

Case No.

**IN THE
SUPREME COURT OF CALIFORNIA**

GEORGE J. BORIKAS, Trustee of the George J. Borikas 1999 Revocable Trust; EDWARD HIRSHBERG, Trustee of the Hirshberg Trust; SANTA CLARA INVESTORS II, a California General Partnership; and NELCO, INC., *Plaintiffs and Appellants,*

vs.

THE ALAMEDA UNIFIED SCHOOL DISTRICT; all persons interested in the matter of the imposition of a qualified special tax for the benefit of the Alameda Unified School District from July 1, 2008, for a period of four years, ending June 30, 2012, levied (A) on each taxable, residential parcel at the rate of \$120 per year and (B) on each taxable commercial or industrial property at the rate of \$0.15 per square foot per year (but commercial or industrial property of 2,000 square feet or smaller paying \$120 per year and commercial or industrial property larger than 2,000 square feet paying \$0.15 per square foot per year with a maximum tax of \$9,500 per year) with exceptions for: (1) owners of single family residential units in which they reside who will attain the age of 65 year during the assessment year, who owns a beneficial interest in the parcel and who uses that parcel as his or her principal place of residence and (2) owners of single family residential units receiving supplemental security income for a disability, regardless of age, and proceedings and matters related to the above, *Defendant and Respondent.*

After a Decision by the Court of Appeal,
First Appellate District, Division 5, Case No. A129295

**MOTION FOR JUDICIAL NOTICE
IN SUPPORT OF PETITION FOR REVIEW**

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**PETITIONER’S MOTION FOR JUDICIAL NOTICE IN SUPPORT
OF PETITION FOR REVIEW, MEMORANDUM OF POINTS AND
AUTHORITIES, DECLARATIONS IN SUPPORT THEREOF, AND
PROPOSED ORDER**

Pursuant to Evidence Code sections 452 and 459, Petitioner

Alameda Unified School District moves the Court to take judicial notice of the following items for all purposes:

| Exhibit | Pages | Description |
|----------------|--------------|---|
| A | 1-62 | The Legislative History of Assem. Bill No. 4431 (Ferguson) (1987-88 Reg. Sess.) |
| | 63-190 | The Legislative History of Assem. Bill No. 4290 (Bronzan) (1987-88 Reg. Sess.) |
| | 191-340 | The Legislative History of Assem. Bill No. 3596 (Hauser) (1987-88 Reg. Sess.) |
| | 341-472 | The Legislative History of Senate Bill No. 158 (Bergeson) (1991-92 Reg. Sess.) |
| B | 473 | Albany Unified School District, Measure A, 1987 |
| C | 474-476 | Kentfield School District, Measure A, 2002 |

These documents are authenticated by the attached declarations of William B. Tunick and Jan Raymond and are relevant as they address contentions raised by the parties and the opinion in *Borikas v. Alameda Unif. Sch. Dist.* (2013) 214 Cal.App.4th 135, and provide insight on the meaning of Government Code section 50079.

MEMORANDUM OF POINTS AND AUTHORITIES

Petitioner seeks review of the Court of Appeal decision in *Borikas v. Alameda Unif. Sch. Dist.* (2013) 214 Cal.App.4th 135 (“Opinion”). The Opinion concludes that Government Code section 50079¹ restricts the taxing authority of school districts, allowing only for flat-per-parcel-taxes. In upsetting a decades-old interpretation of section 50079, the Opinion relies heavily on legislative history of the bill that enacted section 50079 (Assem. Bill No. 1440 (Hannigan) (Reg. Sess. 1987-88)) as well as several bills that came after section 50079. However, the Opinion did not get the whole picture. While it took judicial notice of pieces of the legislative history of subsequent bills, it left out other relevant documents and bypassed other bills that raise questions about its conclusion. (Opinion, *15, fn.28; *Borikas v. Alameda Unif. Sch. Dist.*, Case No. A129295, Order, Aug. 23, 2012 [indicating intent to take judicial notice of specific documents from the legislative history of several statutes] [“Judicial Notice Order (8/23/12)”].) Petitioner now submits this motion for judicial notice to bring additional relevant information to the Court’s attention in support of its Petition For Review.

¹ All statutory references are to the Government Code unless otherwise noted.

Upon a party's request, appellate courts have the same power as trial courts to take judicial notice of a matter properly subject to judicial notice. (Evid. Code, § 459; *Ordlock v. Franchise Tax Bd.* (2006) 38 Cal.4th 897, 911, fn.8.) Pursuant to Evidence Code section 459, the Court may take judicial notice of "any matter specified in Section 452." This includes legislative history (Evid. Code, § 452(c); *In re Greg F.* (2012) 55 Cal.4th 393, 409), ballot measures (Evid. Code, § 452(c); *Vargas v. City of Salinas* (2009) 46 Cal.4th 1, 22, fn.10), as well as "[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonable indisputable accuracy" and acts that are of common knowledge within the territorial jurisdiction of the court taking judicial notice (Evid. Code, §§ 452(g) & (h)).

I. The Court Should Take Judicial Notice Of The Legislative History Of Legislative Actions Subsequent To Assem. Bill No. 1440

The majority of the records Petitioner seeks judicial notice of are legislative history records helpful in understanding the meaning of section 50079. The Court of Appeal took judicial notice of portions of the legislative history of many of these same acts. (Opinion, *15, fn.28; Judicial Notice Order (8/23/12).) Because the complete histories of these

bills are relevant to the Opinion's conclusion and the Petition For Review, the Court should grant judicial notice of the legislative histories of the bills listed below. To facilitate consideration of the Petition For Review, and due to the voluminous nature of the histories, attached to this motion are excerpts from the histories cited in the Petition. Upon the Court's request, Petitioner will provide copies of the full histories.

Assem. Bill No. 4290 (Bronzan) (1987-88 Reg. Sess.)
Exhibit A, Pages 63-190

This bill was considered the year after section 50079 took effect and resulted in enactment of sections 53717 and 53717.2. This provided various jurisdictions authority to levy special taxes to support library services akin to how section 50079 allowed school districts to levy qualified special taxes. In fact, the legislative history explains that the bill was "very similar to Assemblyman Hannigan's AB 1440 that was enacted last year." (Ex. A, p. 81.) It explained, that like the need for section 50079, this bill was necessary because: "Proposition 62 removed the blanket authority to adopt special taxes. Unless a local agency can find another law giving it tax powers or obtain that fresh power from the Legislature, it cannot ask the voters if they want to tax themselves. This bill restores this power for libraries." (*Id.*, p. 170.)

Importantly, it contained language similar to the language of section 50079 in controversy in this case, requiring special taxes to “apply uniformly to all taxpayers or all real property within the city, county, city and county, or library district.” (§ 53717(b).) However, the bill also enacted section 53717.2, which further specified that: “a special tax levied pursuant to this article may be on or based on benefit received by parcels of real property, the cost of making facilities or authorized services available to each parcel, or other reasonable basis as determined by the city, county, city or county, or library district.” This informs the Legislature’s understanding of the terminology used in section 53717 – and section 50079. As the legislative history explains:

The bill also mandates that the property taxes be applied “uniformly,” with an exemption for those over 65. This language comes from AB 1440 (Hannigan) of last year which gave school districts the ability to levy “special taxes.” The “uniform” rule was placed in the bill in reaction to some school districts levying “special taxes” only on new construction – thus voters from all over the school district could levy a tax on unihabited [*sic*] lots. (Given those constraints, a 2/3 is virtually assured). By requiring that the tax be “uniform,” that bill required that those who vote on a tax have to pay a little of the tax. Since then, the realtors and the CBIA have asked that the language be inserted in all bills granting special tax authority.

(Ex. A, p. 88.) As this bill was enacted shortly after section 50079, directly references the purpose behind section 50079, and contains similar language, judicial notice of the legislative history of this bill is appropriate.

Assem. Bill No. 3596 (Hauser) (1987-88 Reg. Sess.)
Exhibit A, Pages 191-340

Like Assem. Bill No. 4290, Assem. Bill No. 3596 was considered by the Legislature shortly after it had enacted section 50079. Also like Assem. Bill No. 4290, and section 50079, this bill was intended to restore the taxing authority of another category of local agencies – hospital districts – and again shared language with section 50079. Specifically, it enacted section 53730.01 which allowed hospital districts to levy special taxes which “apply uniformly to all taxpayers or all real property within the hospital district.” Recognizing the relevancy of this enactment, the Opinion took judicial notice of some of the legislative history of this bill. (Opinion, *15, fn.28; Judicial Notice Order (8/23/12).)

However, the Opinion did not take judicial notice of all of the legislative history of this bill, including important documents like the analysis of the Assembly Committee on Local Government, which noted:

The April 27 amendments to AB 3596 [adding the uniformity requirement similar to section 50079] address the concern expressed by the California Association of Realtors (CAR) which testified in opposition to AB 3596 at the Committee hearing on April 20, 1988. At that hearing, the CAR testified

that it was particularly concerned about the prospect of a hospital district, or any other type of local agency, imposing a general or special tax on new homebuyers alone.

The amendments to AB 3596 preclude that possibility by requiring that any tax imposed pursuant to the provisions of the bill must apply uniformly to all taxpayers or all real property within the district. The language in the amendments was taken directly from provisions in AB 1440 (Hannigan) of 1987, which gave specific authority to school districts to levy special taxes.

(Ex. A, p. 225.)

Thus, for the same reasons that the Court should take judicial notice of Assem. Bill No. 4290, it is appropriate for it to follow the Opinion and take judicial notice of the entire legislative history of Assem. Bill No. 3596.

Assem. Bill No. 4431 (Ferguson) (1987-88 Reg. Sess.)

Exhibit A, Pages 1-62

In addition to Assem. Bill Nos. 3596 and 4290, the Legislature also considered another bill in the 1987-88 regular session which shared language with section 50079: Assem. Bill No. 4431. That bill would have required all special taxes to “apply uniformly to all taxpayers or all real property within a [jurisdiction].” This provision was lifted “almost word for word from AB 1440.” (Ex. A, p. 15.)

The legislative history of this bill sheds important light on the understanding of this language when it was used in AB 1440:

[Assem. Bill No. 4431 was] put in ... to deal with the problem of some school districts imposing a fee on new construction by calling it a special tax. They simply get 2/3 of a city or district to vote to tax new construction.

The Realtors and the CBIA both believe that this problem is not limited to school districts. Any special district that can levy a "special tax" could conceivably use this dodge. The answer lies in AB 1440 (Hannigan) which passed last year. It gave school district authority to levy special taxes – but only if the tax is "uniform." That does not mean that some property will be taxed at a high rate than others – just that everyone who is going to vote for the tax has to pay. That is the law today – but only for school districts....

