

13 APR 11 PM 4:03

CITY OF OAKLAND  
BILL ANALYSIS



Date: April 11, 2013

Bill Number: AB 188

Bill Author: CA Assembly Member Tom Ammiano

**DEPARTMENT INFORMATION**

Contact: Bruce Stoffmacher, Policy Analyst  
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**RECOMMENDED POSITION: SUPPORT**

**Summary of the Bill:**

An act to amend and add sections to the Revenue and Taxation Code that would trigger reassessments of commercial real property when 100% of the ownership interests in a legal entity are sold or transferred in a single transaction.

This Bill further applies the following definitions:

AB 188 would require commercial properties to be reassessed and taxed on their full market value if 100% of a property is cumulative sold or transferred over a three year period, regardless, of how many parties are involved or whether any one party acquires more than 50% ownership interest.

Existing law requires a person or legal entity that obtains a controlling or majority ownership interest in a legal entity, or an entity that makes specified transfers of ownership interest in the legal entity, to file a change in ownership statement signed under penalty of perjury with the State Board of Equalization, as specified. Existing law requires a penalty of 10% of the taxes applicable to the new base year value, as specified, or 10% of the taxes applicable to the new base year value, as specified, or 10% of the current year's taxes on the property, as specified; to be added to the assessment made on the roll if a person or legal entity required to file a change in ownership statement fails to do so. AB188 would increase the penalties for failure to file a change in ownership statement, from 10% to 20%.

This bill would take effect immediately as a tax levy.

Item: \_\_\_\_\_  
Rules & Legislation Comte.  
~~April 23, 2013~~

### Positive Factors for Oakland

Increased property tax revenue for the City of Oakland, as well as County of Alameda and State of California from future reassessed commercial properties. By redefining "change in ownership," AB 188 seeks to eliminate a loophole which currently allows commercial property owners to pay less property tax than would be paid if such properties were reassessed to their fair market value, when such properties are sold.

Proposition 13, passed in 1978, limits the maximum amount of any ad valorem tax on real property to one percent (1%) of the full cash value of such property. Proposition 13 decreased property taxes by assessing property values at their 1975 value as well as restricting the annual increases of assessed value of real property to an inflation factor, not to exceed 2% per year. Current law states that a "change in ownership" does not occur unless one owner acquires more than 50% of a property. Currently, with many commercial property sales, the sale can legally occur where no party purchasing the property will own more than 50% of the property, such that no reassessment is triggered by the County Assessor.

Since the passage of Proposition 13 in 1978, the percentage of property tax collected by Alameda County from commercial properties has decreased from approximately 45% to 26%, and the percentage of property tax collected by Alameda County from residential properties has increased from approximately 55% to 74% (see attachment A). AB 188 would not affect residential property taxes, as this legislation only applies to commercial property. However, by changing the definition of property ownership, AB188 will eventually increase the property tax revenue paid by owners of commercial properties.

Future reassessments of commercial property that would only occur with the passage of such an amendment to Proposition 13 will increase the property tax revenue received by the State of California, The County of Alameda and City of Oakland, all of which have critical needs that cannot be addressed in the absence of fair taxation.

### Negative Factors for Oakland

Some business advocates argue that changes to Proposition 13 would negatively impact businesses in California, leading to negative impacts on the State and regional economy.

### Known Support

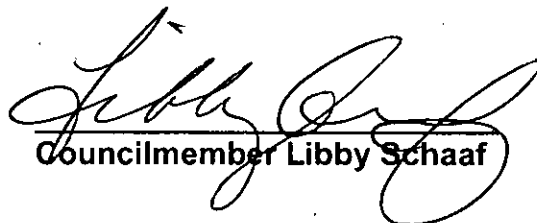
Assemblymember Tom Ammiano  
Campaign to Reform Prop. 13

**Known Opposition**  
California Chamber of Commerce

**PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:**

- Critical (top priority for City lobbyist, city position required ASAP)
- Very Important (priority for City lobbyist, city position necessary)
- Somewhat Important (City position desirable if time and resources are available)
- Minimal or  None (do not review with City Council, position not required)

