden* that the measure under scrutiny therein was clearly a revision, both because of its varied aspects and because of the "substantial curtail[ment]" of governmental functions which it would cause. (Pp. 345-346.) For example, one provision would have created a state pension commission with comprehensive governmental powers to be exercised by five named commissioners. We concluded that "The

delegation of far reaching and mixed powers to the commission, largely, if not almost entirely in effect, unchecked, places such commission substantially beyond the system of checks and balances which heretofore has characterized our governmental plan." (P. 348.)

In addition, although the subject of taxation was only one of many covered by the *McFadden* initiative, nevertheless we observe that the proposed taxation amendment would have accomplished, *by itself,* a far more substantial change in the state's taxation scheme than that effected by Proposition 13. The far reaching nature of the *McFadden* measure is demonstrated by the fact that it not only would have destroyed the power of cities and counties to tax and regulate their own budgets and expenditures (p. 344), but also the 2 percent gross receipts tax proposed therein was to have been *the only tax* permitted to any agency on real or personal property, or on any business enterprises. (Pp. 336-337.)

Finally, we stressed in *McFadden* that "The proposal is offered as a *single amendment* but it obviously is multifarious. It does not give the people an opportunity to express approval or disapproval severally as to each major change suggested; rather does it, apparently, have the purpose of aggregating for the measure the favorable votes from electors of many suasions who, wanting strongly enough any one or more propositions offered, might grasp at that which they want, tacitly accepting the remainder. Minorities favoring each proposition severally might, thus aggregated, adopt all. Such an appeal might well be proper in voting on a *revised* constitution, proposed under the safeguards provided for such a procedure, but it goes beyond the legitimate scope of a single amendatory article." (P. 346, italics in original.)

(7) Taken together our *Livermore* and *McFadden* decisions mandate that our analysis in determining whether a particular constitutional enactment is a revision or an amendment must be both quantitative and qualitative in nature. For example, an enactment which is so extensive in its provisions as to change directly the "substantial entirety" of the Constitution by the deletion or alteration of numerous existing provisions may well constitute a revision thereof. However, even a relatively simple enactment may accomplish such far reaching changes in the nature of our basic governmental plan as to amount to a revision also. In illustration, the parties herein appear to agree that an enactment which purported to vest all judicial power in the Legislature would amount to a revision without regard either to the length or complexity of the measure or the number of existing articles or sections affected by such change.

(4b) In both its quantitative and qualitative aspects, however, article XIII A appears demonstrably less sweeping than the initiative measure at issue in *McFadden*. As noted above, the *McFadden* measure consisted of 21,000 words and covered many different subjects, whereas XIII A comprises approximately 400 words and, as we discuss more fully below, is limited to the single subject of taxation (with particular emphasis upon real property taxation). Although petitioners suggest that 8 articles and 37 sections of the existing Constitution may be affected by the new article, our analysis suggests that the article's quantitative effect is less extensive.

Our review of petitioners' description of numerous asserted changes indicates that the claims may be based upon possible errors in petitioners' interpretation of the new article. For example, they argue that at least three constitutional articles will be modified by the new requirement that the available real property tax revenues be apportioned "to the districts *within* the counties" (§ 1, subd. (a), italics added), thereby excluding those districts which encompass more than a single county. However, implementing legislation has included such multi-county districts within the tax allocation scheme. (See Gov. Code, § 26912, subd. (d).) In addition, petitioners assume that article XIII A will annul or amend the various "home rule" provisions of the state Constitution (art. XI, §§ 3-7), an assumption we discuss and reject below. Finally, we note that the majority of those changes emphasized by petitioners pertain to a single existing constitutional provision, article XIII, which already contains 33 separate sections dealing with the subject of taxation and assessment procedure. Since article XIII doubtless was premised upon the assumption that local taxation would be unrestricted by any tax rate and assessment limitations such as those adopted by XIII A, it is not surprising that many of these sections may be said to be affected by the new taxation scheme. Nevertheless, we decline to hold that article XIII A accomplished a revision of the Constitution by reason of its *quantitative* effect upon the existing provisions of that document.

Petitioners insist, however, that the new article also will have far reaching *qualitative* effects upon our basic governmental plan, in two principal particulars, namely, (1) the loss of "home rule" and (2) the conversion of our governmental framework from "republican" to "democratic" form. A close analysis of XIII A convinces us that its probable effects are not as fundamentally disruptive as petitioners suggest.

a.) *Loss of home rule.* (8) The principle of home rule involves, essentially, the ability of local government (technically, chartered cities,

counties, and cities and counties) to control and finance local affairs without undue interference by the Legislature. (See, e.g., *Weekes* v. *City of Oakland* (1978) 21 Cal.3d 386, 399-400 [conc. opn.], 422-426 [dis. opn.] [146 Cal.Rptr. 558, 579 P.2d 449], and authorities cited; *Bishop* v. *City of San Jose* (1969) 1 Cal.3d 56, 61-63 [81 Cal.Rptr. 465, 460 P.2d 137].) (4c) It is undeniably true that a constitutional limitation upon prevailing local taxation rates and assessments will have a potentially limiting effect upon the management and resolution of local affairs. Reduced taxes may be expected to generate reduced revenues, inevitably resulting in a corresponding curtailment of locally financed services and programs. To conclude, however, that the mere imposition of tax limitations, per se, accomplishes a constitutional revision would in effect bar the people from ever achieving *any* local tax relief through the initiative process. Petitioners have cited to us no authorities which support such a broad proposition, and our own research, disclosing only one case, indicates a contrary rule. (See *School Dist. of City of Pontiac* v. *City of Pontiac* (1933) 262 Mich. 338 [247 N.W. 474, 477] [initiative measure adopting a 1½ percent tax limitation on assessed value, and requiring two-thirds approval of electorate to increase taxes, was a constitutional amendment, not a revision].)

Petitioners insist, however, that article XIII A has an additional effect beyond the mere limitation of tax revenues, namely, the vesting in the Legislature of the power to allocate to local governmental agencies the revenues derived from real property taxation. It is suggested that, by reason of the operation of section 1, subdivision (a), of article XIII A (allocating the revenues from the 1 percent maximum tax "according to law"), the Legislature is thereby empowered, at its whim, and upon whatever conditions it may impose, to pick and choose among the local agencies, rewarding "deserving" agencies with substantial amounts while penalizing others by reduced awards. Certainly nothing on the face of the article, however, abrogates home rule to this extent, or discloses any intent to undermine or subordinate preexisting constitutional provisions on that subject (Cal. Const., art. XI, §§ 3-7). Indeed, present legislative implementation of article XIII A reveals that such a result has not ensued. For several reasons, petitioners' fears in this connection seem illusory and ill-founded.

First, it is clear that even prior to the adoption of article XIII A, the Constitution authorized the Legislature to "provide maximum property tax rates and bonding limits for local government" (art. XIII, § 20), to provide similar limits for school districts (*id.*, § 21), and to grant exemptions from real property taxation in favor of certain specified classes of property (*id.*, § 4). Thus, from the standpoint of legislative control, the new article appears potentially no more threatening to home rule than these preexisting constitutional limitations.

Second, wholly unlike the *McFadden* initiative, article XIII A neither destroys nor annuls the taxing power of local agencies. Although revenues derived from real property taxes may well be substantially reduced by reason of the new tax rate and assessment restrictions (§§ 1, 2), local agencies retain full authority to impose "special taxes" (other than certain real property taxes) if approved by a two-thirds vote of the "qualified electors." (§ 4.) Although the interpretation of the foregoing quoted provisions is not presently before us, it seems evident that section 4 assists in preserving home rule principles by leaving to *local* voters the decision whether or not to authorize "special" taxes to support *local* programs.

Third, article XIII A does not by its terms empower the Legislature to direct or control local budgetary decisions or program or service priorities, and we have no reason to assume that the Legislature will attempt to exercise its powers in such a manner as to interfere with local decision-making. Certainly, local agencies retain the same constitutional and statutory authority over municipal affairs which they possessed and exercised prior to the adoption of the new article. The mere fact of reduction in local revenues does not lead us necessarily to the conclusion that local agencies have forfeited control over allocations and disbursements of their remaining funds.

Finally, recent implementing legislation (Stats. 1978, chs. 292, 332) confirms the Legislature's present intention to preserve home rule and local autonomy respecting the allocation and expenditure of real property tax revenues. Although this legislation is, of course, subject to future change and, accordingly, is not conclusive on the point, the present pattern of legislative implementation of article XIII A appears to refute petitioners' premise that the article *necessarily and inevitably* has resulted or will result in the loss of home rule. Among other provisions, the Legislature has enacted Government Code section 26912 which contains the formulae whereby county auditors must allocate to various local agencies and school districts within county boundaries the revenues to be derived from the 1 percent maximum real property tax during the fiscal

year 1978-1979. Although these formulae are somewhat complex, in general they aim at allocating these funds on a *pro rata basis*, without imposing any condition whatever regarding their ultimate use. Each "local agency" (city, county, city and county, and special district) is to receive a proportionate share based upon its average property tax revenues during the previous three fiscal years. (Gov. Code, § 26912, subds. (a), (b)(1).) Similarly, each school district, county superintendent of schools, and community college district, is to receive a proportionate share based upon the entity's average property tax revenues for the 1977-1978 fiscal year. (*Id.*, subd. (b)(2).)

The foregoing tax allocation scheme is evidently intended to assure that each local agency and school district will receive approximately the same percentage of the total tax revenues as it had previously received. Thus, contrary to petitioners' fears and assumptions, the adoption of XIII A need not *necessarily* result either in abrogation of home rule in this state or in the delegation to the Legislature of the power to make those revenue and budgetary decisions formerly left to local discretion and control. (Other sections of the new legislation contain formulae for allocating the state's surplus tax funds. These provisions do not relate to the distribution of revenues from real property taxation and, accordingly, they are not relevant to our present discussion, except insofar as the availability of these funds may minimize the impact of the reduction in local tax revenues.)

b.) *Loss of republican form of government.* Continuing their thesis that XIII A is a constitutional revision not an amendment under our *McFadden* holding, petitioners next maintain that the operation of the article, and particularly section 4 thereof, will result in a change from a "republican" form of government (i.e., lawmaking by elected representatives) to a "democratic" governmental plan (i.e., lawmaking directly by the people).