(Ex. A, p. 14.) Whereas the legislative history of Assem. Bill No. 1440 is devoid of any discussion of the meaning of uniformity, the legislative history of this bill provides helpful guidance – at odds with the Opinion – on very similar language considered shortly after Assem. Bill No. 1440.

The definition of uniformity in this bill is unclear. An assessment of special taxes on a per capita basis may be uniform. Alternatively, an assessment based upon relative usage may also qualify as being uniform whether based upon the taxpayer or the real property. Similarly, an assessment based upon size or type of parcel may be considered to be uniform. The bill fails to clarify whether uniformity must be by category of taxpayer or by type of property, or whether it must be determined for each taxpayer or parcel of property.

(Ex. A, p. 30.)

As this bill borrowed language from Assem. Bill No. 1440 and discusses the intent of that language only a short time after enactment of section 50079 it is worthy of judicial notice.

Senate Bill No. 158 (Bergeson) (1991-92 Reg. Sess.)
Exhibit A, Pages 341-472

Referenced in the Opinion, Senate Bill No. 158 enacted several statutes many years after Assem. Bill No. 1440 which shares some language in common with section 50079. For this reason, the Opinion took judicial notice of portions of the legislative history of this bill. (Opinion, *15, fn.28; Judicial Notice Order (8/23/12).) However, again, the Opinion left out portions of the legislative history that support a different conclusion than the one it reached.

The Opinion concludes that the language enacted by Senate Bill No. 158 and its history is relevant to section 50079 because the language in Senate Bill No. 158 came from the bill enacting section 50079. (Opinion, *17.) However, the Opinion did not take judicial notice of parts of the legislative history of Senate Bill No. 158 that explicitly state that its language came from Assem. Bill No. 4158 (Norman) (1989-90 Reg. Sess.), not Assem. Bill No. 1440. (Ex. A, p. 407.) “The language in SB 158 is identical to the language worked out and approved by the Legislature for special districts in bills over the last two years.” (*Id.*, p. 367[section 50079 was enacted five years before Senate Bill No. 158 was considered].)

As the Opinion already took judicial notice of portions of the legislative history of Senate Bill No. 158 and placed emphasis on the

statutes it enacted, it is appropriate for the Court to take judicial notice of the complete legislative history of this bill to understand the Legislature's intent in enacting it.

This Court has routinely taken judicial notice of legislative history. (*In re Greg F.*, *supra*, 55 Cal.4th at 409, fn.2.) This is true even where there is doubt about the probative value of the documents. (*Jones v. Lodge at Torrey Pines Partnership* (2008) 42 Cal.4th 1158, 1172.) More specifically, California courts have taken judicial notice of the legislative history of subsequent legislative action to determine the meaning of a previously enacted statute as the Court of Appeal did in the Opinion. (Opinion, *15, fn.28.) This is also true where the action did not lead to an enactment. (*Martin v. Szeto* (2004) 32 Cal.4th 445, 451, fn.9.)

The attached legislative histories contain a variety of documents – all subject to judicial notice. (*Hutnick v. U.S. Fidelity & Guaranty Co.* (1988) 47 Cal.3d 456, 465, fn.7 [“it is well established that reports of legislative committees and commissions are part of a statute's legislative history and may be considered when the meaning of a statute is uncertain”]); *In re Conservatorship of Whitley* (2010) 50 Cal.4th 1206, 1218, fn.3 [affirming that enrolled bill reports are relevant to legislative intent]; *Jones, supra*, 42 Cal.4th at 1172, fn. 5 [taking judicial notice of five-page

document from legislative history file, undated, unsigned and without indication of who authored it]; *People v. Super. Ct.* (2005) 132 Cal.App.4th 1525, 1532 [taking judicial notice of correspondence within legislative and executive branches]; *People v. Miranda* (2004) 123 Cal.App.4th 1124, 1132 [same]; *City of Brentwood v. Central Valley Regional Water Quality Control Bd.* (2004) 123 Cal.App.4th 714, 728 [same].)

The legislative histories also include correspondence and other documents that provide helpful context and background as to the environment in which the bills were considered. Courts routinely look to the “history surrounding the creation and adoption of [an] act” to determine its meaning. (*Hoechst Celanese Corp. v. Franchise Tax Bd.* (2001) 25 Cal.4th 508, 519 & fn.5 [taking judicial notice of various memorandum and analyses of an uniform act later adopted by the Legislature]; *see also, Pacific Gas & Electric Co. v. Cnty. of Stanislaus* (1997) 16 Cal.4th 1143, 1152 [“Both the legislative history of the statute and the wider historical circumstances of its enactment may be considered in ascertaining the legislative intent”].) While letters from individual legislators may not always be subject to judicial notice, where correspondence or other statements about pending legislation are “a reiteration of legislative discussion and events leading to adoption of proposed amendments rather

than merely an expression of personal opinion” they are properly considered and subject to judicial notice. (*Martin, supra*, 32 Cal.4th at 450-51.)

On these grounds, the Court should take judicial notice of these documents as they are the proper subject of judicial notice and relevant to determining the meaning of section 50079.

II. The Court Should Take Judicial Notice Of Ballot Materials

In addition to legislative histories, Petitioner requests that the Court take judicial notice of the text of two ballot measures: the Albany Unified School District’s Measure A which was approved by voters in 1987 (Ex. B) and the Kentfield School District’s Measure A which was approved by voters in 2002 (Ex. C). As official government documents, the ballot measures are a proper subject of judicial notice. (Evid. Code, § 452(c); *Vargas, supra*, 46 Cal.4th at 22, fn.10.)

Both measures authorized the levy of qualified special taxes under section 50079. Additionally, both measures were placed on the ballot by school districts who were intimately involved with the drafting and passage of Assem. Bill No. 1440. (Opinion, *12.) Nonetheless, both of these measures authorized classification-based taxes – contrary to the Opinion’s understanding of section 50079.

For these reasons, the Petition requests the Court take judicial notice of both of these measures.

CONCLUSION

The District respectfully requests that the Court take judicial notice of the document listed above.

Dated: April 15, 2013

DANNIS WOLIVER KELLEY
SUE ANN SALMON EVANS
JANET L. MUELLER
WILLIAM B. TUNICK

By  _____
WILLIAM B. TUNICK
Attorneys for Defendant and Respondent

DECLARATION OF WILLIAM B. TUNICK

I, William B. Tunick, declare as follows:

1. I am an attorney admitted to practice law before all courts of the State of California. I am special counsel in the law firm of Dannis Woliver Kelley, and an attorney of record for Petitioner Alameda Unified School District in the above matter. I have personal knowledge of the facts set forth in this declaration, and if called upon to testify under oath concerning them, I could and would testify competently to such facts.

2. I make this declaration in support of Petitioner's Motion For Judicial Notice In Support Of Petition For Review.

3. By this motion, Petitioner requests that the Court take judicial notice of the legislative history of four pieces of legislation: Assem. Bill No. 4290 (Bronzan) (1987-88 Reg. Sess.), Assem. Bill No. 3596 (Hauser) (1987-88 Reg. Sess.), Assem. Bill No. 4431 (Ferguson) (1987-88 Reg. Sess.), and Senate Bill No. 158 (Bergeson) (1991-92 Reg. Sess.). The legislative history of these bills relates to the Petition as it addresses the Legislature's understanding of the terms used in section 50079. The appropriateness of these records for judicial notice is illustrated by the fact that the Court of Appeal took judicial notice of portions of this legislative

history. A copy of the legislative history of these bills is attached as Exhibit A and authenticated by the attached declaration of Jan Raymond.

4. By this motion, Petitioner also requests that the Court take judicial notice of two ballot measures: the Albany Unified School District's Measure A which was approved by voters in 1987 (Ex. B) and the Kentfield School District's Measure A which was approved by voters in 2002 (Ex. C). As noted in the Opinion, both of these school districts were involved in the drafting and enactment of section 50079. Therefore, their understanding of the authority provided by section 50079 is relevant. A true and correct copy of the Albany Unified School District's Measure A is attached as Exhibit B. A true and correct copy of the Kentfield School District's Measure A is attached as Exhibit C.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 15th day of April, 2013 at San Francisco, California.



WILLIAM B. TUNICK

1
2 **DECLARATION OF JAN S. RAYMOND**

3
4 I, Jan Raymond, declare:

5 1. I am an attorney licensed to practice by the California State Bar, State Bar number
6 88703, and admitted to practice in the United States Federal Court for the Eastern District of
7 California. My business is researching the history and intent of legislative and regulatory
8 enactments and adoptions; I have over 20 years experience in research and analysis of
9 legislative and regulatory intent. In cooperation with persons working under my supervision, I
10 undertook to research the following project. All use of the word "project" in this declaration
11 refers to legislative research addressed to this focus:

12 **Government Code Section 50079 and related sections**

13 2. At all times, all persons working on this project operated under instructions to locate
14 all documents available pertinent to this adoption. This research was compiled in the days
15 immediately prior to the date of this declaration, and reflects all the documents, and sources,
16 available during that time pertinent to this project.

17 3. The documents listed are the substantive documents collected pertinent to the history
18 of this project. The term "substantive documents" as used in the previous sentence refers to
19 those documents relevant to the scope of the project. Some documents regarding the proposal
20 related to this project may not be forwarded in this report. Documents not forwarded may
21 include fiscal analyses addressing the budgetary impact of legislation, documents addressing
22 other portions of the proposal not directly relevant to the project, documents addressing simple
23 support for or opposition to the proposal, or other documents unlikely to be helpful in
24 understanding the substantive purpose of the proposal. The complete collection of documents
25 is organized in generally chronological order and sequentially numbered.

26
27 4. The California Legislature historically has not regularly recorded and/or transcribed

1 committee or floor proceedings. But in recent decades, individual committees have sporadically
2 recorded, and in some cases transcribed, committee proceedings. In addition, a select few
3 committee, and many floor, proceedings since the early 1990's are available on videotape.
4 Beginning in the 2003-2004 session, an effort has been made to record almost all legislative
5 proceedings in either audio or video format, although the effort is informal rather than mandated
6 by detailed legislative rules and procedures. The recordings available in all media are uniformly
7 difficult and time-consuming to access, rarely transcribed, and rarely contain substantive
8 discussion that goes beyond the most simple and basic assertions about the legislation in
9 question. In general, the documentary history contains much more detailed discussion of the
10 intent and purpose of the bill under consideration. Therefore, this report was compiled using
11 documentary sources only.