Respectfully Submitted,



Councilmember Libby Schaaf

## Attachment A

# California Democrats signal they want to reform Proposition 13

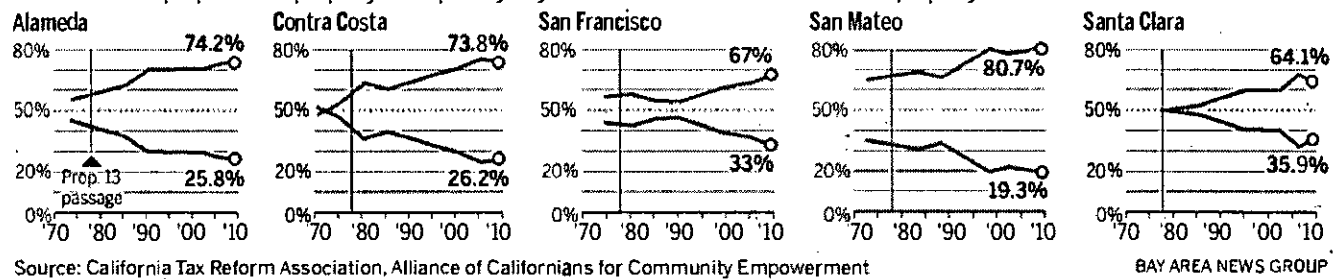
By Steven Harmon [sharmon@bayareanewsgroup.com](mailto:sharmon@bayareanewsgroup.com)

Posted: 12/29/2012 01:00:00 PM PST

Updated: 12/31/2012 09:14:02 AM PST

## Tax burden hits residential property owners hardest

Since Proposition 13 passed in 1978, the tax burden has shifted greatly from businesses to residential property owners. Annual proportion of property taxes paid by Bay Area residential and nonresidential property owners:



SACRAMENTO -- The third rail of California politics may not be as deadly as once thought.

Three and a half decades after the passage of Proposition 13 shook the political landscape in California and sparked a taxpayer revolt across America, voters appear to be warming up to the idea of reforming the initiative as long as protections for homeowners stay intact.

And the apparent sea change in public attitudes, combined with the two-thirds majorities Democrats now hold in both chambers of the Legislature, has emboldened some politicians to take aim at the iconic measure.

"It is time for a fix, because Proposition 13 is broken," said Assemblyman Tom Ammiano, D-San Francisco, who plans to introduce a bill next year aimed at forcing businesses to pay higher property taxes.

The landmark 1978 measure rolled back property taxes and capped yearly increases until a property is sold, but critics say one of its unintended consequences was shifting more of the Golden State's property tax burden from businesses to homeowners.

In addition to Ammiano's bill, two constitutional amendments heading to the Legislature would allow voters to approve local parcel taxes for schools and libraries on a 55 percent vote, rather than the 66.7 percent now required.

In a recent poll by the Public Policy Institute of California, 58 percent of registered voters said they favored a "split roll" property tax, in which commercial properties would be reassessed annually or semiannually according to their market value, while taxes on residential properties would continue to be capped at 2 percent annual increases. And since Democrats took full control of the Legislature in last month's election, some legislators have suggested that it's time for a so-called "split roll."

Proposition 13 has held a central place in California's political discourse since voters approved it with nearly 65 percent of the vote in June 1978. It's credited with fomenting the rise of the anti-government, anti-tax movement that swept Ronald Reagan into the White House.

"It really has symbolized an unwillingness to permit Sacramento to raise general taxes," said Max Neiman, a fellow at UC Berkeley's Institute for the Study of Government. "It's suggested a kind of decline from the time California was a leader in an array of public services."

But voters in the Golden State now seem to have a "nuanced understanding that we simply aren't going to cut our way out of the fiscal deficit, and some kind of tax increases will have to take place," Neiman said. He pointed to the passage of Gov. Jerry Brown's tax measure, Proposition 30, as evidence that voters believe more revenues are needed, especially if they come largely from the wealthy.

A ballot box battle over amending Proposition 13, however, won't happen before November 2014. And it may come even later since Brown probably isn't eager to share the ballot with an issue that could blow up in his face if, as is expected, he runs for re-election.

