

TASK FORCE REPORT



Lead Committee: Taxation and Government Finance
Level of Government Committee: Legislative

Fall 2017

PROPERTY TAX BASIS PORTABILITY TASK FORCE

The policy ratified by the Board of Directors in Fall 2016:

That C.A.R. adopt policy in favor of amending the state's property tax basis portability system so the basis can be transferred regardless of:

- a. The age of the homeowner.
- b. The location of the new home.
- c. The price of the new home.
- d. The number of times the basis has been transferred.

In the wake of this policy adoption, the Property Tax Basis Portability Task Force was appointed in December 2016 with the following charge:

The mission of the Property Tax Basis Portability is to examine C.A.R. policy adopted by its Board of Directors at their Fall 2016 Business Meetings in Long Beach and make recommendations to C.A.R.'s Board of Directors as to how to proceed on the portability issue. In particular, consideration shall be given to whether pursuing a ballot initiative is appropriate and feasible, and if so, the extent to which the adopted policy of C.A.R., or some variant thereof, should become part of that initiative.

MEMBERS

Ziggy Zicarelli, Chair
Melanie Barker
Otto Catrina
Paul Herrera
Linda Jay
Bob Kulick
Anne Oliva

MEETINGS

January 25 Indian Wells
February 15 Los Angeles
October 10 San Diego

STAFF

Christopher Carlisle, Legislative Advocate

RECOMMENDATION

The task force recommends that Version 3 (which retains the 55 years old age restriction) be circulated for signature gathering to qualify for the November 2018 ballot. Of the three versions of the initiative that were submitted to the Attorney General for preparation of title and summary, Version 3 is clearly favored by likely voters.

Version 3 would allow individuals 55 years of age and older to transfer their property tax basis to any home in the state, to purchase a more expensive home, and transfer their basis as many times as they wish. According to the LAO, almost 43,000 additional transactions would occur annually. And, according to a C.A.R. economist, housing turnover could be boosted by as much as 15%

The cost to circulate the initiative for signature gathering is approximately \$3 million. If C.A.R. decides to fund a campaign, the cost could be between \$30 million and \$50 million depending on the level of opposition. Those funds would come from C.A.R. political action committees, reserves, NAR funds, and a C.A.R. member assessment.

DISCUSSION

Propositions 60 and 90

The amount any homeowner pays in property taxes is based on the assessed value of their home at the time of purchase. Generally, Proposition 13 limits property taxes to 1 percent of the assessed value at the time of purchase even if the value of the property subsequently increases.

Unfortunately, homeowners lose their Proposition 13 property tax savings when they move to another home due to the acquisition cost reassessment requirement of the current property tax system. Proposition 60, however, allows a senior homeowner – defined as 55 years of age or older – to transfer their property tax basis to another home in the same county so long as the purchase price of the replacement home is equal to, or less than, the sale price of the original residence.

Under Proposition 60, a senior homeowner is limited to making only one such transfer over the course of his or her lifetime. And, if the spouse of a senior homeowner has already transferred a property tax basis, that senior homeowner is disqualified from making another transfer.

Proposition 90 is an extension of the original Proposition 60 program. Proposition 90 allows senior homeowners to transfer their property tax basis to a home in a different county so long as that county accepts such transfers. (At last count, only 11 counties are accepting transfers from other counties.)

Two Legislative Attempts

C.A.R. sponsored two attempts during the 2015-2016 Legislative Session to allow senior homeowners to transfer their property tax basis to a higher priced home (SB 378, Beall, 2015; AB 2668, Mullin, 2016). C.A.R. was unable to secure passage of these measures despite providing data to legislators from C.A.R.'s Research and Economics Department demonstrating that it is not unusual for a senior looking to downsize to be forced into paying more for a smaller, albeit newer, home. Both measures passed the policy committee in which they were initially considered on unanimous votes only to die in the appropriations committee.

The defeat of the two C.A.R. efforts made it clear that any amendments to the state's property tax basis portability program were only going to be achieved via the initiative system. Put another way, it became obvious that to achieve expanded portability, C.A.R. would have to go directly to the voters. Consequently, application was made to IMPAC in Spring 2016 for funds to poll voters on potential changes to California's property tax basis portability system. The polling substantiated the "lock in" effect of Proposition 13 with 71% of likely voters acknowledging that moving to a home with a price close to their home's current value would increase their property taxes, and almost half stating that they remained in their current home to keep their Proposition 13 property tax benefit.

Poll respondents were also asked their views on a property tax system, like the system in Florida, which allows a homeowner to transfer a home's property tax basis to another home. The portability system used in Florida allows transfers: (1) regardless of age, (2) an unlimited number of times, (3) to any home located in the state, and (4) even if the purchase price of the replacement home is more than the sales price of the original residence. However, the amount of the tax basis savings that can be transferred is limited to \$500,000.

When poll respondents were asked if they would support an initiative that would put in place a property tax basis portability system like that in Florida, 58% of likely voters stated they would vote for such an initiative. That figure dropped to 46% when the respondents were told the arguments against making such a change but increased to 54% when respondents were supplied with the arguments in support of the initiative.