Contrary to petitioners' assertion, however, we are convinced that article XIII A is more modest both in concept and effect and does not change our basic governmental plan. Following the adoption of article XIII A both local and state government will continue to function through the traditional system of elected representation. Other than in the limited area of taxation, the authority of local government to enact appropriate laws and regulations remains wholly unimpaired. The requirement of section 4 that any "special taxes" must be approved by a two-thirds vote of the "qualified electors" restricts but does not abolish the power of local governments in the raising of revenue. We decline to hold that such a "super-majority" requirement, the two-thirds vote, standing alone and limited to the subject of taxes, constitutes a substantial constitutional revision which cannot be accomplished through an initiative. Similar voting requirements in financial matters have not been uncommon. For example, prior to the adoption of article XIII A, our Constitution required the assent of two-thirds of the qualified electors to incur indebtedness exceeding in any year the income and revenue provided for that year. (Art. XVI, § 18.) We have, within another context, previously described other examples of constitutional provisions sanctioning deviations from simple "majority rule." (See *Westbrook* v. *Mihaly* (1970) 2 Cal.3d 765, 797-798, fn. 64 [87 Cal.Rptr. 839, 471 P.2d 487].)

It should be borne in mind that notwithstanding our continuing representative and republican form of government, the initiative process itself adds an important element of direct, active, democratic contribution by the people. (See *In re Pfahler* (1906) 150 Cal. 71, 77-78 [88 P. 270] [holding that the constitutional guarantee of a republican form of government is inapplicable to the local governmental level].) We thus conclude that section 4 of article XIII A, and its requirement of substantial popular support, beyond that of a bare majority for the approval and adoption of "special" local taxes adds nothing novel to the existing governmental framework of this state.

In summary, we believe that it is apparent that article XIII A will result in various substantial changes in the operation of the former system of taxation. Yet, unlike the alterations effected by the *McFadden* initiative discussed above, the article XIII A changes operate functionally within a relatively narrow range to accomplish a new system of taxation which may provide substantial tax relief for our citizens. We decline to hold that such a limited purpose cannot be achieved directly by the people through the initiative process. As succinctly and graphically expressed a number of years ago in a study of the California procedure, ". . . the initiative is in essence *a legislative battering ram* which may be used to tear through the exasperating tangle of the traditional legislative procedure and strike directly toward the desired end. Virtually every type of interest-group has on occasion used this instrument. It is deficient as a means of legislation in that it permits very little balancing of interests or compromise, but it was designed primarily for use in situations where the ordinary machinery of legislation had utterly failed in this respect. It has served, with varying degrees of efficacy, as a vehicle for the advocacy of action

ultimately undertaken by the representative body." (Key & Crouch, The Initiative and the Referendum in Cal. (1939) p. 485, italics added.)

The foregoing language, written almost 40 years ago, seems remarkably prophetic given the apparent historic origins of article XIII A. Although we express neither approval nor disapproval of the article from the standpoint of sound fiscal or social policy, we find nothing in the Constitution's revision and amendment provisions (art. XVIII) which would prevent the people of this state from exercising their will in the manner herein accomplished. Indeed, if the foregoing description of the initiative as a "legislative battering ram" is accurate it would seem anomalous to insist, as petitioners in effect do, that the sovereign people cannot themselves act directly to adopt tax relief measures of this kind, but instead must defer to the Legislature, their own representatives. We conclude that article XIII A fairly may be deemed a constitutional amendment, not a revision.

2. *The Single-subject Requirement*

(9a) Our Constitution provides that "An initiative measure embracing more than one subject may not be submitted to the electors or have any effect." (Art. II, § 8, subd. (d).) (10a) Acknowledging that its general reference is to the subject of taxation, petitioners nonetheless argue that article XIII A covers many subjects and, indeed, is so sweeping and extensive in its practical effect and import as to encompass nearly the entirety of "government." In this regard, their argument is somewhat related to their prior contention that article XIII A constitutes a revision of the Constitution, rather than an amendment. Accordingly, many of our previous observations regarding the revision and amendment procedures have application to their one-subject assertions.

The single-subject requirement of article II was adopted in 1948, possibly in response to the many-faceted initiative measure which we invalidated in *McFadden, supra.* Only a year later, in *Perry* v. *Jordan* (1949) 34 Cal.2d 87 [207 P.2d 47], we had occasion to construe the new constitutional provision. In *Perry,* we adopted and applied the "reasonably germane" test previously developed by earlier decisions construing a similar single-subject restriction applicable to legislation (see Cal. Const., art. IV, § 9). We quoted with approval the following language from an earlier opinion in which we had upheld the legislative adoption of the Probate Code in a single enactment: ". . . [W]e are of the view that the [single-subject] provision is not to receive a narrow or technical construction in all cases, but is to be construed liberally to uphold proper legislation, *all parts of which are reasonably germane.* [Citation.] The provision was not enacted to provide means for the overthrow of legitimate legislation. [Citation.] [¶] Numerous provisions, *having one general object,* if fairly indicated in the title, may be united in one act. Provisions governing projects so related and interdependent as to constitute *a single scheme* may be properly included within a single act. [Citation.] The legislature may insert in a single act all legislation *germane* to the general subject as expressed in its title and within the field of legislation suggested thereby. [Citation.] . . . A provision which conduces to the act, or which is auxiliary to and promotive of its main purpose, or has a necessary and natural connection with such purpose is *germane* within the rule . . . ." (*Evans* v. *Superior Court* (1932) 215 Cal. 58, 62-63 [8 P.2d 467], italics added.)

In *Perry,* the challenged initiative measure had as its general subject the repeal of constitutional provisions governing aid to the aged and blind. We noted that the repeal measure would have several collateral effects, including (1) vesting the Legislature with power to reduce pension payments, (2) giving the counties the responsibility of administering pension programs, (3) imposing on relatives liability for benefits, and (4) raising the minimum age qualification for benefits. (*Perry* v. *Jordan, supra,* 34 Cal.2d at pp. 93-94.) Nonetheless, and referring to the foregoing features of the initiative, we unanimously rejected the single-subject challenge, observing that "All those things obviously pertain to any plan—single subject—of aid to the needy aged and blind. They are merely administrative details." (*Id.,* at p. 94.)

(9b) We thus draw from *Perry* its primary lesson that an initiative measure will not violate the single-subject requirement if, despite its varied collateral effects, all of its parts are "reasonably germane" to each other. We note also the existence of a more restrictive test recently proposed in the dissenting opinion of Justice Manuel in *Schmitz* v. *Younger* (1978) 21 Cal.3d 90, 100 [145 Cal.Rptr. 517, 577 P.2d 652], wherein he suggested that "an initiative's provisions must be functionally related in furtherance of a common underlying purpose." **(10b)** Our analysis of article XIII A convinces us that the several elements of that article satisfy either standard in that they are both reasonably germane to, *and* functionally related in furtherance of, a common underlying purpose, namely, effective real property tax relief.

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As previously noted, article XIII A consists of four major elements, a real property *tax rate* limitation (§ 1), a real property *assessment* limitation (§ 2), a restriction on *state* taxes (§ 3), and a restriction on *local* taxes (§ 4). Although petitioners insist that these four features constitute separate *subjects,* we find that each of them is reasonably interrelated and interdependent, forming an interlocking "package" deemed necessary by the initiative's framers to assure effective real property tax relief. Since the total real property tax is a function of both rate and assessment, sections 1 and 2 unite to assure that *both* variables in the property tax equation are subject to control. Moreover, since any tax savings resulting from the operation of sections 1 and 2 could be withdrawn or depleted by additional or increased state or local levies of other than property taxes, sections 3 and 4 combine to place restrictions upon the imposition of such taxes. Although sections 3 and 4 do not pertain solely to the matter of *property* taxation, both sections, in combination with sections 1 and 2, are reasonably germane, and functionally related, to the general subject of property tax relief.

(11) Among other purposes, the single-subject requirement was enacted to minimize the risk of voter confusion and deception. (*Schmitz* v. *Younger, supra,* 21 Cal.3d 90, 97 [dis. opn.].) **(10c)** We may take judicial notice of the fact that the advance publicity and public discussion of article XIII A and its predicted effects were massive. (Evid. Code, § 452, subd. (g).) The measure received as much public attention as any other ballot proposition in recent years. These circumstances would seem to dilute the risk of voter confusion or deception by reason of the inclusion of the four principal features of the article in one ballot proposition. Moreover, the official voters pamphlet mailed to all registered voters contained an elaborate and detailed explanation of the various elements of Proposition 13. (See *Morris* v. *Priest* (1971) 14 Cal.App.3d 621, 625 [92 Cal.Rptr. 476].)

Petitioners contend, however, that adoption of XIII A violated a second important purpose underlying the single-subject requirement, namely, to avoid "exploiting" the initiative process by combining in a single measure several provisions which might not have commanded majority support if considered separately. (See *McFadden* v. *Jordan, supra,* 32 Cal.2d 330, 346.) Petitioners rely upon cases from several other jurisdictions expressing this principle. For example, in *Kerby* v. *Luhrs* (1934) 44 Ariz. 208 [36 P.2d 549], the court struck down an initiative measure which would have added to the Arizona Constitution such diverse provisions as (1) a new tax on copper production, (2) a new method of valuing public utility property, and (3) a new state tax commission. According to the court in *Kerby*, any of these provisions, singly, could have been adopted "without the slightest need of adopting" the others. (P. 554.) Although each provision related to the general subject of "taxation," the *Kerby* court found no other connection between them, characterizing the measure as "logrolling of the worst type . . . ." (P. 555.)

Unlike the enactment condemned in *Kerby*, however, the four elements of article XIII A not only pertain to the general subject of taxation, but also are reasonably interdependent and functionally related to each other. More importantly, no apparent "logrolling" is involved in this case. Each of the four basic elements of article XIII A was designed to interlock with the others to assure an effective tax relief program.

Petitioners assert that each of the four separate elements of article XIII A might not have been approved had each element appeared separately on the ballot. They speculate that various classes of voters may have favored some, but not all, of these elements; petitioners would require a showing that *each* of the several provisions of an initiative measure is capable of gaining approval by the electorate, independent of the other provisions. We are unable to accept such a contention, concluding that petitioners' proposed single-subject test is far too strict, and lacks support in the authorities. Aside from the obvious difficulty of ever establishing satisfactorily such "independent voter approval," this standard would defeat many legitimate enactments containing isolated, arguably "unpopular," provisions reasonably deemed necessary to the integrated functioning of the enactment as a whole. We avoid an overly strict judicial application of the single-subject requirement, for to do so could well frustrate legitimate efforts by the people to accomplish integrated reform measures. As we have previously observed, the initiative procedure itself was specifically intended to accomplish such kinds of reforms through its function as a "legislative battering ram." We should dull or blunt its force only for reasons that are constitutionally mandated, and accordingly we conclude that article XIII A does not violate the single-subject requirement of article II.