Still, two Democratic lawmakers, Sens. Lois Wolk, D-Davis, and Mark Leno, D-San Francisco, next year will try to lower the Proposition 13 threshold for parcel taxes -- a move that would need voter approval. Senate President Pro Tem Darrell Steinberg, D-Sacramento, called it a "sound idea" to give local governments the ability to "affect their own destiny," he said. "I think the public will get behind 55 percent."

The threshold for passing local school bonds is already 55 percent.

Steinberg, however, has balked at rushing through the constitutional amendments. And he said it's not yet time to take on an overhaul of Proposition 13 by creating a split-roll tax.

But Ammiano plans to introduce legislation early next year to close a loophole that allows corporations to sidestep reassessments on properties they purchase.

Ownership of a property isn't considered transferred unless 50 percent or more is sold. Critics say corporations find ingenious ways to avoid triggering reassessments.

In one of many similar cases, the wine company E&J Gallo averted a higher reassessment 10 years ago after buying the prime 1,765-acre Louis M. Martini vineyards in Napa and Sonoma, when 12 Gallo family members bought individual shares -- none greater than 50 percent. The move costs Napa County as much as \$700,000 a year in taxes.

"Why should these multibillion-dollar corporations get these breaks at the expense of regular folks?" Ammiano asked.

Ammiano said he hopes the Legislature will act on his bill before the end of spring. It would not require voter approval because it would only be a statutory change.

But it's expected to kick up a firestorm of opposition from businesses.

"You'll see them feeling like they're targeted. And when that happens, you'll see them stand up and fight," said Allan Zaremberg, president and CEO of the California Chamber of Commerce.

A key finding in the PPIC poll that should give Democrats pause is that 60 percent of voters still support Proposition 13, said Kris Vosburgh, executive director of the Howard Jarvis Taxpayers Association, a group founded by the measure's co-author.

"Proposition 13 is more popular today than when it passed," Vosburgh said. "We are definitely for enforcement when we know there are documented cases of efforts to get around legitimate change of ownership. But we don't see it as an overall problem. It's all about the state trying to get more money."

Larry Stone, Santa Clara County's assessor, said even if voters approve a split roll, county assessors won't be able to carry it out without vastly expanding their staffs.

"I don't have the staff or skill set to reassess all business, commercial and industrial property every two or three years," Stone said.

Simply raising the tax rate above the base 1 percent for commercial properties would be an easier way to get more revenues, though "it doesn't avoid the inequities of Proposition 13," Stone said. "You couldn't devise a more unfair property tax system if you tried than the one we have in California."

The turning point for reformers could come when homeowners begin to realize they're carrying most of the load for property taxes, proponents say. In 55 of 58 counties, residential homeowners are paying more property taxes than businesses, after businesses had taken up much of the burden before Proposition 13, according to a study compiled by Lenny Goldberg, president of the California Tax Reform Association.

In Santa Clara and Contra Costa counties, just before the passage of Proposition 13 in 1978, residential homes and all other properties shared the tax burden evenly -- 50-50. But now homeowners are responsible for 70 percent of their counties' assessed value, the study said.

"Nobody can defend the way we assess commercial property," said Goldberg, who is working with Democrats on Proposition 13 changes. "Commercial property is the biggest hole in our tax system, and we avert our eyes at the hole in the middle of the system because it's not politic to discuss this."

Contact Steven Harnon at 916-441-2101. Follow him at [Twitter.com/ssharnon](https://twitter.com/ssharnon). Read the Political Blotter at [lBAbuzz.com/politics](http://lBAbuzz.com/politics).

#### Facts about PROPOSITION 13

Approved in June 1978 with 64.8 percent of the vote.

What it did: Rolled back property values for tax purposes to 1975-76 levels and created a base tax rate of 1 percent, with annual tax increases limited to the inflation rate or 2 percent, whichever is lower. When a property is sold, it is reassessed based on the selling price.

Declared constitutional by the U.S. Supreme Court in 1992.

Other requirements: A two-thirds majority of the Legislature must approve all new taxes. A two-thirds vote is also required if local governments want to raise a tax for a specific purpose.