12 5. Individual documents may appear in multiple locations or files. We endeavor to
13 obtain only one copy of the document. Where it is clearly important, we endeavor to note each
14 source of the document in this declaration. But some documents for which we cite a single
15 source may in fact have been found in multiple locations. Where this raises an issue important
16 in individual circumstances, all source locations of particular documents can be identified upon
17 request.

18 6. All documents listed are included with this declaration, except as otherwise noted in
19 this declaration. All documents included are true and correct copies of the original documents.
20 Unless otherwise noted in this declaration, all documents were obtained at one of the following
21 sources: legislative offices at the State Capitol, the California State Library, the California State
22 Archives, or libraries at the University of California at Davis. References to "bill file" as used in
23 this declaration refer to files maintained regarding the legislation that is the subject of the
24 document collection. Some documents copied from microfilm originals may be of poor quality;
25 all copies included with this report are the best available copies.
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27

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|----|--|---------|
| 1 | Memo regarding A.B. 4431 as amended May 26, 1988 from John Caldwell to | |
| 2 | Assemblyman Gil Ferguson, dated June 10, 1988, from the author's bill file of Assembly | |
| 3 | Member Ferguson, three pages. | Page 31 |
| 4 | Assembly Revenue and Taxation Committee Republican Analysis regarding A.B. 4431 | |
| 5 | as amended May 26, 1988, dated June 12, 1988, from the author's bill file of Assembly | |
| 6 | Member Ferguson, one page. | Page 35 |
| 7 | Assembly Committee on Revenue and Taxation bill analysis for the June 13, 1988 | |
| 8 | Hearing, regarding A.B. 4431 as amended May 26, 1988, from the author's bill file of | |
| 9 | Assembly Member Ferguson, four pages. | Page 37 |
| 10 | Assembly Bill 4431 as amended June 21, 1988. | Page 41 |
| 11 | Letters of Opposition regarding A.B. 4431 as amended June 21, 1988, from the author's | |
| 12 | bill file of Assembly Member Ferguson, two pages. | Page 43 |
| 13 | Department of Finance bill analysis regarding A.B. 4431 as amended June 21, 1988, | |
| 14 | dated June 29, 1988, from the author's bill file of Assembly Member Ferguson, two | |
| 15 | pages. | Page 45 |
| 16 | Assembly Committee on Revenue and Taxation bill analysis for the June 27, 1988 | |
| 17 | Hearing, regarding A.B. 4431 as amended June 21, 1988, from the author's bill file of | |
| 18 | Assembly Member Ferguson, four pages. | Page 47 |
| 19 | Message regarding A.B. 4431 as amended June 21, 1988, dated July 12, 1988, from the | |
| 20 | author's bill file of Assembly Member Ferguson, two pages. | Page 51 |
| 21 | Letter of Opposition regarding A.B. 4431 as amended June 21, 1988, dated July 12, | |
| 22 | 1988, from the author's bill file of Assembly Member Ferguson, one page. | Page 53 |
| 23 | Assembly Committee on Revenue and Taxation bill analysis for the August 1, 1988 | |
| 24 | Hearing regarding A.B. 4431 as amended June 21, 1988, from the bill file of the | |
| 25 | Assembly Republican Caucus, four pages. | Page 55 |
| 26 | Notes and Letters regarding A.B. 4431 as amended June 21, 1988, from the author's bill | |
| 27 | file of Assembly Member Ferguson, three pages. | Page 59 |
| | <u>1988 Chapter 1344</u> | |
| | Excerpt regarding Assembly Bill 4290 from the Assembly Final History, 1988 Regular | |
| | Session. | Page 63 |
| | Assembly Bill 4290 as introduced on February 19, 1988 | Page 65 |
| | Letters regarding A.B. 4290 as introduced, from the author's bill file of Assembly | |
| | Member Bronzan, four pages. | Page 67 |
| | Background Information Request regarding A.B. 4290 as introduced, from the author's | |
| | bill file of Assembly Member Bronzan, one page | Page 71 |

| | | |
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| 1 | Letter regarding A.B. 4290 as introduced, dated March 29, 1988, from the bill file of the | |
| 2 | Assembly Committee on Local Government, one page. | Page 72 |
| 3 | Letter regarding A.B. 4290 as introduced, dated March 31, 1988, from the author's bill | |
| 4 | file of Assembly Member Bronzan, one page. | Page 73 |
| 5 | Letter of Support regarding A.B. 4290 as introduced, dated April 27, 1988, from the bill | |
| 6 | file of the Assembly Committee on Local Government, one page. | |
| 7 | Letter of Opposition regarding A.B. 4290 as introduced, dated May 3, 1988, from the bill | |
| 8 | file of Assembly Member Bronzan, two pages. | Page 75 |
| 9 | Worksheet for the Assembly Committee on Local Government regarding A.B. 4290 as | |
| 10 | introduced, from the bill file of Assembly Member Bronzan, one page. | Page 77 |
| 11 | Assembly Committee on Local Government bill analysis for the May 4, 1988 Hearing, | |
| 12 | regarding A.B. 4290 as introduced, from the bill file of Assembly Member Bronzan, two | |
| 13 | pages. | Page 79 |
| 14 | Analysis for the May 4, 1988 Hearing regarding A.B. 4290 as introduced, from the | |
| 15 | author's bill file of Assembly Member Bronzan, two pages. | Page 81 |
| 16 | Assembly Bill 4290 as amended May 9, 1988. | Page 83 |
| 17 | Assembly Committee on Local Government bill analysis for the May 11, 1988 Hearing, | |
| 18 | regarding A.B. 4290 as amended May 9, 1988, from the bill file of the Assembly | |
| 19 | Committee on Local Government, four pages. | Page 85 |
| 20 | Letters of Support and Opposition regarding A.B. 4290 as amended May 9, 1988, dated | |
| 21 | May 19, 1988, from the bill file of Assembly Member Bronzan, three pages. | Page 89 |
| 22 | Letters of Support regarding A.B. 4290 as amended May 9, 1988, dated May 20, 1988, | |
| 23 | from the bill file of the Assembly Committee on Local Government two pages. | Page 92 |
| 24 | Assembly Committee on Revenue and Taxation worksheet regarding A.B. 4290 as | |
| 25 | amended May 9, 1988, dated May 16, 1988, from the bill file of Assembly Member | |
| 26 | Bronzan, one page. | Page 95 |
| 27 | Department of Finance bill analysis regarding A.B. 4290 as amended May 9, 1988, | |
| 28 | dated May 20, 1988, from the bill file of the Assembly Republican Caucus, two pages. | Page 97 |
| 29 | Draft analysis from the office of the author for the May 23, 1988 Hearing regarding A.B. | |
| 30 | 4290 as introduced, from the bill file of Assembly Member Bronzan, two pages. | Page 99 |
| 31 | Analysis from the office of the author for the May 23, 1988 Hearing regarding A.B. 4290 | |
| 32 | as amended May 9, 1988, from the bill file of Assembly Member Bronzan, one page. | Page 101 |
| 33 | Assembly Committee on Revenue and Taxation bill analysis for the May 23, 1988 | |
| 34 | Hearing, regarding A.B. 4290 as amended May 9, 1988, from the bill file of the Assembly | |
| 35 | Republican Caucus, five pages. | Page 103 |

| | | |
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| 1 | Letter of Support regarding A.B. 4290 as amended May 9, 1988, dated May 26, 1988, from the bill file of the Assembly Committee on Local Government, one page. | Page 108 |
| 2 | | |
| 3 | Research Brief regarding A.B. 4290 as amended May 9, 1988, dated June 1, 1988, from the bill file of the Senate Committee on Local Government, two pages. | Page 109 |
| 4 | | |
| 5 | Letter and attachments regarding A.B. 4290 as amended May 9, 1988, dated June 1, 1988, from the bill file of the Senate Committee on Local Government, three pages. | Page 111 |
| 6 | | |
| 7 | Assembly Third Reading analysis regarding A.B. 4290 as amended June 7, 1988, dated June 9, 1988, from the bill file of the Assembly Committee on Local Government, two pages. | Page 115 |
| 8 | | |
| 9 | Assembly Bill 4290 as amended June 9, 1988. | Page 117 |
| 10 | | |
| 11 | Letter of Opposition regarding A.B. 4290 as amended June 9, 1988, dated June 9, 1988, from the bill file of the Assembly Republican Caucus, two pages. | Page 120 |
| 12 | | |
| 13 | Letters regarding A.B. 4290 as amended June 9, 1988, dated June 15, 1988, from the author's bill file of Assembly Member Bronzan, four pages. | Page 122 |
| 14 | | |
| 15 | Memo from the Legislative Counsel and attachments regarding A.B. 4290 as amended June 9, 1988, dated July 13, 1988, from the author's bill file of Assembly Member Bronzan, five pages. | Page 127 |
| 16 | | |
| 17 | Letters regarding A.B. 4290 as amended June 9, 1988, from the bill file of the Senate Committee on Local Government, five pages. | Page 132 |
| 18 | | |
| 19 | Senate Committee on Local Government draft bill analysis for the August 3, 1988 Hearing, regarding A.B. 4290 as amended June 9, 1988, from the author's bill file of Assembly Member Bronzan, four pages. | Page 137 |
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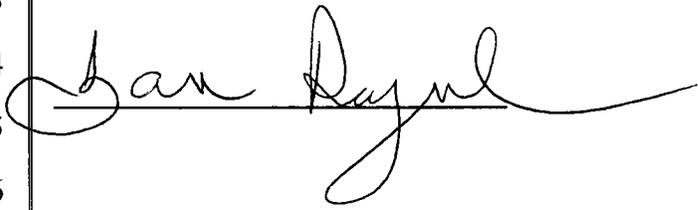
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I declare under penalty of perjury the foregoing is true and correct.
Executed at Sacramento, California, April 12, 2013.

A handwritten signature in cursive script, appearing to read "Jan Raymond", is written over a horizontal line. The signature is fluid and extends to the right of the line.

ORDER

GOOD CAUSE APPEARING HEREIN, Petitioner Alameda
Unified School District's Motion For Judicial Notice In Support Of Petition
For Review is hereby GRANTED.

Chief Justice

- (VIA U.S. MAIL)** I caused such document to be placed in the U.S. Mail at San Francisco, California with postage thereon fully prepaid.

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

- (BY PERSONAL SERVICE)** I caused such envelope to be delivered by hand to the offices of the addressee.
- (STATE)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

AND:

I declare that on April 15, 2013, the original and 8 copies have been hand delivered for filing on this date to:

Clerk
California Supreme Court
350 McAllister Street
San Francisco, CA 94102-4797

Executed on April 15, 2013, at San Francisco, California.