3. *Equal Protection of the Laws*

Petitioners' equal protection argument against article XIII A is directed at two aspects of the article. They contend that (1) the "rollback" of assessed valuation (§ 2, subd. (a)) assertedly will result in invidious discrimination between owners of similarly situated property, and that (2)

the two-third voting requirement for enacting "special taxes" by local agencies (§ 4) unduly discriminates in favor of those voters casting negative votes. As will appear, we hold that neither contention has merit.

a.) *1975-1976 Assessment Date.* (12a) As we have noted, section 2, subdivision (a), of article XIII A provides that "The full cash value [to which the 1 percent maximum tax applies] 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." (Section 2, subdivision (b), permits an annual 2 percent maximum increase on the "fair market value base" of property, to reflect the inflationary rate.) Petitioners emphasize that, by reason of the "rollback" of assessed value to the 1975-1976 fiscal year, two substantially identical homes, located "side-by-side" and receiving identical governmental services, could be assessed and taxed at different levels depending upon their date of acquisition. Such a disparity in tax treatment, petitioners claim, constitutes an arbitrary discrimination in violation of the federal equal protection clause (Amend. XIV, § 1).

Preliminarily, we note that petitioners' equal protection challenge, arguably, is premature. (13) As a general rule, courts will not reach constitutional questions "unless absolutely necessary to a disposition" of the case before them (*Bayside Timber Co.* v. *Board of Supervisors* (1971) 20 Cal.App.3d 1, 5-6 [97 Cal.Rptr. 431]), and we could decline to consider the issue in the abstract and instead await its resolution within the framework of an actual controversy wherein the disparity is pivotal.

(12b) Nevertheless, we have elected to treat the equal protection issue as constituting an attack upon the face of the article itself, because the assessors throughout this state must be advised whether to follow the new assessment procedure. As will appear, we will conclude that the essential demands of equal protection are satisfied by a rational basis underlying section 2 of the new article.

(14a) The general principles applicable to the determination of an equal protection challenge to state tax legislation were recently summarized by the United States Supreme Court as follows: "We have long held that '[w]here taxation is concerned and no specific federal right, apart from equal protection, is imperiled, the States have large leeway in making classifications and drawing lines which in their judgment produce reasonable systems of taxation.' [Citation.] **(15a)** A state tax law is not arbitrary although it 'discriminate[s] in favor of a certain class . . . if the discrimination is founded upon a reasonable distinction, or difference in state policy,' not in conflict with the Federal Constitution. [Citation.] This principle has weathered nearly a century of Supreme Court adjudication . . . ." (*Kahn* v. *Shevin* (1974) 416 U.S. 351, 355-356 [40 L.Ed.2d 189, 193, 94 S.Ct. 1734].)

(14b) Consistent with the foregoing expression of broad liberality, the high court has recognized the wide flexibility permitted states in the enforcement and interpretation of their tax laws, holding that "The latitude of discretion is notably wide in the classification of property for purposes of taxation *and the granting of partial or total exemptions upon grounds of policy.*" (*Royster Guano Co.* v. *Virginia* (1920) 253 U.S. 412, 415 [64 L.Ed. 989, 991, 40 S.Ct. 560], italics added; see *Haman* v. *County of Humboldt* (1973) 8 Cal.3d 922, 925-927 [106 Cal.Rptr. 617, 506 P.2d 993].) There exists no "iron rule of equality, prohibiting the flexibility and variety that are appropriate" to schemes of taxation. (*Allied Stores of Ohio* v. *Bowers* (1959) 358 U.S. 522, 526 [3 L.Ed.2d 480, 484, 79 S.Ct. 437]; see *Tax Commissioners* v. *Jackson* (1931) 283 U.S. 527, 537 [75 L.Ed. 1248, 1255-1256, 51 S.Ct. 540, 73 A.L.R. 1464]; *Ohio Oil Co.* v. *Conway* (1930) 281 U.S. 146, 159 [74 L.Ed. 775, 781-782, 50 S.Ct. 310].) **(15b)** So long as a system of taxation is supported by a rational basis, and is not palpably arbitrary, it will be upheld despite the absence of " 'a precise, scientific uniformity' " of taxation. (*Kahn* v. *Shevin, supra,* 416 U.S. at p. 356, fn. 10 [40 L.Ed.2d at pp. 193-194]; *Allied Stores of Ohio, supra,* at p. 527 [3 L.Ed.2d at p. 485]; *Ohio Oil Co., supra,* at pp. 159-160 [74 L.Ed. at pp. 781-783]; see *Franklin Life Ins. Co.* v. *State Board of Equalization* (1965) 63 Cal.2d 222, 232-233 [45 Cal.Rptr. 869, 404 P.2d 477].)

(12c) Petitioners, in response, rely upon a line of cases which hold, as a general proposition, that the intentional, systematic *undervaluation* of property similarly situated with other property assessed at its full value constitutes an improper discrimination in violation of equal protection principles. (E.g., *Cumberland Coal Co.* v. *Board* (1931) 284 U.S. 23, 28 [76 L.Ed. 146, 149-150, 52 S.Ct. 48]; *Sioux City Bridge* v. *Dakota County* (1923) 260 U.S. 441, 445 [67 L.Ed. 340, 342-343, 43 S.Ct. 190, 28 A.L.R. 979]; see *Hillsborough* v. *Cromwell* (1946) 326 U.S. 620, 623 [90 L.Ed. 358, 363, 66 S.Ct. 445] [equal protection forbids imposing taxes not levied against persons of the same class].)

The foregoing cases, however, involved constitutional or statutory provisions which *mandated* the taxation of property on a *current value* basis. These cases do not purport to confine the states to a current value system under equal protection principles or to state an exception to the general rule accepted both by the United States Supreme Court and by us, as previously noted, that a tax classification or disparity of tax treatment will be sustained so long as it is founded upon some reasonable distinction or rational basis.

By reason of section 2, subdivision (a), of the article, except for property acquired prior to 1975, henceforth all real property will be assessed and taxed at its value *at date of acquisition* rather than at current value (subject, of course, to the 2 percent maximum annual inflationary increase provided for in subdivision (b)). This "acquisition value" approach to taxation finds reasonable support in a theory that the annual taxes which a property owner must pay should bear some rational relationship to the original cost of the property, rather than relate to an unforeseen, perhaps unduly inflated, current value. Not only does an acquisition value system enable each property owner to estimate with some assurance his future tax liability, but also the system may operate on a fairer basis than a current value approach. For example, a taxpayer who acquired his property for $40,000 in 1975 henceforth will be assessed and taxed on the basis of that cost (assuming it represented the then fair market value). This result is fair and equitable in that his future taxes may be said reasonably to reflect the price he was originally willing and able to pay for his property, rather than an inflated value fixed, after acquisition, in part on the basis of sales to third parties over which sales he can exercise no control. On the other hand, a person who paid $80,000 for similar property in 1977 is henceforth assessed and taxed at a higher level which reflects, again, the price he was willing and able to pay for that property. Seen in this light, and contrary to petitioners' assumption, section 2 does not unduly discriminate against persons who acquired their property after 1975, for those persons are assessed and taxed in precisely the same manner as those who purchased in 1975, namely, on an acquisition value basis predicated on the owner's free and voluntary acts of purchase. This is an arguably reasonable basis for assessment. (We leave open for future resolution questions regarding the proper application of article XIII A to involuntary changes in ownership or new construction.)

In addition, the fact that two taxpayers may pay different taxes on substantially identical property is not wholly novel to our general taxation scheme. For example, the computation of a sales tax on two identical items of personalty may vary substantially, depending upon the exact sales price and the availability of a discount. Article XIII A introduces a roughly comparable tax system with respect to real property, whereby the taxes one pays are closely related to the acquisition value of the property.

In converting from a current value method to an acquisition value system, the framers of article XIII A chose not to "roll back" assessments any earlier than the 1975-1976 fiscal year. For assessment purposes, persons who acquired property prior to 1975 are deemed to have purchased it during 1975. These persons, however, cannot complain of any unfair tax treatment in view of the substantial tax advantage they will reap from a return of their assessments from current to 1975-1976 valuation levels. Indeed, the adoption of a uniform acquisition value system without some "cut off" date reasonably might have been considered both administratively unfeasible and incapable of producing adequate tax revenues. The selection of the 1975-1976 fiscal year as a base year, although seemingly arbitrary, may be considered as comparable to utilization of a "grandfather" clause wherein a particular year is chosen as the effective date of new legislation, in order to prevent inequitable results or to promote some other legitimate purpose. (See *Harris* v. *Alcoholic Bev. etc. Appeals Bd.* (1964) 61 Cal.2d 305, 309-310 [38 Cal.Rptr. 409, 392 P.2d 1].) Similar provisions are routinely upheld by the courts. (See, e.g., *New Orleans* v. *Dukes* (1976) 427 U.S. 297, 305-306 [49 L.Ed.2d 511, 517-519, 96 S.Ct. 2513]; *In re Norwalk Call* (1964) 62 Cal.2d 185, 188 [41 Cal.Rptr. 666, 397 P.2d 426].)

Petitioners insist, however, that property of equal *current* value must be taxed equally, regardless of its original cost. This proposition is demonstrably without legal merit, for our state Constitution itself expressly contemplates the use of "a value standard other than fair market value . . . ." (Art. XIII, § 1, subd. (a).) Moreover, the Legislature is empowered to grant total or partial exemptions from property taxation on behalf of various classes (e.g., veterans, blind or disabled persons, religious, hospital or charitable property; see art. XIII, § 4), despite the fact that similarly situated property may be taxed at its full value. In addition, homeowners receive a partial exemption from taxation (art. XIII, § 3, subd. (k)) which is unavailable to other property owners. As noted previously, the state has wide discretion to grant such exemptions. (*Royster Guano Co.* v. *Virginia, supra,* 253 U.S. 412, 415 [64 L.Ed. 989, 991].)