Past changes: Voters have approved four measures to amend Proposition 13, most strengthening it. In November 1978, Proposition 8 permitted a reassessment of property values in the wake of a disaster or a declining market; Proposition 60 in 1986 allowed homeowners 55 and older to transfer the assessed value of their present home to a replacement home; Proposition 39 in 2000 lowered the required supermajority necessary for voters to pass school bonds from two-thirds to 55 percent; and Proposition 218, in 1996, gave the people the right to vote on all local taxes and required taxpayer approval of assessments and property-related fees.

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# OAKLAND CITY COUNCIL

Resolution No. \_\_\_\_\_ C.M.S.

## INTRODUCED BY COUNCILMEMBER SCHAAF

**RESOLUTION IN SUPPORT OF ASSEMBLY BILL 188 (PROPERTY TAXATION: CHANGE IN OWNERSHIP, AMMIANO), WHICH WOULD AMEND THE CALIFORNIA REVENUE AND TAXATION CODE TO REQUIRE TAX REASSESSMENTS OF COMMERCIAL REAL PROPERTY AT THEIR FULL MARKET VALUE AT THE TIME OF SALE WHEN 100% OF THE OWNERSHIP INTERESTS ARE CUMULATIVELY SOLD OR TRANSFERRED IN A SINGLE TRANSACTION, REGARDLESS OF WHETHER ANY BUYER ACQUIRES MORE THAN A 50% OWNERSHIP INTEREST**

**WHEREAS**, Proposition 13, passed in 1978, limits the maximum amount of any ad valorem tax on real property to one percent (1%) of the full cash value of such property; and

**WHEREAS**, Proposition 13 decreased property taxes by assessing property values at their 1975 value as well as restricting the annual increases of assessed value of real property to an inflation factor, not to exceed 2% per year; and

**WHEREAS**, Proposition 13 also prohibits reassessment of a new base year value except for (a) change in ownership or (b) completion of new construction; and;

**WHEREAS**, under current law states a "change of ownership" does not occur unless one owner acquires more than 50% of a property; and

**WHEREAS**, currently, when multiple buyers purchase commercial property and no buyer acquires more than a 50% interest in the property, a tax reassessment is not required by state law and, therefore, not done by the County Assessor; and

**WHEREAS**, Assembly Bill AB 188 (Property Taxation: Change in Ownership) sponsored by Assemblyperson Ammiano, would amend the California Revenue and Taxation Code (amending sections 64, 480.1, 480.2, and 482 and adding sections 480.9, 486, 486.5, and 488) to require that property taxes be reassessed on commercial real properties whenever 100% of the ownership interests are sold or transferred in a single transaction, regardless of whether any buyer(s) acquires a 50% of ownership interest; and



**WHEREAS**, AB 188 would, thus, subject commercial properties to reassessment and tax on their full market value at the time of sale whenever 100% of a property interest is cumulatively sold or transferred over a three year period; and

**WHEREAS**, AB 188 only applies to commercial property and would not affect residential properties; and

**WHEREAS**, since the passage of Proposition 13 in 1978, the percentage of property tax collected by Alameda County from commercial properties has decreased from approximately 45% to 26%, and the percentage of property tax collected by Alameda County from residential properties has increased from approximately 55% to 74%; and

**WHEREAS**, by redefining "change in ownership," AB 188 seeks to eliminate a loophole which currently allows commercial property owners to pay less property tax than would be paid if such properties were reassessed to their fair market value; and

**WHEREAS**, the passage of AB 188 will increase the property tax revenue received by the State of California, the County of Alameda and City of Oakland, all of which have critical needs that cannot be addressed in the absence of fair taxation of commercial properties; therefore be it

**RESOLVED:** That the City Council supports Assembly Bill AB 188 (Property Taxation: Change in Ownership, Ammiano), which would amend Sections 64, 480.1, 480.2, and 482 of, and to add Sections 480.9, 486, 486.5, and 488 to, the Revenue and Taxation Code, relating to taxation, which would require tax reassessments of commercial real property at their full market value at the time of sale when 100% of the ownership interests are sold or transferred in a single transaction, regardless of whether any buyer acquires more than a 50% ownership interest.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF, AND PRESIDENT KERNIGHAN

NOES –  
ABSENT –  
ABSTENTION –

ATTEST:

\_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council of the City of  
Oakland, California