Anat Barel
Type or Print Name

Anat Barel
Signature

A

8, 1988

MEMO

TO: Assemblyman Gil Ferguson
FROM: John Caldwell
RE: Saddleback Valley Letter

*OK
at edited*

Attached you will find a draft of a response to Peter Hartman.

It appears Mr. Hartman is simply wrong about your AB 4431. As you recall, Chris and I put in that bill to deal with the problem of some school districts imposing a fee on new construction by calling it a special tax. They simply get 2/3 of the city or district to vote to tax new construction.

The Realtors and the CBIA both believe that this problem is not limited to school districts. Any special district that can levy a "special tax" could conceivably use this dodge. The answer lies in AB 1440 (Hannigan) which passed last year. It gave school districts authority to levy special taxes -- but only if the tax is "uniform." That does not mean that some property will be taxed at a higher rate than others -- just that everyone who is going to vote for the tax has to pay. That is the law today -- but only for school districts. (Presently there is a case pending on whether this Legislature has any right to define what a special tax is. The Legislature has filed an amicus brief on this).

AB 4431, as amended a few weeks ago, just takes the language in existing law and applies it to all entities that levy a special tax. CBIA and the Realtors have already expressed support. In addition, it puts you in the position of applying rules to everyone else that applies only to school districts.

CAPITOL OFFICE ADDRESS
STATE CAPITOL BUILDING
ACRAMENTO, CA 95814
PHONE (916) 445-7222

DISTRICT OFFICE ADDRESS
4667 MacARTHUR BOULEVARD,
SUITE 305
NEWPORT BEACH, CA 92660
PHONE (714) 756-0665

Assembly California Legislature



GILBERT W. FERGUSON
ASSEMBLYMAN, SEVENTIETH DISTRICT

COMMITTEES
VICE CHAIRMAN
HOUSING AND
COMMUNITY DEVELOPMENT

MEMBER
TRANSPORTATION
HEALTH
HUMAN SERVICES

May 10, 1988

Dr. Peter Hartman
Superintendent
Saddleback Valley Unified School District
25631 Diseno Drive
Mission Viejo, CA 92691

Dear Peter:

Thank you for your concerns about my bills pertaining to the funding of new schools. You will be pleased to know that one bill (AB 4425) was dropped more than a month ago, while the other bill (AB 4431) has been amended to remove your objections -- although even in its original form it did not eliminate Mello Roos districts.

I strongly support your efforts to raise revenue locally and I would never want to eliminate a valuable funding device like Mello-Roos. AB 4431, in its original form, only applied to special taxes (as defined under section 50077 of the Government Code). Mello-Roos taxes are defined in another part of the codes, so that bill would not affect those taxes.

Just prior to you writing me the letter, we amended the bill (April 28, 1988) to require that all special taxes (again as defined under Government Code Section 50077) be applied uniformly. This language was lifted almost word for word from AB 1440 (Hannigan) of last year. That bill, which is now the law, requires that school districts apply their special taxes uniformly. My bill, as amended, simply requires cities, counties and special districts to live with the same language that schools must live with. Again, it is not my intention to take away the Mello-Roos device and I will willingly take any language to clarify that point.

10, 1988
Page Two

With regards to AB 4425 which I dropped many weeks ago, I believe an explanation is in order. Early last year, Assembly Republican Leader, Pat Nolan, came to me and asked me to head up a study group on how to fund new school construction. I worked with many staffers and members and they came up with many interesting ideas. Those ideas were all bundled into one package and circulated to various people for comment. Somehow, the list became identified as a platform, rather than a working paper with many ideas.

In my position as the head of this working group, I agreed to introduce a "vehicle" for any reform if everyone came to a consensus on it. In other words, AB 4425 was a "spot" bill I carried at the request of other members. When no consensus evolved around the issue, the bill was dropped.

I would add that I doubt there is any consensus for removing from school districts the authority to levy the fee. Some members have put forth that proposition (in a limited form) to the conference committee. But I doubt it will go anywhere.

My personal position on this issue is that more districts should do as you have done -- raise funds locally. It is estimated that we will need \$11 billion for new schools in the next five years.

This year we have \$1.6 billion in state bonds on the ballot (I supported them). In addition, builder fees will raise about \$300 million each year -- leaving us about \$7 billion short.

Frankly, the voters of this state are not going to approve bonds that large, in part because many taxpayers and certain parts of the state do not benefit from the bonds. They have no interest in approving them. In fact, just two years ago, the state school bond issue passed with a relatively slim margin.

It is clear that to make up some part of the difference, school districts must go to local voters -- through G.O. bonds or Mello-Roos, as you have done. This is admittedly not popular, but any state official who tells you that the state can raise the money to meet an \$11 billion need, is simply not being realistic.

I hope this clears up some misconceptions about my position on this issue. I look forward to hearing from you.

Sincerely,


GIL FERGUSON

GF: cdp

Honorable Gil Ferguson
 Member of the Assembly
 State Capitol, Room 2016
 Sacramento, CA 95814

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|-----------------------|-------------------------------------|--------------------------------|
| DEPARTMENT Finance | AUTHOR Ferguson | BILL NUMBER AB 4431 |
| SPONSORED BY | RELATED BILLS AB 3596 AB 4290 | AMENDMENT DATE May 26, 1988 |

BILL SUMMARY

This bill would require "uniformity" in the assessment of special taxes imposed by cities, counties and special districts, except for assessments under the Mello-Roos Community Facilities Act.

SUMMARY OF CHANGES

This version of the bill would exempt Mello-Roos taxes from uniformity requirements.

SUMMARY OF COMMENTS

This bill is unclear in its definition of uniformity. It could impose an excessive burden upon taxing entities in order to comply.

FISCAL SUMMARY--STATE LEVEL

| Code/Department Agency or Revenue Type | SO LA CO RV | (Fiscal Impact by Fiscal Year) | | | Code Fund |
|--|----------------------|--------------------------------|------------|------------|--------------|
| | | (Dollars in Thousands) | | | |
| | | FC 1987-88 | FC 1988-89 | FC 1989-90 | |
| -----None----- | | | | | |

Impact on State Appropriations Limit--No

FISCAL SUMMARY--LOCAL LEVEL

| | | | |
|-------------------------------|----|----|----|
| Reimbursable Expenditures | -- | -- | -- |
| Non-Reimbursable Expenditures | -- | -- | -- |
| Revenues | -- | -- | -- |

ANALYSIS

A. Specific Findings

Current law allows cities, counties and special districts to impose a special tax upon approval of two-thirds of the qualified electorate. This tax must not be assessed on an ad valorem basis.

(continued)

| | | |
|-----------|------------------------|------|
| POSITION: | Department Director | Date |
| | Neutral, with concerns | |

| | | | | |
|------------------------------------|-----------------|--------------------------------------|-----------------|---|
| Principal Analyst (631) Stewart | Date 6/10/88 | Program Budget Manager Fred Klass | Date 6/10/88 | Governor's Office Position noted Position approved Position disapproved by: _____ date: _____ |
|------------------------------------|-----------------|--------------------------------------|-----------------|---|

LR:2600L

BILL ANALYSIS/ENROLLED BILL REPORT

Form DF-43 (Rev 03/87 500 Bu)

BILL ANALYSIS/ENROLLED BILL REPORT--(Continued)

Form DF-43

| AUTHOR | AMENDMENT DATE | BILL NUMBER |
|----------|----------------|-------------|
| Ferguson | May 26, 1988 | AB 4431 |

ANALYSIS (continued)

A. Specific Findings (continued)

This bill would prohibit the imposition of a special tax unless it applies uniformly to all taxpayers or all real property within the city, county or special district, but it would exempt special taxes imposed under the Mello-Roos Community Facilities Act of 1982 from the uniformity requirements. It is not clear why special taxes imposed under Mello-Roos would be applied on a less than uniform basis.

The definition of uniformity in this bill is unclear. An assessment of special taxes on a per capita basis may be uniform. Alternatively, an assessment based upon relative usage may also qualify as being uniform whether based upon the taxpayer or the real property. Similarly, an assessment based upon size or type of the parcel may be considered to be uniform. The bill fails to clarify whether uniformity must be by category of taxpayer or by type of property, or whether it must be determined for each taxpayer or parcel of property. The latter interpretation could impose an unreasonable burden upon the taxing entity.

B. Fiscal Analysis

This bill is expected to impose no fiscal impact upon the State. The impact upon local governmental entities is undetermined.

(AB 3596 (Hauser), in its May 16 version, and AB 4290 (Bronzan), in its May 9 version, include specific permissible exemptions from uniform special taxation.)

LR:2600L-2

STAFF: Anne Powell

BILL: Assembly Bill 4290 (Prop 62 Limit of Special Taxes for Libraries)

Floor Vote: majority

Appropriation: no

Fiscal Committee: no

State-Mandated local program: no

Urgency: no

HEARING Assembly Local Government - May 4, 1988

SPONSOR: California Library Association

SUPPORT: None listed.

OPPOSITION: California Taxpayers' Association

AMENDMENTS NEEDED? No.

FISCAL IMPACT: None.

WITNESSES: None.

STATEMENT: AB 4290 WILL PROVIDE PUBLIC LIBRARIES WITH THE ABILITY TO, WITH VOTER APPROVAL, IMPOSE SPECIAL TAXES. WE ARE CARRYING AB 4290 AB THE REQUEST OF THE CALIFORNIA LIBRARY ASSOCIATION. IT IS VERY SIMILAR TO MR. HANNIGAN'S AB 1440 THAT THIS COMMITTEE PASSED LAST YEAR FOR SCHOOL DISTRICTS.

THE COUNTY COUNSEL OF FRESNO COUNTY AND THE LEGISLATIVE COUNSEL'S OFFICE BOTH ARE OF THE OPINION THAT PROPOSITION 62, PASSED BY THE VOTERS IN NOVEMBER 1986, LIMITS THE AUTHORITY OF COUNTIES TO IMPOSE NEW SPECIAL TAXES FOR LIBRARY PURPOSES.

THERE ARE SOME WHO ARGUE THAT OTHER PROVISIONS OF THE CONSTITUTION SUPERCEDE THE PROVISIONS OF PROPOSITION 62. HOWEVER THE ISSUE IS STILL UNSETTLED. THIS BILL WOULD CLARIFY CURRENT LAW TO MAKE IT CLEAR THAT COUNTIES, WITH A TWO-THIRDS

VOTE OF THE PEOPLE, MAY IMPOSE SPECIAL TAXES FOR PUBLIC LIBRARY FACILITIES AND SERVICES. WE HAVE RECENTLY AMENDED AB 4290 TO PROVIDE THAT ANY SPECIAL TAX APPROVED BY THE VOTERS BY APPLIED UNIFORMLY TO ALL TAXPAYERS, EXCEPT FOR SENIORS IF SO DESIRED.