Finally, no compelling reason exists for assuming that property lawfully may be taxed only at current values, rather than at some other value, or upon some different basis. (16) As the United States Supreme Court has explained, "The State is not limited to *ad valorem* taxation. It may impose different specific taxes upon different trades and professions and may vary the rate of excise upon various products. In levying such taxes, the State is not required to resort to close distinctions or to maintain a precise, scientific uniformity with reference to composition, use or value." (*Ohio Oil Co.* v. *Conway, supra,* 281 U.S. 146, 159 [74 L.Ed. 775, 782].) (12d) We cannot say that the acquisition value approach incorporated in article XIII A, by which a property owner's tax liability bears a reasonable relation to his costs of acquisition, is wholly arbitrary or irrational. Accordingly, the measure under scrutiny herein meets the demands of equal protection principles.

b.) *Two-thirds Voting Requirement.* (17) Petitioners have also questioned whether the requirement of a two-thirds vote to approve "special" local taxes (§ 4) denies to voters the equal protection of the laws. We may quickly dispose of the contention. Petitioners rely upon our decision in *Westbrook* v. *Mihaly, supra,* 2 Cal.3d 765, wherein we held that a two-thirds requirement for approval of county general obligation bonds violated federal equal protection principles. However, our *Westbrook* opinion was vacated by the United States Supreme Court (*Mihaly* v. *Westbrook* (1971) 403 U.S. 915 [29 L.Ed.2d 692, 91 S.Ct. 2224]) and the cause was remanded for our reconsideration in the light of *Gordon* v. *Lance* (1971) 403 U.S. 1 [29 L.Ed.2d 273, 91 S.Ct. 1889], a case which upheld a 60 percent vote requirement primarily because no "discrete and insular minority" was singled out for special treatment by application of the voting requirement. Thus, *Westbrook* no longer represents the controlling law on the subject. (See *Coffineau* v. *Eu* (1977) 68 Cal.App.3d 138, 143 [137 Cal.Rptr. 90].) Because persons who vote in favor of tax measures may not be deemed to represent a definite, identifiable class, equal protection principles do not forbid "debasing" their vote by requiring a two-thirds approval of such measures.

4. *Right to Travel*

(18a) Petitioners insist that the constitutional right to travel (see *Associated Home Builders etc., Inc.* v. *City of Livermore, supra,* 18 Cal.3d 582, 602) is impaired by the provisions of article XIII A. They reason that since any "nonresidents or newly arrived residents" will have to pay greater property taxes than "established" residents article XIII A will deter property owners from moving to another location, thereby inhibiting travel.

As we have explained in discussing petitioners' equal protection challenge, no penalty is imposed on the owner. (19) The change from a current value system to an acquisition value method is intended to benefit *all* property owners, past and future, resident and nonresident, by reducing inflationary increases in assessments, by limiting tax rates, and by permitting the taxpayer to make more careful and accurate predictions of future tax liability. (18b) Under the former system, it was arguable that prospective purchasers of real property might have been deterred from purchasing (thereby impairing their right to travel) by reason of the unpredictable nature of future property tax liability resulting from unlimited inflationary pressures. Certainly, travel is inhibited to no greater extent by the new system, which establishes a more fixed and stable measure than that imposed by the former system of unconstrained property taxation based on current values. Accordingly, we hold that the right to travel is not unconstitutionally impaired by article XIII A.

5. *Impairment of Contracts*

(20) Petitioners forcefully argue that the operation of article XIII A inevitably will result in the default of various contractual obligations which were incurred by local agencies and districts prior to the enactment of the new article. At the least, petitioners contend, the new restrictions upon the local tax power will "depreciate" the security on which the various obligees have relied for repayment of public obligations held by them. It is claimed, therefore, that article XIII A constitutes an unlawful impairment of contract under the federal Constitution (art. I, § 10, cl. 1).

Petitioners observe that section 1, subdivision (b), of article XIII A, in apparent anticipation of the argument, contains a specific exception in favor of those holding evidence of certain prior indebtedness: "The limitation provided for in subdivision (a) [the 1 percent maximum tax] 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." (Italics added.) Petitioners point, however, to certain municipal obligations which were not required to be approved by the voters, including pension and health plan benefits, labor and other municipal contracts, and redevelopment agency bonds. The latter category, particularly, involves a special risk of

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impairment, according to petitioners, for redevelopment agencies rely exclusively upon property tax revenues for the retirement of their bonds.

Redevelopment bonds are secured by a pledge of so-called "tax increment" revenues generated by increases in the assessed value of the redeveloped property. (Cal. Const., art. XVI, § 16; Health & Saf. Code, §§ 33670, 33671; see *Redevelopment Agency* v. *County of San Bernardino* (1978) 21 Cal.3d 255, 257-259 [145 Cal.Rptr. 886, 578 P.2d 133].) As we explained in *San Bernardino*, "In essence this section [art. XVI, § 16] provides that if, after a redevelopment project has been approved, the assessed valuation of taxable property in the project increases, the taxes levied on such property in the project area are divided between the taxing agency and the redevelopment agency. The taxing agency receives the same amount of money it would have realized under the assessed valuation existing at the time the project was approved, while the additional money resulting from the rise in assessed valuation is placed in a special fund for repayment of indebtedness incurred in financing the project." (*Id.*, at p. 259, italics omitted.)

According to petitioners, article XIII A will have a dual adverse effect upon redevelopment agency revenues because both the 1 percent maximum tax and the "rollback" of assessments to a 1975-1976 valuation will combine to reduce substantially tax increment revenues. It is further contended that the problem thereby posed is acute, and the implications widespread. Tax increment bonds are being used to finance 250 redevelopment projects in 121 cities and 3 counties. None of these bonds was specifically approved by the voters, and thus none of them is exempt from the 1 percent maximum tax restriction.

There are two troublesome aspects to petitioners' impairment argument, involving both timing and standing. First, it is readily apparent that petitioners' impairment of contracts argument is prematurely raised. Nothing on the face of article XIII A requires local agencies to default either in meeting their preexisting contracts or in liquidating their outstanding bonds. As we have seen, the ultimate operation of the article may result in a substantial reduction in the amount of available revenues, but as yet no direct impairment of any contract or bond has occurred by virtue thereof. No party to any contract or bondholder has so contended. As we have noted above, courts will avoid reaching constitutional objections when it is not absolutely necessary to the disposition of the case before them. (*Bayside Timber Co.* v. *Board of Supervisors, supra,* 20 Cal.App.3d 1, 6.)

In the present cases, despite the reduction of revenues from property taxation, doubtless many local public entities will retain sufficient funds to meet preexisting contractual or bonded indebtedness rather than suffer default; allocation of surplus state funds (see Stats. 1978, chs. 292, 332) may assist other entities in these efforts.

As for redevelopment agencies, and other local agencies and districts relying upon property tax revenue for the retirement of bonds and other prior indebtedness which have not been voter approved, we note that the Legislature has created the Local Agency Indebtedness Fund to promote a public policy of protecting "the credit of the state and local agencies *by assuring that no bond of a local agency goes into default.*" (Gov. Code, § 16496, added by Stats. 1978, ch. 292, § 18, italics added.) The new fund is designed to provide loans with a maximum three-year term for the purpose of preventing defaults on bonds during the 1978-1979 fiscal year "while local agencies are reorganizing revenue sources which support payments on such bonds." (*Id.,* § 16496.5.) This legislation applies to bonds "which have not been specifically approved and authorized by the voters of the local agency prior to June 6, 1978" (*id.,* § 16497, subd. (c)), including redevelopment bonds secured by tax increment revenues (*id.,* § 16499, subd. (b), as amended by Stats. 1978, ch. 332, § 22). The legislation thus fills the gap not covered by the constitutional exemption.

Petitioners properly observe that the new legislation does not specify from what sources a state loan to a redevelopment agency might be repaid (as tax increment revenues presumably are reserved to the bondholders). Yet, as we have previously noted, the loans are made to prevent bond defaults while new revenue sources are being explored. We cannot assume on the face of the present record that no new revenue sources will be found or legislatively created. Thus, for all of the foregoing reasons, we are not able to conclude that default of prior contractual obligations is an *inevitable* consequence of article XIII A.

Petitioners extend their impairment argument, however, contending that the new restrictions upon the local taxing power necessarily have resulted in a present "depreciation" of the security relied upon by the various obligees for repayment of their obligations, and that accordingly the impairment issue is ripe for our consideration. According to

petitioners, any substantial restriction placed upon the taxing power of local governments accomplishes an immediate unlawful impairment of preexisting obligations, at least insofar as the discharge of these obligations may depend upon the availability of adequate tax revenues.

The authorities on which petitioners rely for the foregoing proposition are not in point. There is a line of cases holding generally that "a State may not authorize a municipality to borrow money and then restrict its taxing power *so that the debt cannot be repaid.* [Citations.]" (*United States Trust Co.* v. *New Jersey* (1977) 431 U.S. 1, 24, fn. 22 [52 L.Ed.2d 92, 111, 97 S.Ct. 1505], and cases cited, italics added.) These cases do not suggest, however, that an unlawful impairment occurs immediately upon imposition of the tax restriction, without regard to its ultimate effect upon the repayment of preexisting debts. The *United States Trust Co.* decision, on which petitioners primarily rely, involved a legislative repeal of *an express covenant* which had assured to bondholders that monies pledged as security for repayment would not be used to subsidize rail passenger transportation. The high court explained that "The parties [to a municipal contract] may rely on the continued existence of adequate statutory remedies for enforcing their agreement, *but they are unlikely to expect that state law will remain entirely static.* Thus, a reasonable modification of statutes governing contract remedies is much less likely to upset expectations than a law *adjusting the express terms of an agreement.* In this respect, the repeal of the 1962 covenant is seen as a serious disruption of the bondholders' expectations." (*Id.,* at pp. 20-21, fn. 17 [52 L.Ed.2d at p. 108], italics added.)

Nor does the recent case of *Allied Structural Steel Co.* v. *Spannaus* (1978) — U.S. — [57 L.Ed.2d 727, 98 S.Ct. 2716] assist petitioners, for in that case the challenged statute expressly modified the employees' pension rights which previously had been fixed by contract. In the present case, article XIII A on its face neither directly repudiates any express covenant with municipal obligees nor immediately impairs any contract right. As described by the high court in *Allied,* the federal contract clause (art. I, § 10) applies only to a "substantial impairment of a contractual relationship." (*Id.,* at p. — [57 L.Ed.2d at p. 736].) In the absence of a factual record disclosing any present, specific and substantial impairment of contract attributable to the adoption of article XIII A, we must reject petitioners' impairment of contract challenge because it is premature.

