



# Santa Clara Valley Water District

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**File No.:** 20-0829

**Agenda Date:** 9/22/2020

**Item No.:** 8.2.

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## BOARD AGENDA MEMORANDUM

### **SUBJECT:**

Adopt Recommended Positions on State Ballot Initiatives: Proposition 15 - Tax on Commercial and Industrial Properties for Education and Local Government Funding Initiative; and Proposition 16 - Allows Diversity as a Factor in Public Employment, Education, and Contracting Decisions, Legislative Constitutional Amendment.

### **RECOMMENDATION:**

- A. Adopt a position of "Support" on Proposition 15 - Tax on Commercial and Industrial Properties for Education and Local Government Funding Initiative; and
- B. Adopt a position of "Support" on Proposition 16 - Allows Diversity as a Factor in Public Employment, Education, and Contracting Decisions, Legislative Constitutional Amendment.

### **SUMMARY:**

#### **A. Proposition 15 - Tax on Commercial and Industrial Properties for Education and Local Government Funding Initiative.**

##### **Recommended Position: Support**

If enacted by the voters, Proposition 15 (Prop 15) will change the property tax assessment of commercial and industrial property to a basis of fair market value rather than the historical purchase price that is the current tax basis for all property under Prop 13 (June, 1978). Additionally, the measure exempts those properties held by an entity whose aggregate value is under \$3 million. It also exempts the first \$500,000 of those businesses' personal property. After backfilling any losses to the state as well as administrative costs to counties, the measure would then distribute any net additional revenues to local agencies and schools in an approximate 60/40 split (60% to local agencies, 40% to schools) using existing formulas for distribution. Ad valorem property tax revenues are distributed according to a regime known as "the AB 8 formula," which locked in tax allocations at the same level they would have been prior to the passage of Proposition 13 in 1978.

Real property taxes are generally based on purchase price at the point of transfer. These taxes are constrained by Proposition 13, which among other things, generally requires the real property to change hands before being re-assessed for its new actual market value. Proposition 13 provides minimal and predictable tax increases over time. Prop 15 would be a shift away from the current premise that all property is taxed equally. It would set up a regime where residential and some commercial properties are taxed at the purchase price, while other commercial and industrial

properties would be taxed at the actual market value as determined by the County Assessor and updated every three years.

Beginning in the 2022-2023 fiscal year, Prop 15 would do the following.

1. Requires market value assessments and therefore increased taxation of commercial and industrial properties.

- Does not change residential properties' assessments.
- Includes vacant land not intended for housing, commercial agriculture, or protected open space and other types of land preserved for natural or historical purposes.
- For properties in which the majority of space is occupied by small businesses, defined as businesses that own California property and have 50 or fewer employees, there is a transition period to market value taxation that would not begin until 2025-26 or a later date set by the Legislature.
- Properties owned by individuals or businesses whose aggregate property holdings in the state total less than \$3 million [adjusted by the Board of Equalization (BOE) for inflation biannually beginning in 2025] are exempt from market value taxation.
- Does not apply to farmland, though it would apply to a farm's improvements, such as processing and refrigeration facilities.
- Does not apply to individual residences used in part as a business.
- Allows for proportional assessment for mixed use properties and allows the Legislature to exempt up to 75 percent of the new assessment.
- Properties need to be re-assessed every three years.
- County Assessors would be responsible for all the above determinations.

2. Partially exempts business personal property.

- Exempts from taxation the first \$500,000 in value of a business's personal property (this could be furnishings, office equipment, production equipment, etc...)
- Additionally, the measure exempts from taxation all personal property of small businesses.

3. Allocates new revenues to local governments and schools.

- Allocates most new revenues to cities, counties, special districts, and schools, generally using existing formulas.
- Before allocating funds to local governments, the measure requires a portion of the new revenues be allocated to:
  - State general fund to compensate for any reductions in personal income tax and corporation tax revenue resulting from the measure; and
  - Counties to cover their costs of administering the measure.
- Of the remaining funds, roughly 60 percent is allocated to cities, counties, and special districts, with each entity receiving an amount proportional to the share of property tax revenues in their county that they receive under existing law (AB 8), as it existed on January 1, 2020.
- The remaining roughly 40 percent would be allocated to schools and community colleges generally according to the same formulas the state currently uses to distribute most other funding for these entities. This allocation would only supplement and not supplant any other funds.
- Mandates that any agency receiving these funds must be transparent about how the funds

were spent and be “available to the public and easily understood.”

### ***Impacts on Valley Water***

Valley Water is funded in part by revenues raised through property taxes, mainly for flood protection operations and special projects. Changes to the property tax funding formula would have a significant impact by increasing revenue. Statewide, special districts receive an average of 8% of the property tax after schools, counties, cities, and redevelopment successor agencies. According to a report by the California Board of Equalization, “California Property Tax: An Overview,” in fiscal year 2016-17, California property taxes totaled \$62.1 billion dollars.