AB4290ST:5/3/88

ASSEMBLY LOCAL GOVERNMENT COMMITTEE
REPUBLICAN ANALYSIS

AB 4290 (Bronzan) -- SPECIAL TAXES: PUBLIC LIBRARIES
Version: 5/9/88 Vice-Chairman: Robert Frazee
Recommendation: Support Vote: Majority.

Summary: Authorizes cities, counties, and library districts to impose special taxes for public library facilities and services. Fiscal effect: None.

Supported by CA Library Association; Co. Supervisors Assn. of CA (CSAC). Opposed by Cal-Tax. Governor's position: Unknown.

Comments: Meets Assembly Republican and Duke's requirements by mandating a 2/3 vote for property tax increase to pay for libraries.

The bill also mandates that the property taxes be applied "uniformly," with an exemption for those over 65. This language comes from AB 1440 (Hannigan) of last year which gave school districts the ability to levy "special taxes." The "uniform" rule was placed in the bill in reaction to some school districts levying "special taxes" only on new construction -- thus voters from all over the school district could levy a tax on unihabited lots. (Given those constraints, a 2/3 is virtually assured). By requiring that the tax be "uniform," that bill required that those who vote on a tax have to pay a little of the tax. Since then, the realtors and the CBIA have asked that the language be inserted in all bills granting special tax authority.

Assembly Republican Committee Vote
Local Government -- 5/11/88

() Ayes:
Noes:
N.V.:
Abs.:

Consultant: John Caldwell

THIRD READING

| | | |
|---|----------------|------------------|
| SENATE RULES COMMITTEE Office of Senate Floor Analyses 1100 J Street, Suite 120 445-6614 | Bill No. | AB 4290 |
| | Author: | Bronzan (D) |
| | Amended: | 8/9/88 in Senate |
| | Vote Required: | 2/3 - Urgency |

Committee Votes:

Senate Floor Vote:

| | | |
|-----------------------------|-------------------------------------|--------------------------|
| COMMITTEE: LOCAL GOVERNMENT | | |
| BILL NO.: | AB 4290 | |
| DATE OF HEARING: | 8-3-88 | |
| SENATORS: | AYE | NO |
| Avala | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Craven | <input type="checkbox"/> | <input type="checkbox"/> |
| Green | <input type="checkbox"/> | <input type="checkbox"/> |
| Kopp | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Russell | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Vuich (VC) | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Bergeson (Ch) | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| | <input type="checkbox"/> | <input type="checkbox"/> |
| | <input type="checkbox"/> | <input type="checkbox"/> |
| | <input type="checkbox"/> | <input type="checkbox"/> |
| | <input type="checkbox"/> | <input type="checkbox"/> |
| TOTAL: | 50 | |

Assembly Floor Vote: 76-0, P. 8209, 6/9/88

SUBJECT: Special taxes of libraries

SOURCE: The author

DIGEST: This bill allows cities, counties, cities and counties, and library districts to impose special taxes to pay for public library facilities and services.

The special taxes must apply uniformly to all taxpayers or real property. Further, the bill allows local officials to base the special tax on the benefits received, the costs incurred, or "other reasonable basis." This bill declares that it does not apply to special taxes imposed under the Mello-Roos Act or to special taxes imposed before January 1, 1989.

ANALYSIS: Proposition 13 limited ad valorem property taxes but allows other special taxes with 2/3 voter approval. In response, the Legislature created the procedures for all local agencies to levy special taxes with 2/3 voter approval (SB 785, Foran, 1979). But the voters approved a contradictory statutory initiative in November 1986. Proposition 62 declared that neither Article XIII A nor the 1979 law, by themselves, allow local agencies to impose special taxes.

Local officials who relied on the 1979 law to levy special taxes now find that they lack the authority to tax. Before they can ask voters to tax themselves, they must find independent authority to levy special taxes. Charter cities get their taxing powers directly from the California Constitution. But other local governments must get their authority from the Legislature.

The Mello-Roos Community Facilities Act allows local governments to finance the construction of any public facility with special taxes, after 2/3 voter approval. In addition, the Mello-Roos Act allows local governments to finance a limited number of services with special taxes. Libraries are included on this limited list.

According to the Senate Local Government Committee analysis, a tax is a special tax when the proceeds are dedicated to a special purpose. Proposition 62 removed the blanket authority to adopt special taxes. Unless a local agency can find another law giving it tax powers or obtain that fresh power from the Legislature, it cannot ask the voters if they want to tax themselves. This bill restores this power for libraries.

By its own terms, this bill requires local officials to first obtain 2/3 voter approval before they can impose special library taxes. These procedures are consistent with both Proposition 13 and Proposition 62.

FISCAL EFFECT: Appropriation: No Fiscal Committee: No Local: No

SUPPORT: (Verified 8/9/88)

California Library Association
County Supervisors Association of California
City of San Diego

OPPOSITION: (Verified 8/9/88)

Cal-Tax

ARGUMENTS IN SUPPORT: CSAC states the purpose of this bill is to clarify the authority of local governments to levy a special tax for library purposes. There is some ambiguity under Proposition 62 on just what types of special taxes may be imposed by local entities. The Legislature recognized this situation last year by enacting AB 1440 (Chapter 100, Statutes of 1987) which clarified the types of special taxes which may be imposed by school districts. AB 4290 would accomplish this for other local governments in the area of library financing.

ARGUMENTS IN OPPOSITION: Cal-Tax indicates the bill allows the imposition of a new per parcel tax on property owners. Because of the need for an orderly system of taxation, they believe this tax should be designated for schools and protected for that purpose. (AB 1440 of 1987 authorized schools to levy this tax.) To allow other jurisdiction to levy these taxes could set up competition among jurisdictions.

DLW:jk 8/9/88 Senate Floor Analyses

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Date of Hearing: ~~May 4, 1988~~

AB 3596

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
DOMINIC L. CORTESE, Chairman

AB 3596 (Hauser) - As Amended: April 27, 1988

ASSEMBLY ACTIONS:

COMMITTEE L. GOV. VOTE COMMITTEE REV. & TAX. VOTE

Ayes:

Ayes:

Nays:

Nays:

SUMMARY

Provides statutory authority for hospital districts to impose general or special taxes, subject to specified limitations.

DIGEST

Current law does not specifically authorize hospital districts to impose general or special taxes.

This bill would provide specific statutory authority for certain types of hospital districts to impose "qualified" general and special taxes.

This bill defines qualified taxes as those which apply uniformly to all taxpayers or all real property within the district, except that such taxes may include an exemption for taxpayers aged 65 or older.

Under the terms of the bill, any district whose hospitals are wholly owned by the district and are operated by the district's board of directors would be empowered to levy qualified general and special taxes, provided such taxes are consistent with: a) the terms of Proposition 13 and its implementing statutes; and, b) Proposition 62, enacted in November 1986 as an initiative statute.

The bill further provides that the basis and nature of any general or special tax and its manner of collection are to be determined by the hospital district board of directors.

FISCAL EFFECT

No state fiscal effect.

- continued -

AB 3596

COMMENTS

1) Background -- Hospital District Tax Authority

Prior to the passage of Proposition 13 in 1978, hospital districts, like cities, counties, school districts, and other special districts were empowered to levy ad valorem taxes on real property within their jurisdictions (a property tax). The maximum property tax rate for hospital districts was statutorily limited to 20 cents per \$100 of assessed value, exclusive of any levy for debt service. Proposition 13, and its implementing legislation significantly reduced the property tax rate available to hospital districts and all other property taxing entities.

Since 1978, with a restricted property tax base, hospital districts have relied primarily upon the special tax authority specified in Proposition 13 and Government Code Sections 50075, et seq., which statutorily implemented the special tax provisions of Proposition 13. Under the terms of Proposition 13, cities, counties, and special districts are authorized, subject to a two-thirds vote of their electorate, to levy any type of special tax, with the exception of ad valorem taxes on real property, or sales or transactions taxes on the sale of real property.

2) Proposition 62 Problem

Provisions of Proposition 62, enacted in November, 1986 as an initiative statute, provide that neither the language in Proposition 13, Government Code Sections 50075, et seq., nor Proposition 62 itself authorize the imposition of any general or special taxes (Government Code Section 53727). Under the terms of Section 53727, independent constitutional or statutory authority is needed before any general or special tax may be levied. AB 3596 provides such authority for hospital districts.

3) AB 1845 of 1987 (Areias) and Governor's Veto

AB 3596, as introduced, was identical to AB 1845 of 1987 (Areias), which was vetoed by the Governor. In his veto message, the Governor stated:

"I am concerned that the general tax provision of this bill requires only a simple majority of the voters when this is clearly a special tax issue. I would permit legislation to become law that was restricted to the 2/3 voter requirement."

In fact, the provisions of both AB 1845 and AB 3596 explicitly conform to the vote requirements of Proposition 62.

Proposition 62 defines a general tax as one "imposed for general governmental purposes;" that is, for the full array of functions which the

- continued -

local entity, in this case, the hospital district, is authorized to perform. The Proposition further provides that the imposition of a general tax is subject to a two-thirds vote of the local legislative body, the hospital district board of directors, and a simple majority vote of the electorate.

4) Amendments Address the Expressed Concern of Realtors

The April 27 amendments to AB 3596 address the concern expressed by the California Association of Realtors (CAR) which testified in opposition to AB 3596 at the Committee hearing of April 20, 1988. At that hearing, the CAR testified that it was particularly concerned about the prospect of a hospital district, or any other type of local agency, imposing a general or special tax on new homebuyers alone.

The amendments to AB 3596 preclude that possibility by requiring that any tax imposed pursuant to the provisions of the bill must apply uniformly to all taxpayers or all real property within the district. The language in the amendments was taken directly from provisions in AB 1440 (Hannigan) of 1987, which gave specific authority to school districts to levy special taxes.

5) Referral to Revenue and Taxation Committee

The Chairman of the Assembly Revenue and Taxation Committee has requested that AB 3596 be referred to that committee if it passes out of the Local Government Committee.