A second defect in the impairment argument relates to petitioners' standing to assert the claim. It is noteworthy that, unlike the situation presented in the *United States Trust Co.* and *Allied* cases, none of the petitioners herein are municipal obligees, bondholders or creditors alleging an actual or potential impairment of their rights. In this connection, it is doubtful that petitioners possess the requisite standing to assert the invalidity of article XIII A on impairment of contract grounds. (See, e.g., *Brock* v. *Superior Court* (1939) 12 Cal.2d 605, 613-614 [86 P.2d 805]; *In re Davis* (1966) 242 Cal.App.2d 645, 666 [51 Cal.Rptr. 702]; 5 Witkin, Summary of Cal. Law (8th ed. 1974) Constitutional Law, § 44 et seq.) As expressed in an earlier case, ". . . no obligation of any contract with the appellant has been impaired, and in the absence of a showing of injury on its part, it may not be heard." (*Irrigation District* v. *Wutchumna W. Co.* (1931) 111 Cal.App. 688, 696 [296 P. 933].)

We conclude that the challenge to article XIII A based upon the federal contract clause is premature and must await a case in which the contract rights of an obligee have been demonstrably impaired by the operation of the new article.

6. *Initiative Title and Summary*

(21a) According to petitioners, the preelection petitions which were circulated to qualify the initiative measure contained a misleading title and summary. The *title,* "Initiative Constitutional Amendment-Property Tax Limitation," was assertedly defective in its implication that only *property* taxes would be affected by the measure; in fact, other forms of state and local taxes were also involved. (Art. XIII A, §§ 3, 4.) Further, the *summary* of the measure stated in part that it "[a]uthorizes specified local entities to impose special taxes except . . . [real property taxes]." In fact, section 4 of the measure *restricts* the imposition of such "special taxes" by imposing a two-thirds vote requirement. It is argued that each of these variances is fatal to the constitutional validity of the article.

Petitioners further observe that the sample ballots distributed in Alameda and San Diego Counties also contained the foregoing "defects." As for other counties, the ballot materials were corrected by court order: The title was changed to "Tax Limitation—Initiative Constitutional Amendment," and the summary was revised to read "[a]uthorizes imposition of special taxes by local government (except on real property) by 2/3 vote of qualified electors." According to respondents, these

corrections were incorporated into the voters pamphlet subsequently mailed to *all* registered voters. Nevertheless, petitioners insist that the petition signers, and certain voters in Alameda and San Diego Counties, may have been misled or confused by the incorrect title and summary.

(22) Prior to the circulation of an initiative measure, the Attorney General is required to prepare a title and summary of its "chief purposes and points"—not exceeding 100 words. (Cal. Const., art. II, § 10, subd. (d); Elec. Code, §§ 3502, 3503.) The Attorney General's statement must be true and impartial, and not argumentative or likely to create prejudice for or against the measure. (Elec. Code, § 3531.) The main purpose of these requirements is to avoid misleading the public with inaccurate information. (See *Clark* v. *Jordan* (1936) 7 Cal.2d 248, 249-250 [60 P.2d 457, 106 A.L.R. 549]; *Boyd* v. *Jordan* (1934) 1 Cal.2d 468, 471 [35 P.2d 533].) **(23)** We have said, however, that the title and summary need not contain a complete catalogue or index of all of the measure's provisions and "if reasonable minds may differ as to the sufficiency of the title, the title should be held sufficient." (*Epperson* v. *Jordan* (1938) 12 Cal.2d 61, 66 [82 P.2d 445].) As a general rule, the title and summary prepared by the Attorney General are presumed accurate, and substantial compliance with the "chief purpose and points" provision is sufficient. (*Perry* v. *Jordan, supra,* 34 Cal.2d 87, 94.)

(21b) In the present case, we conclude that the title and summary, though technically imprecise, substantially complied with the law, and we doubt that any significant number of petition signer or voters were misled thereby. We deem that the title, stressing only the property tax aspects of the initiative, was reasonably sufficient in light of the fact that the measure was principally addressed to the subject of real property tax relief. Similarly, the original summary was not so incomplete as to be fatally defective, because it alerted petition signers and voters alike to the fact that the measure contained a provision affecting the imposition of special taxes by local agencies. The summary's omission of any reference to the two-thirds vote requirement was not critical for, as we noted above, the initiative measure was extensively publicized and debated, in all of its several aspects, and a corrected summary was contained in the voters pamphlet which was mailed to all voters. We repeat our observation of some time ago that we ordinarily should assume that the voters who approved a constitutional amendment ". . . have voted intelligently upon an amendment to their organic law, the whole text of which was supplied each of them prior to the election and which they must be assumed to have duly considered . . . ." (*Wright* v. *Jordan* (1923) 192 Cal. 704, 713 [221 P. 915].)

We conclude that the initiative title and summary comply with existing legal requirements.

7. *Vagueness*

(24a) Petitioners have noted the existence of several words and phrases in article XIII A which assertedly are ambiguous or uncertain, suggesting that in its totality the new article is so vague as to be incapable of a rational and uniform interpretation and implementation. For precedential authority they rely by analogy on cases which have held that a statute must be sufficiently clear so as to provide adequate notice of prohibited conduct. (See, e.g., *People* v. *Superior Court (Hartway)* (1977) 19 Cal.3d 338, 345-347 [138 Cal.Rptr. 66, 562 P.2d 1315]; *Bowland* v. *Municipal Court* (1976) 18 Cal.3d 479, 491-493 [134 Cal.Rptr. 630, 556 P.2d 1081]; *Morrison* v. *State Board of Education* (1969) 1 Cal.3d 214, 231 [82 Cal.Rptr. 175, 461 P.2d 375]; see also *Perez* v. *Sharp* (1948) 32 Cal.2d 711, 728 [198 P.2d 17].)

In the present matter, unlike the foregoing cases, no civil or criminal penalties are at issue. Rather, we deal with a constitutional provision of a kind, similar to many others, which necessarily and over a period of time will require judicial, legislative and administrative construction. This is a fairly common procedure. (As an example, we note the broad and uncertain language of the various sections of article I of the state Constitution, declaring the rights of the people, such as the right to be secure against "unreasonable seizures and searches" (§ 13).)

(25) In evaluating the contention that, in effect, article XIII A is void for vagueness, we are aided by several principles of construction applicable to constitutions generally. As was stated in an early case, ". . . since a written constitution is intended as and is the mere framework according to whose general outlines specific legislation must be framed and modeled, and is therefore . . . necessarily couched in general terms or language, it is not to be interpreted according to narrow or supertechnical principles, but liberally and on broad general lines, so that it may accomplish in full measure the objects of its establishment and so

carry out the great principles of government." (*Stephens* v. *Chambers* (1917) 34 Cal.App. 660, 663-664 [168 P. 595].)

(26) On the specific issue of vagueness, we have recently expressed the concept that, in the abstract, all "enactments should be interpreted when possible to uphold their validity [citation] and . . . courts should construe enactments to give specific content to terms that might otherwise be unconstitutionally vague. [Citations.]" (*Associated Home Builders etc., Inc.* v. *City of Livermore, supra,* 18 Cal.3d 582, 598.) Significantly, in *Livermore,* the foregoing principles were employed to uphold an ordinance adopted *by initiative.*

(24b) Acknowledging as we must that article XIII A in a number of particulars is imprecise and ambiguous, nonetheless we do not conclude that it is so vague as to be unenforceable. Rather, in the usual manner, the various uncertainties and ambiguities may be clarified or resolved in accordance with several other generally accepted rules of construction used in interpreting similar enactments. Thus, California courts have held that constitutional and other enactments "' "must receive a liberal, practical common-sense construction" ' " which will meet "'changed conditions and the growing needs of the people.'" (*Los Angeles Met. Transit Authority* v. *Public Util. Com.* (1963) 59 Cal.2d 863, 869 [31 Cal.Rptr. 463, 382 P.2d 583], quoting from an earlier case; see *People* v. *Davis* (1968) 68 Cal.2d 481, 483 [67 Cal.Rptr. 547, 439 P.2d 651]; *Rose* v. *State of California* (1942) 19 Cal.2d 713, 723 [123 P.2d 505].) **(27)** A constitutional amendment should be construed in accordance with the natural and ordinary meaning of its words. (*In re Quinn* (1973) 35 Cal.App.3d 473, 482 [110 Cal.Rptr. 881].) The literal language of enactments may be disregarded to avoid absurd results and to fulfill the apparent intent of the framers. (See *Friends of Mammoth* v. *Board of Supervisors* (1972) 8 Cal.3d 247, 259 [104 Cal.Rptr. 761, 502 P.2d 1049]; *In re Kernan* (1966) 242 Cal.App.2d 488, 491 [51 Cal.Rptr. 515].)

(28) Most importantly, apparent ambiguities frequently may be resolved by the contemporaneous construction of the Legislature or of the administrative agencies charged with implementing the new enactment. (See *State of South Dakota* v. *Brown* (1978) 20 Cal.3d 765, 777 [144 Cal.Rptr. 758, 576 P.2d 473]; *Associated Home Builders etc., Inc.* v. *City of Livermore, supra,* 18 Cal.3d at p. 598; *Reynolds* v. *State Board of Equalization* (1946) 29 Cal.2d 137, 140 [173 P.2d 551, 174 P.2d 4].) In addition, when, as here, the enactment follows voter approval, the ballot summary and arguments and analysis presented to the electorate in connection with a particular measure may be helpful in determining the probable meaning of uncertain language. (See *Carter* v. *Seaboard Finance Co.* (1949) 33 Cal.2d 564, 580-581 [203 P.2d 758]; *People* v. *Ottey* (1936) 5 Cal.2d 714, 723 [56 P.2d 193]; *In re Quinn, supra,* 35 Cal.App.3d 473, 483.)

(24c) In the instant matter we have the advantage of both principal interpretive aids, those related to the ballot and the legislative-administrative construction. We focus primarily on the latter. The Legislature has already proceeded to implement article XIII A by enacting extensive legislation. (Stats. 1978, chs. 292, 332.) Administratively, the State Board of Equalization has adopted extensive regulations construing various provisions of the new article. (Cal. Admin. Code, tit. 18, regs. 460-471.) These legislative and administrative implementations are traditionally accorded great weight by the courts in construing enactments such as article XIII A. (*State of South Dakota* v. *Brown, supra,* at p. 777.)

We do not discuss each of article XIII A's numerous uncertainties claimed by petitioners, satisfied that the new legislation and administrative regulations adopted following popular approval of article XIII A disclose that relatively few such uncertainties remain. We do not, of course, thereby suggest that these implementing provisions necessarily constitute, in all instances, correct interpretations of the terms of article XIII A. Nonetheless, these interpretations, a few of which are illustrative, will materially assist both the state and the various local agencies in placing the new taxation scheme into operation in a reasonably workable fashion.