A report by the “Yes on Prop 15” campaign conducted by Blue Sky Consulting indicates an estimated increase of \$19,431,000 in FY 2021-2022 in property tax revenues for Valley Water. However, staff has not conducted its own analysis of the impacts of Proposition 15 and cannot confirm those numbers.

According to the “No on Prop 15” campaign, a study by Berkeley Research Group, LLC (BRG) “Taxing Commercial and Industrial Property at Full Market Value: An Economic Impact Assessment,” increases in property taxes would reduce new business formation, personal income, industrial output, and employment.

### ***Pros***

According to ballot arguments in favor, submitted by the California Superintendent of Public Instruction, Latino Community Foundation, and the San Francisco Department of Public Health, Prop 15 would do the following.

- Fair and balanced reform which closes property tax loopholes benefitting wealthy corporations
- Reclaims billions of dollars to invest in our schools and local communities
- Closes corporate loopholes by requiring nonresidential commercial properties to be assessed based on their actual fair market value
- Does not impact homeowners and renters
- Cuts taxes for small businesses
- Restores balance to property tax leveling the commercial share of property taxes
- Increases funding for schools and community colleges
- Invests in essential workers and local services

- Supports economic and racial equality
- Prioritizes full transparency and accountability by requiring schools and local governments to publicly disclose all new revenues they receive and how they are spent.
- Protects agricultural land

**Cons**

According to arguments submitted by the California Taxpayers Association, California State Conference of the NAACP, and the California Small Business Association, Prop 15 would do the following.

- Directly threatens home ownership, as this is the first step in completely dismantling Prop 13, approved by taxpayers to stop skyrocketing property taxes
- Raises our cost of living on everything people buy including groceries, fuel, utilities, day care, and health care
- Destroys jobs and small businesses by passing on tax increases to small business tenants
- Will raise property taxes on farming
- Lacks accountability
- Allows politicians to divert its tax hike revenue to anything the special interests want

**B. Proposition 16 -Allows Diversity as a Factor in Public Employment, Education, and Contracting Decisions, Legislative Constitutional Amendment.****Recommended Position: Support**

Proposition 16 would repeal Proposition 209 (Article I, Section 31 of the California Constitution), thereby permitting the use of race and gender as decision factors in public employment, public education and contracting.

In November 1996, the voters of California passed Proposition 209, the California Civil Rights Initiative, by a 55 to 45 percent margin. Supported by Governor Pete Wilson and Ward Connerly, a businessman and former University of California Regent, Proposition 209 qualified for the ballot through the collection of voter signatures. The campaign advocated for a colorblind society, celebrating the “melting pot,” and looking forward to the end of racial prejudice in American society.

ACA 5, the legislative constitutional amendment passed by the Legislature in June of 2020 and designated on the statewide general election ballot as Proposition 16, makes numerous findings regarding the impacts of Proposition 209 and points to economic disparities for women and people of color. The ACA 5 findings indicate that Proposition 209 has cost women and people of color over \$1

billion annually in lost public contract awards, and asserts that most public procurement and subcontracting remain effectively closed to these groups due in part to the limitations enacted by Proposition 209.

The repeal of Proposition 209 would permit the use of race and gender as “plus” factors in college admissions, public employment, and public contracting. It would not permit the use of quotas or policies that are broad in scope and do not consider the totality of the individual college applicant, job candidate, or contract bidder.

### ***Impacts on Valley Water***

By repealing Proposition 209, Proposition 16 would allow Valley Water and other public agencies to consider racial and gender diversity when hiring staff. This measure also would allow Valley Water to consider race and gender in the contract award process, perhaps providing women and minority owned businesses more contract opportunities.

### ***Pros***

According to the ballot arguments in favor, submitted by the League of Women Voters of California, Mexican American Legal Defense and Education Fund, and Equal Justice Society, Prop 16 would do the following.

- Supports women and women of color who serve disproportionately as essential caregivers/frontline workers during COVID-19.
- Expands access to solid wages, good jobs, and quality schools for all Californians, regardless of gender, race, or ethnicity.
- Creates opportunities for women and people of color to receive public contracts that should be available to us all.
- Improves access to quality education, both K-12 schools and higher education, for all of California's kids.
- Allows actions to prevent discrimination and ensure equal opportunity for all.
- Builds an economy that treats everyone equally.
- Invests wealth back into our communities as opposed to continuing to allow the rich to get richer.
- Strong anti-discrimination laws remain in effect.
- Quotas are still prohibited.

### ***Cons***

According to ballot arguments in opposition, submitted by Californians for Equal Rights, Professor of Law Gail Heriot, and Betty Tom Chu, Former California Constitution Revision

Commissioner, Prop 16 would do the following.

- Would be a step backward and legalize discrimination.
- Perpetuates the stereotype that minorities and women cannot make it unless they get special preferences.
- Could increase taxpayer costs to create new processes to oversee the contracting process.
- Could roll back equal rights provided in the Constitution for all people

**FINANCIAL IMPACT:**

There is no financial impact associated with this item.

**CEQA:**

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

**ATTACHMENTS:**

None.

**UNCLASSIFIED MANAGER:**

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