SUPPORT

Association of California Hospital
Districts (SPONSOR)
County Supervisors Association of
California (CSAC)

OPPOSITION

California Association of Realtors
California Taxpayers Association
(Cal-Tax)

Introduced by Senator BergesonJanuary 10, 1991

An act to amend Section 50079 of, and to add Section 61615.3 to, the Government Code, to add Sections 6092.5 and 6364 to the Harbors and Navigation Code, to add Section 8981.5 to the Health and Safety Code, to add Section 1192.5 to the Military and Veterans Code, to add Sections 9513 and 13161.5 to the Public Resources Code, to add Sections 12891.5, 16641.5, and 22909 to the Public Utilities Code, and to add Sections 22078.5, 31653, and 72090.5 to the Water Code, relating to local agencies.

LEGISLATIVE COUNSEL'S DIGEST

SB 158, as introduced, Bergeson. Taxation: local agencies.

Existing law expressly permits school districts to impose qualified special taxes, as defined, pursuant to prescribed proceedings.

This bill would extend the authority to impose qualified special taxes to community college districts.

Existing law authorizes the legislative body of designated special districts to impose a special tax, as defined, if the ordinance or resolution proposing imposition of the special tax is submitted to the voters and approved by $\frac{2}{3}$ of the voters voting on the issue. Existing law prescribes the procedures for the adoption of a special tax.

This bill would, in the same manner, authorize the adoption of special taxes by community services districts, harbor districts, port districts, public cemetery districts, memorial districts, resource conservation districts, resort improvement districts, municipal utility districts, public utility districts, airport districts, irrigation districts, county water districts, and municipal water districts.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 50079 of the Government Code
2 is amended to read:

3 50079. (a) Subject to Section 4 of Article XIII A of the
4 California Constitution, any school district *or community*
5 *college district* may impose qualified special taxes upon
6 the district pursuant to the procedures established in
7 Article 3.5 (commencing with Section 50075) and any
8 other applicable procedures provided by law.

9 (b) As used in this section, “qualified special taxes”
10 means special taxes which apply uniformly to all
11 taxpayers or all real property within the school district,
12 except that “qualified special taxes” may include special
13 taxes which provide for an exemption from those taxes
14 for taxpayers 65 years of age or older.

15 “Qualified special taxes” do not include special taxes
16 imposed on a particular class of property or taxpayers.

17 SEC. 2. Section 61615.3 is added to the Government
18 Code, to read:

19 61615.3. A district may impose a special tax pursuant
20 to Article 3.5 (commencing with Section 50075) of
21 Chapter 1 of Part 1 of Division 1 of Title 5. The special
22 taxes shall be applied uniformly to all taxpayers or all real
23 property within the district, except that unimproved
24 property may be taxed at a lower rate than improved
25 property.

26 SEC. 3. Section 6092.5 is added to the Harbors and
27 Navigation Code, to read:

28 6092.5. A district may impose a special tax pursuant to
29 Article 3.5 (commencing with Section 50075) of Chapter
30 1 of Part 1 of Division 1 of Title 5 of the Government
31 Code. The special taxes shall be applied uniformly to all
32 taxpayers or all real property within the district, except
33 that unimproved property may be taxed at a lower rate
34 than improved property.

35 SEC. 4. Section 6364 is added to the Harbors and
36 Navigation Code, to read:

1 6364. A district may impose a special tax pursuant to
2 Article 3.5 (commencing with Section 50075) of Chapter
3 1 of Part 1 of Division 1 of Title 5 of the Government
4 Code. The special taxes shall be applied uniformly to all
5 taxpayers or all real property within the district, except
6 that unimproved property may be taxed at a lower rate
7 than improved property.

8 SEC. 5. Section 8981.5 is added to the Health and
9 Safety Code, to read:

10 8981.5. A district may impose a special tax pursuant to
11 Article 3.5 (commencing with Section 50075) of Chapter
12 1 of Part 1 of Division 1 of Title 5 of the Government
13 Code. The special taxes shall be applied uniformly to all
14 taxpayers or all real property within the district, except
15 that unimproved property may be taxed at a lower rate
16 than improved property.

17 SEC. 6. Section 1192.5 is added to the Military and
18 Veterans Code, to read:

19 1192.5. A district may impose a special tax pursuant to
20 Article 3.5 (commencing with Section 50075) of Chapter
21 1 of Part 1 of Division 1 of Title 5 of the Government
22 Code. The special taxes shall be applied uniformly to all
23 taxpayers or all real property within the district, except
24 that unimproved property may be taxed at a lower rate
25 than improved property.

26 SEC. 7. Section 9513 is added to the Public Resources
27 Code, to read:

28 9513. A district may impose a special tax pursuant to
29 Article 3.5 (commencing with Section 50075) of Chapter
30 1 of Part 1 of Division 1 of Title 5 of the Government
31 Code. The special taxes shall be applied uniformly to all
32 taxpayers or all real property within the district, except
33 that unimproved property may be taxed at a lower rate
34 than improved property.

35 SEC. 8. Section 13161.5 is added to the Public
36 Resources Code, to read:

37 13161.5. A district may impose a special tax pursuant
38 to Article 3.5 (commencing with Section 50075) of
39 Chapter 1 of Part 1 of Division 1 of Title 5 of the
40 Government Code. The special taxes shall be applied

1 uniformly to all taxpayers or all real property within the
2 district, except that unimproved property may be taxed
3 at a lower rate than improved property.

4 SEC. 9. Section 12891.5 is added to the Public Utilities
5 Code, to read:

6 12891.5. A district may impose a special tax pursuant
7 to Article 3.5 (commencing with Section 50075) of
8 Chapter 1 of Part 1 of Division 1 of Title 5 of the
9 Government Code. The special taxes shall be applied
10 uniformly to all taxpayers or all real property within the
11 district, except that unimproved property may be taxed
12 at a lower rate than improved property.

13 SEC. 10. Section 16641.5 is added to the Public
14 Utilities Code, to read:

15 16641.5. A district may impose a special tax pursuant
16 to Article 3.5 (commencing with Section 50075) of
17 Chapter 1 of Part 1 of Division 1 of Title 5 of the
18 Government Code. The special taxes shall be applied
19 uniformly to all taxpayers or all real property within the
20 district, except that unimproved property may be taxed
21 at a lower rate than improved property.

22 SEC. 11. Section 22909 is added to the Public Utilities
23 Code, to read:

24 22909. A district may impose a special tax pursuant to
25 Article 3.5 (commencing with Section 50075) of Chapter
26 1 of Part 1 of Division 1 of Title 5 of the Government
27 Code. The special taxes shall be applied uniformly to all
28 taxpayers or all real property within the district, except
29 that unimproved property may be taxed at a lower rate
30 than improved property.

31 SEC. 12. Section 22078.5 is added to the Water Code,
32 to read:

33 22078.5. A district may impose a special tax pursuant
34 to Article 3.5 (commencing with Section 50075) of
35 Chapter 1 of Part 1 of Division 1 of Title 5 of the
36 Government Code. The special taxes shall be applied
37 uniformly to all taxpayers or all real property within the
38 district, except that unimproved property may be taxed
39 at a lower rate than improved property.

40 SEC. 13. Section 31653 is added to the Water Code, to

1 read:

2 31653.5. A district may impose a special tax pursuant
3 to Article 3.5 (commencing with Section 50075) of
4 Chapter 1 of Part 1 of Division 1 of Title 5 of the
5 Government Code. The special taxes shall be applied
6 uniformly to all taxpayers or all real property within the
7 district, except that unimproved property may be taxed
8 at a lower rate than improved property.

9 SEC. 14. Section 72090.5 is added to the Water Code,
10 to read:

11 72090.5. A district may impose a special tax pursuant
12 to Article 3.5 (commencing with Section 50075) of
13 Chapter 1 of Part 1 of Division 1 of Title 5 of the
14 Government Code. The special taxes shall be applied
15 uniformly to all taxpayers or all real property within the
16 district, except that unimproved property may be taxed
17 at a lower rate than improved property.

O

SENATE LOCAL GOVERNMENT COMMITTEE
Senator Marian Bergeson, Chairman

VERSION: 02/11/91
SET: First
HEARING: 02/20/91
FISCAL: Approp.
CONSULTANT: Detwiler

S
B
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8

Senate Bill 158 - Bergeson

Subject: Special Taxes For Special Districts

Background and Existing Law:

In 1978, Proposition 13 limited ad valorem property taxes but allowed other special taxes with 2/3 voter approval (Article XIII A, Section 4). In response, the Legislature allowed all local agencies to levy special taxes with 2/3 voter approval (SB 785, Foran, 1979).

In November 1986, the voters approved Proposition 62 which declared that neither Proposition 13 nor the 1979 Foran bill, by themselves, allow local agencies to levy special taxes. Separate legislative authority is needed.

The Legislature has already given several special districts separate statutory authority to levy special taxes with 2/3 voter approval: the Coast Life Support District, county service areas, fire protection districts, flood control districts, local hospital districts, library districts, mosquito abatement districts, pest abatement districts, police protection districts, recreation and park districts, regional park and open space districts, the Santa Clara County Open Space Authority, and school districts.

Proposed Law:

Senate Bill 158 allows 15 other types of special districts to levy special taxes with 2/3 voter approval: community college districts, community services districts, harbor districts, port districts, public cemetery districts, memorial districts, resource conservation districts, resort improvement districts, municipal utility districts, public utility districts, airport districts, irrigation districts, the Alameda-Contra Costa Transit District, county water districts, and municipal water districts.

Comments:

1. Special districts, special taxes. Proposition 13 allows special taxes with 2/3 voter approval but Proposition 62 requires the Legislature to specifically grant this authority. The Legislature has given the special tax power to every type

of special district which has asked. There appears to be no policy reason to give the special tax power to these districts but not others. SB 158 completes the job by allowing nearly all special districts to ask their voters if they want to tax themselves.

2. Not quite everyone. Not all special districts had the ability to levy property taxes before Proposition 13. Some, like sanitary districts, could only use property taxes to pay for bonded debts. They had to pay for their general operating costs with service charges. SB 158 does not let special districts levy special taxes unless the districts already had property taxation powers before Proposition 13.

3. Standard language. The language in SB 158 is identical to the language worked out and approved by the Legislature for special districts in bills over the last two years.

Support and Opposition: (02/14/91)

Support: California Special Districts Association.

Opposition: Unknown.

Bill to

MEMBERS

RUBEN S. AYALA
VICE CHAIR
CHARLES M. CALDERON
WILLIAM A. CRAVEN
CECIL GREEN
FRANK HILL
QUENTIN KOPP
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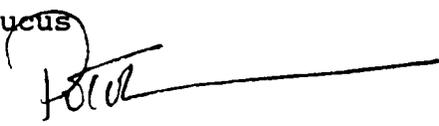
Senate Committee
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MARIAN BERGESON
CHAIRMAN

May 1, 1991

TO: Jim Meyer
Assembly Minority Caucus

FROM: Peter Detwiler 

SUBJECT: SB 158 And Special Districts' Special Taxes

I promised to send you information on the development of the special tax language in SB 158.