First, and most importantly, the Legislature has read the language of section 1, subdivision (a), ("The one percent (1%) tax to be collected by the counties and apportioned *according to law* to the districts within the counties") as conferring authority to legislate on the subject and to apportion the tax funds to the local agencies and districts. The new legislation sets forth the applicable allocation formulae (Gov. Code, § 26912) and also gives guidance on the following matters, among many, which petitioners had found unclear from the face of article XIII A: (1) The new 1 percent maximum tax is to be levied by the counties on behalf of all local agencies and districts (Rev. & Tax. Code, § 2235); (2) the cities and counties are deemed "districts" under section 1 of the new article and thus share in the tax proceeds (Gov. Code, § 26912; Rev. & Tax. Code, § 2217); (3) the 1 percent tax is a limit on the total, aggregate amount to be levied and apportioned by all local agencies and districts (Rev. & Tax. Code, § 2235, subd. (b)); (4) districts which encompass more than a single county will receive a share of the tax proceeds (Gov. Code, § 26912, subd. (d); and (5) the exemption for prior, voter-approved indebtedness (art. XIII A, § 1, subd. (b)) includes amounts necessary to meet annual payments on the principal as well as the interest on such indebtedness (Gov. Code, § 26912, subd. (b)(3); Rev. & Tax. Code, § 2235, subd. (a)).

In addition, the new legislation construes or defines several of the undefined terms used in article XIII A, such as "full cash value" and "fair market value" (Rev. & Tax. Code, §§ 110, 110.1) and "change in ownership" (*id.,* § 110.6). Further, the State Board of Equalization has adopted regulations covering these and other subjects. (See Cal. Admin. Code, tit. 18, ch. 1, subch. 4, regs. 460 ["full cash value" and "fair market value"], 462 ["change in ownership"], 463 ["newly constructed" property], and 464 [application of homeowners' and veterans' exemptions].)

In short, the foregoing implementing provisions doubtless have not resolved each and every uncertainty described by petitioners. Furthermore, these provisions remain subject to judicial challenge in subsequent cases on the basis that they may incorrectly manifest the intent of article XIII A. Nonetheless, it seems undeniable that good faith efforts have been made, and are presently being made, to carry into practical effect the collective will of a very substantial majority of our citizens, as reflected in the adoption of that article on June 6 of this year. Our analysis convinces us that article XIII A is not so vague and uncertain in its essential terms as to render it void and inoperable.

As noted above, we decline to reach the question whether the various interpretations put forth by the Legislature and State Board of Equalization are correct. In a somewhat similar connection we recently affirmed that "it seems apparent that we cannot, and should not, attempt to pass upon the meaning or validity of each contested provision in every hypothetical context—adjudication of these matters must await an actual controversy, and should proceed on a case-by-case basis as the need arises." (*County of Nevada* v. *MacMillen, supra,* 11 Cal.3d 662, 674.)

Many, perhaps most, of the uncertainties carefully noted by petitioners may disappear if a reasonable, common sense approach is used in the interpretation of article XIII A, and if appropriate weight is given to the contemporaneous construction of the legislative and administrative bodies charged with its enforcement in accordance with well established legal precedent.

CONCLUSION

Petitioners and the amici curiae who support them have mounted substantial and serious legal challenges to the provisions of article XIII A. In doing so they have expressed a commendable and sincere concern that the modifications of the California tax system which are mandated by the new article will impose intolerable financial hardships and administrative burdens in different forms and with varying intensity on public entities, programs, and services throughout California. Yet, as we have recently acknowledged, it is our solemn duty " 'to jealously guard' " the initiative power, it being " 'one of the most precious rights of our democratic process.' " (*Associated Home Builders etc., Inc.* v. *City of Livermore, supra,* 18 Cal.3d 582, 591, quoting from earlier cases.) Consistent with our own precedent, in our approach to the constitutional analysis of article XIII A if doubts reasonably can be resolved in favor of the use of the initiative, we should so resolve them. (*Ibid.*) This we have done.

Having carefully considered them, we have concluded that article XIII A survives each of the substantial challenges raised by petitioners. The orders to show cause previously issued in these cases are discharged, and the respective petitions are denied.

Tobriner, J., Mosk, J., Clark, J., Manuel, J., and Newman, J., concurred.

BIRD, C. J., Concurring and Dissenting.—Initiatives by their very nature are direct votes of the people and should be given great deference by our courts. Judges should liberally construe this power so that the will of the people is given full weight and authority. However, if an initiative conflicts with the federal Constitution, judges are duty bound to hold the offending sections unconstitutional.

When these principles are applied to the cases before this court, it is clear that article XIIIA is constitutional in all respects save one. I endorse

the majority opinion's view that there has not been a violation of the one subject rule, an impermissible revision of the Constitution, or a curtailment of the right to travel. Further, it is correct in holding that the question of impairment of contracts is not properly before this court and is not ripe for decision.

One issue remains which troubles me deeply. As judges we must be devoted to the preservation of the great constitutional principles which history has bequeathed to us. In article XIIIA, one of those principles has been violated—the equal protection clause. No one mindful of this nation's colonial history can seriously question the right of the people to act to redress tax grievances. However, our citizens also have a right to be treated equally before the law. The right to equality of taxation is as basic to our democracy as is the right to representation in matters of taxation. Under article XIIIA property taxpayers are not treated equally, and those sections which promote this disparity must fall.

I

Consider these facts. John and Mary Smith live next door to Tom and Sue Jones. Their houses and lots are identical with current market values of $80,000. The Smiths bought their home in January of 1975 when the market value was $40,000. The Joneses bought their home in 1977 when the market value was $60,000. In 1977, both homes were assessed at $60,000, and both couples paid the same amount of property tax. However, under article XIIIA in 1978, the Joneses will pay 150 percent of the taxes that the Smiths will pay. Should a third couple buy the Smiths' home in 1978, that couple would pay twice the taxes that the Smiths would have paid for the *same* home had they not sold it. Today, this court holds that such disparity is not only equitable, but that it does not violate the equal protection clause of the Constitution.

The basic problem with this position is that it upholds the adoption of an assessment scheme that systematically assigns different values to property of equal worth. By pegging some assessments to the value of property at its date of purchase and other assessments to the value of property as of March 1, 1975, article XIIIA creates an irrational tax world where people living in homes of identical value pay different property taxes. Thus, instead of establishing an assessment scheme with one basis by which all property owners are taxed, article XIIIA utilizes two bases, acquisition date and 1975 market value, to impose artificial distinctions upon equally situated property owners.

Article XIIIA divides the property tax-paying public into two classes, pre- and post-1975 purchasers. Section 2(a) rewards those owners who purchased their property before March 1, 1975, by constitutionally fixing their tax assessments at lower figures than those who buy property of similar or identical value at a later date. This "roll back" provision confers substantial benefits upon one group of property owners not shared by other similarly situated owners. This provision raises the ugly specter of a race for tax savings in which the players start at different points, weighed down by different "handicaps."

Inequalities in state taxation have been held to be constitutional so long as they "rest upon some ground of difference having a fair and substantial relation to the object of legislation . . . ." (*Royster Guano Co.* v. *Virginia* (1920) 253 U.S. 412, 415 [64 L.Ed. 989, 990, 40 S.Ct. 560]; see also *Kahn* v. *Shevin* (1974) 416 U.S. 351, 355-356 [40 L.Ed.2d 189, 193, 94 S.Ct. 1734]; *Allied Stores of Ohio* v. *Bowers* (1959) 358 U.S. 522, 526-527 [3 L.Ed.2d 480, 484, 79 S.Ct. 437]; *Ohio Oil Co.* v. *Conway* (1930) 281 U.S. 146, 159-160 [74 L.Ed. 775, 781-782, 50 S.Ct. 310].)

However, even minimal scrutiny requires that the statutes of the Legislature and the initiatives of the people be defensible in terms of a shared public good, not merely in terms of the purposes of a special group or class of persons. (See Tribe, American Constitutional Law (1978) p. 995.) The law should be something more than just the handmaiden of a special class; it must ultimately be the servant of justice.

Respondents fail to establish the general public benefit to be found in giving some, but not all, individuals a "roll back" to 1975 assessments. To be eligible for the full "roll back," article XIIIA requires that an individual have owned continuously his or her property since a date prior to March of 1975. This requirement makes it literally impossible for persons purchasing property in 1978 or thereafter to qualify for benefits granted fully to pre-1975 owners (and less fully to 1975-1978 owners). In so doing, article XIIIA transgresses the constitutional guarantee of equal protection under the law.

Respondents defend the rationality of the 1975 date by characterizing it as a cut-off date or "grandfather" clause. Although its arbitrariness is

conceded, they argue that it is defensible as a matter of administrative convenience. This contention lacks merit. It merely acknowledges that "it is difficult to be just, and easy to be arbitrary." (*Stewart Dry Goods Co.* v. *Lewis* (1935) 294 U.S. 550, 560 [79 L.Ed. 1054, 1059, 55 S.Ct. 525].) Administrative convenience is wholly inadequate to warrant preferred treatment of a closed class of property owners. This court has previously refused to accept administrative convenience as a sufficient explanation of "great" differences in tax rates among similarly situated individuals. (*Haman* v. *County of Humboldt* (1973) 8 Cal.3d 922, 927-928 [106 Cal.Rptr. 617, 506 P.2d 993]; cf. *Toomer* v. *Witsell* (1948) 334 U.S. 385, 398-399 [92 L.Ed. 1460, 1472-1473, 68 S.Ct. 1157].) In *Haman*, this court rejected the contention that administrative convenience justified a 23 percent spread in the rate at which California-registered and out-of-state registered fishing vessels were taxed. Article XIIIA may in individual cases cause a disparity in taxes which is much greater than 23 percent. This is especially true in those cases where the effect of inflation and appreciation on real property values has been acute.

The fact that the former property tax system allowed inequalities through exemptions for charitable, religious, nonprofit and educational institutions is no answer to the questions raised by article XIIIA. Those exemptions benefitted the general public since the public received specific benefits from the exempted organizations. No one has yet established what benefits the general public derives from the systematic undervaluation of the property of pre-1975 purchasers, and this court should decline to hypothesize rationales. (See Gunther, *The Supreme Court, 1971 Term—Forward: In Search of Evolving Doctrine on a Changing Court: A Model for a Newer Equal Protection* (1972) 86 Harv.L.Rev. 1, 33, 44-46, 47.)

