

Caltaxletter

VOL. XVII, NO. 14 – APRIL 16, 2004

BACKERS DUMP FLAWED SPLIT-ROLL INITIATIVE

Backers have abandoned an initiative campaign for the November ballot to raise taxes on business property, the decision coming just one day after taxpayer groups publicized a huge flaw that could also result in higher taxes on residential land.

Cal-Tax Chief Tax Consultant David R. Doerr discovered the flaw and described it to the Cal-Tax Board of Directors on March 31. The media was informed of the problem at an April 7 Sacramento news conference by Greg Turner, Cal-Tax general counsel; Jon Coupal, president of the Howard Jarvis Taxpayers Association, and Joel Fox, president of the Small Business Action Committee. The news conference was hosted by Californians Against Higher Property Taxes "NO!" on the Proposition 13 Rollback.

"Once again the Cal-Tax staff demonstrates its value to the business community with its superb analysis, advocacy and timing," Cal-Tax President Larry McCarthy said. "Avoiding this terrible initiative on the November ballot will save business at least \$15 million in campaign costs to defeat the measure, not to mention the threat of a \$7 billion tax increase. It is gratifying to me that a broader audience sees what I see daily, the effective teamwork of the Cal-Tax staff on behalf of members."

The California Teachers Association and actor-director Rob Reiner, sponsors of the initiative to split the property tax roll and impose a 55 percent increase in taxes on commercial property, downplayed the drafting flaw. They said they decided not to submit some 900,000 signatures – more than enough to qualify – because the general election ballot was cluttered with measures and this would hurt their chances. They refused to acknowledge that the drafting flaw, discovered by Cal-Tax, would have made their campaign even more of an uphill battle.

The initiative would have earmarked about \$7 billion in higher taxes on commercial property for early childhood education and public schools. The drafting mistake, based on State Board of Equalization statistics, could have added \$3.5 billion from taxes on the land where single-family homes are situated.

Major newspapers have hammered the initiative since it was unveiled last fall, criticizing it as a scheme to increase the amount of tax dollars that would be on the table for teachers' pay and benefit packages, with decisions made by local school boards dominated by union-backed members.

Mr. Turner said the proponents' decision to pull the plug on their initiative should not have surprised anyone. "The impact on residential property taxes, along with the initiative's devastating drag on the state's economy from such a punishing tax on commercial property, would doom the campaign."

Other education groups feared that a likely defeat of the measure would be seen as a lasting blow to overall efforts to increase funding for education.

At the news conference, Mr. Turner stepped reporters through the flaw. "The Constitution requires that land and improvements be separately assessed. The flaw in this initiative stems from the fact that the definition of 'commercial property' is all encompassing. All property is commercial property unless excluded," he said. "But, with respect to residential property, the initiative only excludes 'owner-occupied, single-family dwelling units,' from the new tax, not necessarily the land on which that unit is situated. The exclusion in the initiative for second homes, however, includes both 'the home and the land on which that dwelling unit is constructed.' This clearly creates a conflict that a judge reading the plain language of the initiative might conclude subjects residential land to the new tax."

Mr. Coupal called the initiative a frontal assault on Proposition 13's protections for property owners and noted that Governor Arnold Schwarzenegger has said the initiative would damage the state's economy. The HJTA leader also said the public has no appetite for higher taxes, citing their overwhelming rejection of Proposition 56 on the March ballot, a measure that would have altered Proposition 13 and made it easier for the Legislature to pass tax hikes of all kinds.

Mr. Fox called the CTA-Reiner initiative a "one-two punch" that would hit landlords of rental properties, small businesses and senior citizens, and, by raising homeowner property taxes, it also "threatens the American dream."

Despite claims by the proponents that they were not influenced by widespread criticism of their measure, newspapers reported that the decision to drop the initiative came on the heels of the taxpayer groups' news conference and a decision by the California Healthcare Association to drop its support for a November ballot measure to impose taxes on telephone bills to pay for emergency room services. The healthcare group cited polls showing voters don't support higher taxes.

"Our polling is still good," said Ms. Kerr. "It still says the voters of California support education and that a majority of them support the concept of business taxes paying their fair share. The reasons we're not doing it are obvious with the clutter on the ballot." The CTA would not say how much it has spent on the initiative drive, but *The Sacramento Bee* reported that a typical campaign spends \$3 million on signature gathering.

As the proponents were preparing to dump the campaign instead of budgeting \$20 million or more for a fall campaign, criticism of the initiative continued to mount in the news media:

Sacramento Bee editorial page columnist Peter Schrag, who advocates the split roll, wrote April 7 that the CTA-Reiner initiative should be defeated because it is the wrong way to go about reforming the state's tax structure. He criticized the measure as a means for increasing power of the teachers' union with higher wages for teachers who are already the highest paid in the nation.

The money would go to school districts with boards dominated by the teachers' union. These boards then approve pay and benefit hikes that the district cannot afford, putting them on the verge of insolvency, Mr. Schrag wrote.

Sacramento Bee columnist Dan Walters (April 7) wrote that the CTA-Reiner initiative is "not real reform, just one interest group's effort to extract money from another."

The Los Angeles Times editorialized (April 13): "Now that director/activist Rob Reiner and the state's largest teachers union have pulled their joint initiative from the November ballot, they should learn from their mistake of writing a proposition behind closed doors to fit a narrow agenda, even when its stated goals are ones as worthy as more access to preschool and better public-school funding." *The Times* noted that the CTA vowed to sponsor a similar initiative for public schools, perhaps in 2006, but, the paper added, "not too similar, let's hope."