Interest in special tax bills was noticeable in 1988 when the Legislature passed two bills. AB 3596 (Hauser, 1988) let hospital districts levy special taxes. AB 4290 (Hauser, 1988) extended special taxes to library districts. The language was not identical, but both required 2/3 voter approval, of course. In 1989, county service areas picked up this power (AB 330, Eaves, 1989).

In 1990, the Assembly passed two bills to extend the special tax power to recreation and park districts: AB 2780 (Bader) and AB 4158 (N. Waters). Mr. Bader let Mr. Waters' bill go forward in the Senate because it had an urgency clause.

The Waters bill contained the language allowing for a lower tax rate for unimproved property. CBIA and Cal-Tax were concerned that local officials might levy special taxes on vacant land (where there were no voters to vote) and push the costs on to new construction. That's why the Waters bill turned out the way it did.

In drafting SB 158, I talked with Joel Fox (Howard Jarvis Taxpayers Association) and Rebecca Taylor (Cal-Tax) and then just lifted the Waters "compromise" language. Neither group supports SB 158 but both agreed not oppose the bill because it is consistent with Propositions 13 and 62.

Call me if you have any questions.

Attachment

R

1907

| PROPOSED SPECIAL TAX FOR ALBANY UNIFIED SCHOOL DISTRICT | |
|--|-----|
| <p>A MEASURE A: "Shall the Albany Unified School District be authorized to levy a special tax of \$87.00 for each residential unit and \$0.0175 per square foot or \$87.00, whichever is greater, for each non-residential parcel in the District for the purpose of preserving and maintaining the District's educational programs and providing safe facilities and equipment for the District's students?"</p> | YES |
| | NO |

FULL TEXT OF MEASURE A

The full text of the ballot measure shall read as follows:

"1. In order to preserve and maintain the high level of public education, that has benefited all students, citizens, and property owners in Albany, and to provide safe facilities and equipment for the District's students, shall the Albany Unified School District be authorized to levy and collect a special tax to provide funds whose expenditure is restricted to the following specific educational purposes?

- (1) Comprehensive High School: to provide and maintain strong academic and vocational programs in the following areas:
 - a. Mathematics
 - b. Science
 - c. Writing
 - d. Industrial Education
 - e. Business Education
 - f. Music
 - g. Arts
 - h. Courses in (1)a. through (1)g. above to continue a seventh instructional period at Albany High School
 - i. Athletics
 - j. Health Programs and Services
- (2) Kindergarten-8th Grade Programs: to provide and maintain programs that contribute to the high academic standards of our kindergarten through eighth grades in the following areas:
 - a. Science
 - b. Library
 - c. Physical Education
 - d. Music and Arts
 - e. Health Programs and Services
 - f. Languages, Industrial Education, and courses in (2)a. through (2)f. above to restore the full school day at Albany Middle School
- (3) Buildings, Safety, and Equipment: to make repairs at existing District facilities and replace outdated equipment.
 - 2. The special tax shall be levied as follows:
 - (a) On residential real property at a rate of \$87.00 for each residential unit per year; a residential unit is a room or suite of two or more habitable rooms which are occupied or which are intended or designed to be occupied by not more than one family with facilities for living, sleeping, cooking and eating, and having only one kitchen.
 - (b) On non-residential real property at a rate of \$0.0175 per square foot of each non-residential parcel per year or \$87.00 for each non-residential parcel per year, whichever is greater.

(c) The rates set forth above shall be adjusted annually to reflect the inflationary rate not to exceed five percent for any given year or reduction as shown in the consumer price index or comparable data for the year under taxing jurisdiction, as established by the Alameda County Assessor pursuant to Article XIII(A) of the California Constitution.

(d) Residential real property shall include all real property, lawfully used for dwelling purposes.

(e) Non-residential real property shall include all real property, improved or unimproved, not used for dwelling purposes.

(f) If a parcel consists of both residential and non-residential real property, such parcel shall be liable for the special tax at the rate set forth under subdivision (a) and at the rate set forth under subdivision (b) of this section.

(g) Real property otherwise exempted from taxation under the Constitution of the State of California shall also be exempted from any liability for the special tax imposed by this measure.

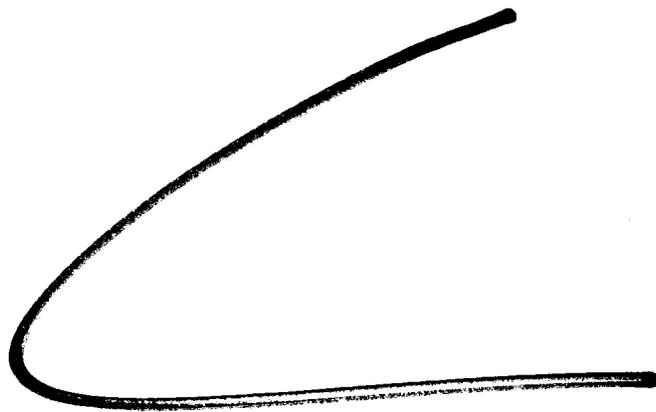
3. The revenue raised by the special tax shall not be used for general educational purposes but shall be used solely for the specific educational purposes set forth in this measure. Each year the Board of Education shall determine which specific educational purposes shall be funded and the amount of such funding. The revenue raised by the special tax shall be accounted for separately. Each year the Board of Education shall within 90 days after the close of the District's fiscal year, prepare and make available to the District's electors a financial report about the revenue raised by the special tax and its expenditure in accordance with the specific purposes of this measure. Each fiscal year, as a part of its normal budget process as mandated by law, the Board of Education shall develop a separate budget for the expenditure of revenues raised by the special tax.

4. On July 1, 1987, and thereafter, the tax shall be collected by the Alameda County Tax Collector at the same time as and along with the general ad valorem taxes collected by the Tax Collector. The tax shall be subject to the same penalty and enforcement provisions as general and ad valorem taxes. The tax and penalty shall bear interest at the same rate as the rate for unpaid ad valorem taxes until paid.

5. This special tax is a property tax and qualified property owners and renters shall be entitled to the benefits of the Comptroller-Deputy Senior Citizen's Property Tax Assistance Law (California Revenue and Taxation Code Section 20501 et seq.) and the Senior Citizens and Disabled Citizens Property Tax Postponement Law (California Revenue and Taxation Code Section 20581 et seq.); as provided by law.

6. This special tax shall not be collected if a majority of the District's electors have not approved an increase or a continuation of any previously approved increase in the District's appropriations limit pursuant to Article XIII(B) of the California Constitution. The duration of any such change shall be determined by such electors but in no event exceed four years from the most recent vote of such electors creating or continuing such change.

7. If any section, sub-section, phrase, or clause of this measure is for any reason held to be invalid, the decision shall not affect the validity of the remaining portion of this measure. The Board declares that it has adopted this measure and each section, sub-section, phrase, or clause thereof irrespective of the fact that any one or more sections, sub-sections, sentences, phrases, or clauses be declared invalid.



MEASURE SUBMITTED TO THE VOTERS

SCHOOL

**KENTFIELD SCHOOL DISTRICT
SPECIAL PARCEL TAX ASSESSMENT FOR
EDUCATIONAL PROGRAMS AND SERVICES
MEASURE A**

A To maintain excellence in Kentfield's public education by supporting superior academic core programs, attracting/retaining highly-qualified teachers, maintaining small class sizes, and enhancing technology programs, shall Kentfield School District levy parcel taxes, to replace existing assessments, at \$550 per year for parcels containing one single-family residence, at rates specified in the sample ballot for all other parcels, increase rates by 5% per year, grant senior exemptions, and implement an annual financial audit, for seven years?

**KENTFIELD SCHOOL DISTRICT
SPECIAL PARCEL TAX ASSESSMENT FOR
EDUCATIONAL PROGRAMS AND SERVICES
MEASURE A**

**FULL TEXT OF RESOLUTION #7, 2001-2002
BEFORE THE BOARD OF TRUSTEES OF THE
KENTFIELD SCHOOL DISTRICT
MARIN COUNTY, CALIFORNIA**

In the Matter of) **RESOLUTION AND ORDER**
Special Tax Election) **OF ELECTION**

WHEREAS, the California State Legislature has failed to provide adequate funding for the continued operations of the schools (Anthony Bacich Elementary School and Adaline E. Kent Middle School) of the Kentfield School District ("District"); and as a result of this lack of funding and financial support for the schools, the District is in danger of eliminating many study programs beneficial and necessary to the children who attend the schools of the District; and once eliminated these programs of study will be extremely difficult to reinstitute; and

WHEREAS, the District has engaged in a variety of efforts to generate funds for the educational program, including lobbying in the State Legislature and many local fundraising efforts, and has undertaken cost-cutting measures, including employee layoffs, reduction of programs and services beneficial and necessary to the students of the District; and

WHEREAS, continued reliance solely on State funding will result in further loss of critical programs; and

WHEREAS, a thorough and developed public education program delivers many long-lasting benefits and advantages to all of the residents of our community; and

WHEREAS, 78% of the voters of the District previously authorized a similar special assessment, which special assessment expires on June 30, 2003; and

WHEREAS, without a renewed authorization by the voters for a special assessment, substantial reduction or elimination of educational programs and services will be necessary and will have a severe negative impact on the children of the District; and

WHEREAS, section 4 of Article XIII A of the California Constitution and Government Code sections 50075, 50076, 50077, 50079, and 53720, 53721, 53722 and 53724 authorize school districts to levy a special tax to raise funds for the purpose of conducting its business upon the approval of two-thirds of the votes cast by voters voting upon such a special tax proposal; and

WHEREAS, the Board of Trustees has conducted a noticed public hearing on November 27, 2001, as required by law, on the question of whether or not to request the District's voters to authorize funding to continue the programs identified below.

NOW THEREFORE, THE BOARD OF TRUSTEES OF THE KENTFIELD SCHOOL DISTRICT FINDS, DETERMINES, RESOLVES, AND ORDERS AS FOLLOWS:

Section 1: The recitals listed above are adopted as true and correct.

Section 2: A special election is hereby called and ordered and shall be conducted on March 5, 2002, at which election will be submitted to the qualified voters of the District a measure to authorize a special tax for the purpose of continuing vital educational programs critical to the educational process in the schools of the district, which programs are identified below.