II

The adoption of the acquisition date of property as the standard for valuation raises novel constitutional questions never decided by the Supreme Court. In analyzing section 2(a), this court must decide whether it is constitutionally permissible for a state to systematically assign unequal assessment to properties of concededly equal market value.

The practical effect of section 2(a) is to undervalue property purchased at an earlier date in comparison to the assessments assigned to subsequently purchased property. The extent of undervaluation will fluctuate with the degree of property value appreciation in a particular locality. Given the "roll back" feature, the process inevitably starts by substantially undervaluing prior purchased property.

Once it is understood that article XIIIA systematically imposes different assessments on property of similar worth, a long line of Supreme Court cases becomes relevant. Those cases support the proposition that a person is denied equal protection of the law when his property is assessed at a higher value than property of equal worth in the same locale. "The purpose of the equal protection clause of the Fourteenth Amendment is to secure every person within the State's jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution . . . . And it must be regarded as settled that intentional systematic undervaluation by state officials of other taxable property in the same class contravenes the constitutional right of one taxed upon the full value of his property." (*Sunday Lake Iron Co.* v. *Wakefield* (1918) 247 U.S. 350, 352-353 [62 L.Ed. 1154, 1155-1156, 38 S.Ct. 495]; see also *Raymond* v. *Chicago Traction Co.* (1907) 207 U.S. 20, 36-37 [52 L.Ed. 78, 87-88, 28 S.Ct. 7]; *Sioux City Bridge* v. *Dakota County* (1923) 260 U.S. 441, 445 [67 L.Ed. 340, 342-343, 43 S.Ct. 190, 28 A.L.R. 979]; *Cumberland Coal Co.* v. *Board* (1931) 284 U.S. 23, 28-29 [76 L.Ed. 146, 149-150, 52 S.Ct. 48].)

In *Sioux City Bridge, supra,* the Supreme Court held it to be a violation of the equal protection clause to assess one company's property at 100 percent of its market value while other real estate in the same district was generally assessed at only 55 percent of the market value. Section 2(a) of article XIIIA authorizes the same kind of discrimination as that condemned in *Sioux City Bridge.* Initially, properties purchased in earlier years will be undervalued in comparison with other properties (though they may be identical in current fair market value) purchased, constructed, or transferred in later years. Then, as the years go by, the skewed nature of the tax world created by article XIIIA will become even more pronounced as each successive generation of purchasers will have their property overvalued in comparison to their neighbors or predecessor owners. For example, consider the condominium complex where each unit, though of identical fair market value, receives a different tax assessment simply because purchased in a different year. Consider the plight of the military family required by circumstances to change residence periodically. In 1979, that family may sell a house purchased in 1975, and buy a new house of identical current cash value. However, their

tax bill will take a quantum leap upward, as their assessment jumps from 1975 to 1979 levels. Conversely, the family allowed by circumstances to remain in one house for long periods of time will reap substantial tax benefits simply because of the length of their residency.

Consider further the plight of the family which "newly constructs" their house after a natural disaster such as fire or flood. Article XIIIA, section 2(a) penalizes them by reassessing the value of their house to market value at the time of the new construction. What is the possible rationale for allowing natural disasters to trigger an increase in property tax obligations? Surely a truly rational tax world would consider such families for tax relief.[1] Finally, consider the reassessment to current market value mandated by section 2, subdivision (a) for "changes in ownership" brought about by divorce or death. Did those who voted so overwhelmingly for article XIIIA's general tax relief also intend to penalize those families who experience such family crises?

In *Cumberland Coal Co.* v. *Board, supra,* 284 U.S. 23, the Supreme Court invalidated a taxing measure that ignored differences in current market value. In that case, the local assessors chose to assign the same dollar value per ton to all unmined coal in the county. However, it was undisputed that there existed substantial differences in value between given tons of coal, depending on the mining and transportation costs. The court saw clearly the gross inequalities that resulted, *even though the same percentage tax was levied on all*: ". . . the fact that a uniform percentage of assigned values is used, cannot be regarded as important if, in assigning the values to which the percentage is applied, a system is deliberately adopted which ignores differences in actual values so that property in the same class as that of the complaining taxpayer is valued at the same figure (according to the unit of valuation, as, for example, an acre) as the property of other owners which has an actual value admittedly higher. Applying the same ratio to the same assigned values, when the actual values differ, creates the same disparity in effect as applying a different ratio to actual values when the latter are the same." (*Id.*, at p. 29 [76 L.Ed. at p. 150].)

Article XIIIA adopts an assessment scheme similar in effect to that condemned in *Cumberland Coal.* The same percentage (one percent) is

[1]It is noteworthy that a proposed constitutional amendment to remedy this anomalous situation has been adopted by the Legislature and awaits a vote of the people. (Sen. Const. Amend. No. 67, Stats. 1978 (1977-1978 Reg. Sess.) Res. ch. 76, pp. ——.)

applied to all assessed values; but the assessed values themselves do not accurately reflect the respective market values of property. This has the effect, as the court noted in *Cumberland Coal, supra*, 284 U.S. at page 29 [76 L.Ed. at p. 150], of taxing identically situated property owners at different percentages of the true value of their property. If article XIIIA had been drafted to say, "Some persons will pay a property tax of one percent of the true value of their property; others will pay only a one-half of one percent tax," the violation of the equal protection clause would have been obvious. Yet, the result under article XIIIA is the same. Assume, for instance, that the market value of a home increases from $50,000 in 1975 to $100,000 some time in the future. A one percent tax on the 1975 value is equivalent to a one-half of one percent tax on the new value.

Decisions in this jurisdiction have reiterated the principle that the equal protection clause is violated when one person's property is assessed at a higher level than another person's property which is of identical value. For example, in *Birch* v. *County of Orange* (1921) 186 Cal. 736, 741 [200 P. 647], this court held that a taxpayer is entitled to "the exercise of good faith and fair consideration on the part of the taxing power in assessing his property, at the same rate and on the same basis of valuation as that applied to other property of like character and similarly situated."

The Court of Appeal recently restated this principle: "The value of property for assessment purposes is to be determined . . . on such basis as is used in regard to other property so as to make all assessments as equal and fair as is practicable. [Citations.] In order to carry out this principle, the assessor and the county board of equalization must apply the same ratio to market value uniformly within the county." (*Glidden Company* v. *County of Alameda* (1970) 5 Cal.App.3d 371, 378 [85 Cal.Rptr. 88, 86 Cal.Rptr. 464]; see also *Simms* v. *County of Los Angeles* (1950) 35 Cal.2d 303, 315 [217 P.2d 936]; *Mahoney* v. *City of San Diego* (1926) 198 Cal. 388, 397, 404 [245 P. 189]; *Metropolitan Stevedore Co.* v. *County of Los Angeles* (1972) 29 Cal.App.3d 565, 572 [105 Cal.Rptr. 595]; *City of Los Angeles* v. *County of Inyo* (1959) 167 Cal.App.2d 736, 740 [335 P.2d 166]; *Rancho Santa Margarita* v. *San Diego Co.* (1932) 126 Cal.App. 186, 197 [14 P.2d 588]; *Birch* v. *County of Orange* (1927) 88 Cal.App. 82, 85 [262 P. 788].) Thus, strong authority exists for the conclusion that the attempt of article XIIIA to assign different assessments to properties of equal market value violates the equal protection clause.

Respondents would seek to deny that those who pay more for property are in reality "similarly situated" with those who paid less for property of the same value in earlier years. The premise of this argument is that the later purchaser is better able to afford a high tax since (1) he paid more for his property to begin with and (2) he knew from the beginning he was buying a highly assessed piece of property.

The fact that a purchaser presently pays $80,000 for a home which someone else bought for $40,000 in 1975 may tell us nothing more than that inflation has been rampant and property values on the rise. In fact, the higher mortgage payments that new homeowners pay as compared to earlier purchasers forewarns us against any cavalier assumption that later purchasers are able to bear heavier taxes.

Section 2(a) mandates reassessment to current market value not only for voluntary purchasers but any time there is a "change in ownership." Thus, as previously noted, the person who inherits the family home or the spouse who gains title to property after a divorce may find that the assessment on the property suddenly skyrockets for property tax purposes. There is no rationality to the jump in valuation that accompanies these occurrences. Similarly, those persons who must move often because of the nature of their employment (for example, military families) will find that section 2(a)'s mandated reassessments bear little relation to their financial situation. Even more perplexing is the situation of persons who find that new construction must be done to their property after a natural disaster. Section 2(a) once more requires reassessment to "full cash value." The arbitrariness of article XIIIA's assessment scheme could not be more apparent.

Finally, the arbitrariness of the acquisition date valuation as a tax standard can be demonstrated by considering the plight of the taxpayer whose property has actually *decreased* in value since 1975. Under the previous tax system, such a person's property tax assessment would eventually reflect the decline in market value. However, under article XIIIA the assessment remains fixed at the acquisition date value since section 2(b) allows for a reduction in assessment only on the basis of a downward turn in the consumer price index.

I am aware that during the past 40 years, since the end of the *Lochner* era (see *Lochner* v. *New York* (1905) 198 U.S. 45 [49 L.Ed. 937, 25 S.Ct. 539]), courts have not used the Fourteenth Amendment "to strike down state laws . . . because they may be unwise, improvident, or out of harmony with a particular school of thought." (*Williamson* v. *Lee Optical Co.* (1955) 348 U.S. 483, 488 [99 L.Ed. 563, 572, 75 S.Ct. 461].) I fully agree that in regard to matters of economics and tax policy, courts must defer to the will of the people unless the challenged enactment lacks a rational basis. However, the rational basis test was never meant to authorize judicial tolerance of unconstitutional classifications.