Initiative

To pursue enactment of the policy adopted by the Board of Directors in Fall 2016, a new Property Tax Basis Portability Task Force was appointed with the mission and members noted above. The task force recommended that the following initiative proposals which would expand property tax basis portability be submitted to the Attorney General for preparation of title and summary:

Version 1. Florida model:

- No restriction on the age of the homeowner
- No restriction on the location of replacement home
- No restriction on the price of the replacement home
- No restriction on the number of times basis can be transferred

Version 2. Florida model and allow counties to opt-into accepting intercounty transfers:

- No restriction on the age of the homeowner
- Restriction: Intercounty transfers require accepting county to agree to accept such transfers
- No restriction on the price of the replacement home
- No restriction on the number of times basis can be transferred

Version 3. Florida model and retain age restriction:

- Restriction: Homeowner must be at least 55 years of age
- No restriction on the location of replacement home
- No restriction on the price of the replacement home
- No restriction on the number of times basis can be transferred

Title and Summary

On September 25, the Attorney General released the title and summary for the three versions of C.A.R.'s initiative. The main title is the same for the three versions and reads as follows:

CHANGES REQUIREMENTS FOR CERTAIN PROPERTY OWNERS TO TRANSFER THEIR PROPERTY TAX BASE TO REPLACEMENT PROPERTY.

Other than the vague reference to "Certain Property Owners" – in other words, homeowners! – there is not really anything to quarrel with regarding the titles prepared by the Attorney General. They are dense reading, but technically accurate.

LAO Cost Estimates

The fiscal summaries, on the other hand, are problematic. For version 3 (which retains the 55 years old age restriction), the summary prepared by the LAO states that there would be annual losses to both local governments and schools of around \$150 million growing over time to \$1 billion or more per year. For version 2 (which retains the county opt-in), the losses begin at a couple of hundred million growing to a couple of billion dollars per year. Finally, the losses for version 1 (which has no restrictions) begin in the hundreds of millions of dollars per year and grow to a few billion dollars per year.

Any initiative that reduces revenues to local governments and schools will face aggressive opposition. And, obviously, that opposition grows with the revenue loss. That said, it is worth remembering that Proposition 13's revenue loss was projected at \$7 billion in 1978 which translates to \$25.5 billion today. So, a high revenue loss may not be fatal.

Polling Results and Economic Analyses

C.A.R. retained a firm to poll likely voters regarding their reactions to the three titles and summaries. Version 3 (which retains the age restriction) is the version of the initiative clearly favored by likely voters. After providing both the arguments in favor and those against, 47% of the respondents said they would vote “yes,” and 25% said they would vote “no” – an almost 2 to 1 ratio. When those that are leaning either towards “yes” or “no” are factored in, those percentages increase to 55% and 32%, respectively. Finally, if those who are undecided are factored out, the percentages increase to 63% and 37%, respectively. Digging into the poll results a little deeper revealed that eliminating the 55 years old age restriction was not that important to likely voters.

In addition, C.A.R.’s Research and Economics Department reviewed the background information provided by the LAO regarding the fiscal summaries for the three versions. The economist with the department determined that under LAO’s assumptions, almost 65,000 additional transactions would occur per year under versions 1 and 2; version 3 would produce almost 43,000 additional transactions. (It should be noted that while reasonable economists (including C.A.R.’s) may differ with the LAO cost estimates, the LAO numbers are the official estimate that will appear in the voter pamphlet.) C.A.R.’s economist also predicted that housing turnover could be boosted by as much as 15%, and that adoption of Version 3 could generate as much as \$30 billion in additional volume in the marketplace.

The Cost Going Forward

The other aspect of this effort which requires serious consideration is the cost of proceeding with qualification for the ballot and, possibly, a campaign to win at the polls. C.A.R. staff recently met with a campaign consultant and were told that because it is early in the signature gathering season that it would cost between \$2.50 and \$3.50 per signature. The consultant also suggested that while the minimum number of signatures needed to qualify for the ballot is 585,407, it would be best to submit one million signatures to avoid a delay in qualifying. As a result, assuming a cost of \$3 per signature, it would cost \$3 million to qualify for the ballot.

That same campaign consultant also said that this initiative effort would cost a minimum of \$30 million with limited opposition. That cost would increase with opposition, potentially reaching \$50 million if there is full scale opposition.

Campaigns are Not “All or Nothing”

Finally, a decision to gather signatures is not necessarily a decision to proceed to a full campaign just because the measure qualifies for the ballot. Under recent changes to the initiative process, after an initiative is qualified for the ballot, the Legislature is given an opportunity to respond to the proponents’ issue. If the proponent is satisfied with the Legislature’s offer, it can choose to withdraw their initiative from the ballot. Of course, C.A.R. would have to decide what sort of increase in portability would be an acceptable compromise. And, since an amendment to the state constitution is involved, the matter would still need to go before the voters. Campaign costs would likely be less given the backing of the Legislature but they would still be significant.