Section 3: At the special election to be held within the boundaries of the District on March 5, 2002, the following measure shall be submitted to the qualified voters within the District, to wit:

MEASURE "A"

To maintain excellence in Kentfield's public education by supporting superior academic core programs, attracting/retaining highly-qualified teachers, maintaining small class sizes, and enhancing technology programs, shall Kentfield School District levy parcel taxes, to replace existing assessments, at \$550 per year for parcels containing one single-family residence, at rates specified below for all other parcels, increase rates by 5% per year, grant senior exemptions, and implement an annual financial audit, for seven years?

The following educational programs and services shall be supported by the special tax:

Quality of Teachers and Other Staff Members: Attract and retain outstanding teachers, administrators and support staff.

Class Size: Class size ratios will be maintained at current levels and, when possible, will be reduced.

Computer Education: Implementation of the five-year Technology Use Plan will enhance the instruction in all areas of the curriculum.

English: Additional instruction of literature, grammar and writing skills in grades 6, 7, and 8 and special resource staff to teach specific groups in grades 1 through 5.

Mathematics: Curriculum offerings in pre-algebra and algebra for grades 7 and 8 and special resource staff to teach specific groups in grades 1 through 5.

Foreign Language: Basic instruction in Spanish.

Library Sciences: Library staff at Kent Middle School and Bacich School to support the study of literature at all grade levels.

Increase Classroom Time: Continuation of additional academic time and study time above state minimum requirements.

Special Student Needs: Special resources and staffing for students with special requirements.

Science: Instructional programs for all grade levels with a full three-year program at Kent Middle School.

Textbooks/Library Books: Textbooks, library books and instructional materials for all students.

Staff Development: Provide for a staff development program to meet the ongoing needs for curriculum development and implementation.

Fine Arts: Continue current art, music and drama programs.

Maintenance: Maintenance services and projects commensurate with a superior educational program.

The parcel tax will be imposed at the rate of \$550 per year for each assessor's parcel containing one single-family residence or dwelling unit. For parcels containing more than one single-family residence or dwelling unit, the tax will be imposed at the rate of \$550 per year for the first unit and \$60 per year for each additional unit, but not less than \$550 per parcel per year. For all other parcels within the District, the tax will be imposed at the following rates, but not less than \$550 per parcel per year:

| Parcel Size (square feet) | Tax (per parcel per year) |
|---------------------------|---------------------------|
| Up to 4,999 | \$ 550 |
| 5,000 to 9,999 | \$ 1,350 |
| 10,000 to 24,999 | \$ 2,700 |
| 25,000 to 49,999 | \$ 5,500 |
| 50,000 to 149,999 | \$ 7,700 |
| 150,000 and greater | \$ 9,200 |

MEASURE A CONTINUED ON NEXT PAGE



(Full Text of Measure A Continued)

All parcels sizes shall be determined from the records maintained by the Marin County Assessor's office.

This tax would replace the 2002-2003 authorized assessment of \$395.28 per parcel per year. Each year during the assessment period there will be an increase of 5% from the prior year's rates for all parcels not exempt from the tax. An exemption from the assessment will be made available to each individual in the District who will attain 65 years prior to July 1 of the assessment year, and who owns a beneficial interest in the parcel, and who uses that parcel as his or her principal place of residence and who applies to the District on or before July 1, 2002, or July 1, of any succeeding assessment year. Any one application from a qualified applicant will provide an exemption for the parcel for the remaining term of the assessment so long as such applicant continues to use the parcel as his or her principal residence.

Senior exemptions granted during the term of the current special assessment will be continued after reapplication and verification beginning July 1, 2002.

Section 4: The text of the measure as displayed on each individual ballot shall be abbreviated and shall read as follows:

**KENTFIELD SCHOOL DISTRICT
SPECIAL PARCEL TAX ASSESSMENT FOR
EDUCATIONAL PROGRAMS AND SERVICES
MEASURE A**

To maintain excellence in Kentfield's public education by supporting superior academic core programs, attracting/retaining highly-qualified teachers, maintaining small class sizes, and enhancing technology programs, shall Kentfield School District levy parcel taxes, to replace existing assessments, at \$550 per year for parcels containing one single-family residence, at rates specified in the sample ballot for all other parcels, increase rates by 5% per year, grant senior exemptions, and implement an annual financial audit, for seven years?

YES _____ NO _____

The District's Superintendent, or his designee, is hereby authorized and directed to make any changes to the text of the measure, or to the abbreviated form of the measure, as may be convenient or necessary to conform to any requirement of the laws authorizing the measure to be submitted to the District's voters, or of the Marin County Clerk.

Section 5: Commencing on July 1, 2002, the special tax specified above shall be collected and administered by the County of Marin in the same manner as ad valorem property taxes are fixed, collected, and administered under provisions of the California Revenue and Taxation Code.

Section 6: In accordance with the requirements of California Government Code sections 50075.1 and 50075.3, the following accountability measures, among others shall apply to the special tax levied in accordance with this Resolution: (a) the specific purposes of the special tax shall be those purposes identified above; (b) the proceeds of the special tax shall be applied only to those specific purposes identified above; (c) a separate, special account shall be created into which the proceeds of the special tax must be deposited; and (d) an annual written report and financial audit shall be made to the Board of Trustees of the District showing (i) the amount of funds collected and expended from the special tax proceeds and (ii) the status of any project required or authorized to be funded from the proceeds of the special tax, as identified above.

Section 7: The Superintendent of Schools of Marin County is hereby requested to call a special election of the said special tax to be held on March 5, 2002. The County Clerk is hereby requested and authorized to: (a) set forth on all sample ballots relating to said election to be mailed to the qualified electors of the Kentfield School

District said measure; (b) to provide absent voter ballots for said special tax election for use by qualified electors of the District who are entitled thereto in the manner provided by Law; and (c) to conduct the election in accordance with all legal requirements.

Section 8: In accordance with Education Code section 5342 and Elections Code section 10402.5, it is hereby requested that the special election to be held hereunder, on March 5, 2002, be consolidated by the County Clerk and the County Board of Supervisors, for all purposes, with the statewide primary election scheduled for the same day.

Section 9: If any section, subsection, phrase or clause of this Resolution, or its application to any person or circumstance, is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Resolution, or their application to any other person or circumstance. The Board of Trustees declares that it would have adopted this Resolution and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, sentences, phrases or clauses, or their application to any person or circumstance, shall be declared invalid.

Section 10: The Clerk of this Board of Trustees is hereby authorized and directed to certify to the due adoption of this Resolution and to transmit a copy hereof so certified to the Superintendent of Schools of Marin County and to file a copy hereof so certified with the County Clerk of Marin County.

Section 11: Any and all members of this Board are hereby authorized to act as an author of any ballot argument prepared in connection with the election, including a rebuttal argument. The District Superintendent, President of this Board, or their designees, are hereby authorized to execute any document and to perform all acts necessary to place the special tax measure on the ballot.

The foregoing Resolution was moved by Board Member Anna Pilloton, seconded by Susan Morrow, and adopted on roll call on December 4, 2001 by the following vote:

| | | |
|---------------|----------------|-----|
| Board Member: | Robert Goldman | Aye |
| Board Member: | Katherine Horn | Aye |
| Board Member: | Ann Mathieson | Aye |
| Board Member: | Susan Morrow | Aye |
| Board Member: | Anna Pilloton | Aye |

AYES: 5 NOES: 0 ABSENT: 0 ABSTAIN: 0

WHEREUPON, the President declared the foregoing Resolution duly adopted and SO ORDERED.

Date: December 4, 2001

KATHERINE A. HORN
President, Board of Trustees
Kentfield School District

APPROVED AS TO LEGAL FORM:
LOZANO SMITH

By /s/ Jeffrey L. Kuhn
Attorneys for District

The Clerk of the Kentfield School District Board of Trustees certifies to the adoption of this Resolution.

Date: December 4, 2001

SUSAN MORROW
Clerk, Board of Trustees
Kentfield School District

MEASURE A CONTINUED ON NEXT PAGE



**IMPARTIAL ANALYSIS BY COUNTY COUNSEL
MEASURE A**

If this Measure is approved by a two-thirds vote, the Kentfield School District will be authorized to levy a parcel tax, for the purposes of supporting academic core programs, attracting and retaining teachers, maintaining small class sizes and enhancing technology programs, in the amount of Five Hundred Fifty Dollars (\$550.00) on each parcel containing one single-family home, and in other rates as specified in the sample ballot for other parcels, each year for seven (7) years with Five Percent (5%) rate increases per year.

The Measure authorizes the District to grant senior exemptions to the parcel tax, and implements an annual financial audit.

Dated: December 14, 2001

PATRICK K. FAULKNER
County Counsel

ARGUMENT IN FAVOR OF MEASURE A

For decades, the Kentfield schools have responded to the educational needs of their students, successfully equipping them to deal with continuing academic experiences. The reputation of our schools has attracted families to this area, increasing property values.

Bacich Elementary and Kent Middle are well-managed award winning schools. In the most recent statewide test, our students scored at the top in math and reading, statewide and in Marin.

For over 15 years, excellence has been achieved through rigorous cost control, voluntary parent and community contributions, and the voter-approved parcel tax. Without the parcel tax, the district would be more dependent upon state support, which will decline this year and next year. California now ranks 48th among states in the lowest expenditures per student based on information from the U.S. Department of Commerce.

The difference between 48th out of 50 and excellence is the crucial 14% of our budget provided by Measure A. In 1996, 78% of voters authorized a supplemental tax which will be \$395.28 per parcel in 2002. That amount is no longer adequate; without an increase, our basic programs are at risk.

Measure A would enable the Kentfield School District to continue to attract and retain excellent staff, continue to deliver high-quality academic programs, maintain small class size, continue to offer an up-to-date technology program, and provide for superior facilities maintenance. This seven-year tax authorizes \$550 per parcel for 2002-2003 with 5% annual adjustments to support possible enrollment growth, inflation and rising basic costs.

Property owners 65 and older are exempted from this tax on their primary residence by applying to the Kentfield School District.

The excellent education provided by the Kentfield School District has been a cornerstone for generations of Greenbrae and Kentfield students. Join us in extending that foundation of excellence into the future.

s/ Susan Morrow, President
Board of Trustees
Kentfield School District

s/ Judith O'Connell Allen
Former Trustee
Kentfield School District

s/ Ken MacDonald
Former Trustee
Kentfield School District

s/ Win Setrakian Mauzy
Former Trustee
Kentfield School District

s/ Byron Mauzy
Former Superintendent of Schools
Marin County Office of Education

**NO ARGUMENT AGAINST THIS MEASURE
WAS SUBMITTED**

END OF MEASURE A