Earlier this year, this court reiterated that minimal scrutiny " 'require[s] the court to conduct "*a serious and genuine judicial inquiry* into the correspondence between the classification and the legislative goals." ' " (*Cooper* v. *Bray* (1978) 21 Cal.3d 841, 848 [148 Cal.Rptr. 148, 582 P.2d 604], quoting *Newland* v. *Board of Governors* (1977) 19 Cal.3d 705, 711 [139 Cal.Rptr. 620, 566 P.2d 254], italics original in *Cooper* v. *Bray, supra.*) After conducting such a "serious and genuine judicial inquiry," many courts have found that various classifications could not survive even minimal scrutiny under the equal protection clause. (E.g., *U.S. Dept. of Agriculture* v. *Moreno* (1973) 413 U.S. 528, 538 [37 L.Ed.2d 782, 790, 93 S.Ct. 2821]; *Rinaldi* v. *Yeager* (1966) 384 U.S. 305, 309-310 [16 L.Ed.2d 577, 580-581, 86 S.Ct. 1497]; *D'Amico* v. *Board of Medical Examiners* (1974) 11 Cal.3d 1, 22-23 [112 Cal.Rptr. 786, 520 P.2d 10]; *Blumenthal* v. *Board of Medical Examiners* (1962) 57 Cal.2d 228, 234-235 [18 Cal.Rptr. 501, 368 P.2d 101]; *Miller* v. *Union Bank & Trust Co.* (1936) 7 Cal.2d 31, 34-36 [59 P.2d 1024].) Some of the classifications which were invalidated related to matters of taxation. (E.g., *WHYY* v. *Glassboro* (1968) 393 U.S. 117, 120 [21 L.Ed.2d 242, 245, 89 S.Ct. 286]; *City of Los Angeles* v. *Shell Oil Co.* (1971) 4 Cal.3d 108, 125-126 [93 Cal.Rptr. 1, 480 P.2d 953]; *County of Alameda* v. *City and County of San Francisco* (1971) 19 Cal.App.3d 750, 756-757 [97 Cal.Rptr. 175, 48 A.L.R.3d 332].) The lines drawn by section 2(a) of article XIIIA are similar in effect to the discriminatory categories struck down in those cases. If a serious and genuine judicial inquiry is made of the classifications under section 2(a), it is clear that they violate the equal protection clause of the Constitution by treating identical or similarly situated property taxpayers in an unfair and unequal way.

III

This decision has not been an easy one. The issues are close and reasonable people may differ. Emotions run high on this question, but as judges we must follow the law and do what it requires. As Justice Story

wrote in *Trustees of Dartmouth College* v. *Woodward* (1819) 17 U.S. (4 Wheat.) 250, 338 [4 L.Ed. 629, 713], "It is not for judges to listen to the voice of persuasive eloquence, or popular appeal. We have nothing to do, but to pronounce the law as we find it; and having done this, our justifications must be left to the impartial judgment of our country."

APPENDIX

ARTICLE XIII A

"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.

"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.

"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.

"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.

"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.

"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."

8 Property Taxation

Official Title and Summary Prepared by the Attorney General

PROPERTY TAXATION. LEGISLATIVE CONSTITUTIONAL AMENDMENT. Amends Constitution, article XIIIA, section 2. Provides that real property reconstructed after a disaster, as declared by the Governor, shall not be considered "newly constructed" for property tax purposes if the fair market value of such property, as reconstructed, is comparable to its fair market value prior to the disaster. Authorizes reduction in full cash value of real property for property tax purposes to reflect substantial damages, destruction or other factors causing a decline in value. Revises existing terms relating to the valuation of real property for property tax purposes. Financial impact: In the absence of a major disaster, the adoption of this proposal would have a minor impact on local property tax revenues statewide. It should have no significant impact on state revenues or costs.

FINAL VOTE CAST BY LEGISLATURE ON SCA 67 (PROPOSITION 8)

Assembly—Ayes, 69	Senate—Ayes, 32
Noes, 0	Noes, 0

Analysis by Legislative Analyst

Background:

Proposition 13 on the June 1978 ballot substantially changed provisions in the California Constitution regarding the valuation of property for property tax purposes. In general, Proposition 13 requires county assessors to use 1975–76 property values as the basis for determining real property assessments in 1978–79 and subsequent years. The 1975–76 values may be increased by an inflation factor of no more than 2 percent per year. However, if the property is "newly constructed", or if ownership of the property changes, the assessment is based *not* on the property's value in 1975–76, but on its value at the time of construction or change in ownership.

Proposal:

This proposition would affect the determination of assessed value in three ways:

1. *Allowed adjustments to 1975–76 property values.* Proposition 13 specifies that the county assessors' determination of 1975–76 assessments can now be increased if these values were "not already assessed up to the 1975–76 tax levels". These adjusted values then would constitute the basis for computing future assessments.

This constitutional amendment substitutes the term "full cash value" for "tax levels". The Legislative Counsel advises us that this terminology change is a clarifying amendment to the Constitution, and as such it would not have any direct fiscal effect.

2. *Treatment of "reconstructed" property.* The Legislative Counsel advises us that, as used in Proposition 13, the term "newly constructed" real property covers additions or renovations to real property as well as newly built structures. Thus, property which has not been sold since 1975, but is substantially "reconstructed" following a flood, fire or other disaster would have to be reassessed at its new market value.

This proposal specifies that real property which is reconstructed after a disaster shall not be reassessed at its new market value if (1) it is in a disaster area, as proclaimed by the Governor and (2) its value is comparable to the fair market value of the original property prior to the disaster. This would prevent the assessed value of such property from being increased by more than the 2 percent annual inflation factor.

3. *Property which has declined in value since 1975.* Proposition 13 does not allow the assessor to reduce the assessed value of property which declines in value while it is still owned by the same taxpayer. This proposal would allow the assessor to make such reductions when it has been substantially damaged or its value has been reduced by "other factors" such as economic conditions.

Fiscal Effect:

In the absence of a major disaster, the adoption of this proposal would have a minor impact on local property tax revenues statewide. It should have no significant impact on state revenues or costs.

Argument in Favor of Proposition 8

This past June, the voters of California overwhelmingly passed Proposition 13 (the Jarvis-Gann initiative), thereby significantly reducing a property tax burden that had become increasingly unfair.

The purpose of this measure, Proposition 8, is to further the intent of Proposition 13 by easing the property tax burden of disaster victims who have recently lost their homes or suffered real property damage.

Although Proposition 13 rolled back assessments to 1975–76 values, it overlooked the possibility that a person's property might have been damaged to the extent that it has actually *declined* in value since 1976. Proposition 8 on this ballot would allow assessors to further reduce assessments if such damage has, in fact, occurred.

Moreover, some California families have recently been the victims of large-scale disasters, officially recognized as state emergencies. To cite but one example, more than 200 families saw their homes completely destroyed by fire in Santa Barbara in 1977, and other Californians have suffered similarly from extensive floods, mudslides, and earthquakes.

But when these victims of disasters rebuild their homes or businesses, they come under the provision of Proposition 13 which requires that "new construction" be assessed at current market value, thus causing a major reassessment *upward.* Without Proposition 8, those who cannot afford to rebuild at all presumably will still have to pay the 1975–76 assessed value of the home or business as though it were still standing.

So, although the "new construction" provision will generally be appropriate, for disaster victims forced to rebuild it is terribly unfair. Proposition 8 simply says that these unfortunate citizens should be allowed the same 1975–76 rollback that the rest of us receive, on condition that the new structure is comparable in value to the one being replaced.

Again, in keeping with the spirit and intent of Proposition 13, Proposition 8 will allow assessors to *reduce* assessments to reflect substantial damage, destruction or other factors which cause a decline in property value. This will insure equal treatment under the law, and will prevent additional tax burdens from falling on those who have suffered major property losses, damage or property depreciation since 1976.

Please join the undersigned individuals who have worked so very hard to provide property tax relief for *all* Californians, and VOTE YES ON PROPOSITION 8.

OMER L. RAINS
State Senator, 18th District
Chairman, Senate Majority Caucus

PAUL GANN
President, Peoples Advocate
(Co-author of Proposition 13, the Jarvis-Gann Initiative)

PETER BEHR
State Senator, 2nd District
Chairman, Committee on Insurance and Financial Institutions

No argument against Proposition 8 was submitted

Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment No. 67 (Statutes of 1978, Resolution Chapter 76) expressly amends an existing section of the Constitution; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be inserted or added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE XIII A

Section 2. (a) The full cash value means the ~~County Assessors~~ *county assessor's* valuation of real property as shown on the 1975–76 tax bill under "full cash value"; or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has ~~occured~~ *occurred* after the 1975 assessement. All real property not already assessed up to the 1975–76 ~~tax levels~~ *full cash value* may be reassessed to reflect that valuation. *For purposes of this section, the term "newly constructed" shall not include real property which is reconstructed after a disaster, as declared by the Governor, where the fair market value of such real property, as reconstructed, is comparable to its fair market value prior to the disaster.*

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

APPENDIX VII

This proposed amendment to Section 110.1 R&TC was contained in the August 21, 1978 version of SB 2223 (Gregorio). The marginal additions were to be author's amendments but in the August 29, 1978 version of the bill, the entire section was deleted in the Assembly Revenue and Taxation Committee. An effort was made to insert similar language into the conference committee report on SB 2223, but this effort was unsuccessful.

SEC. 11.6. Section 110.1 of the Revenue and Taxation Code, as amended by Chapter 332 of the Statutes of 1978, is amended to read:

110.1. (a) For purposes of subdivision (a) of Section 2 of Article XIII A of the California Constitution, "full cash value" of real property means the full cash value of property as determined pursuant to Section 110 for either:

(1) The lien date in 1975; or

(2) The date the property is purchased, newly constructed, or when a change in ownership has occurred, after the 1975 lien date, which shall be enrolled on the lien date next succeeding the date when real property, or a portion thereof, is purchased, newly constructed, or when a change of ownership has occurred.

(b) The value determined pursuant to subdivision (a) shall be the "base year value." *If property with a base year lien of 1975 was appraised pursuant to Section 405.5 to its 1975 lien date value, "full cash value" means the reappraised value of such property as determined at that time.* (c) date

~~(c)~~ If property has not been appraised pursuant to Section 405.5 to its appropriate base year value, "full cash value" means the reappraised value of such property as of the base year lien date, *except that in* ~~*no case shall such reappraised value exceed the valuation of comparable properties which were reappraised pursuant to Section 405.5 to their 1975 lien date values as determined at that time*~~. (d)

except that in making such reappraisals, the assessor shall take into account the values established for comparable properties which were reappraised pursuant to section 405.5 as of the appropriate lien date.

Such reappraisals may be made at any time, notwithstanding the provisions of Section 405.6.

~~(e)~~

~~(d)~~ For each lien date after the lien date in which the (e) full cash value is determined pursuant to subdivision (a), (b), (c) and (d), ~~and (b)~~, the full cash value of real property shall reflect the percentage change in cost of living, as defined in Section 2212; provided, that such value shall not reflect an increase in excess of 2 percent of the full cash value of the preceding lien date.