RC 31

Assembly Constitutional Amendment No. 11

Adopted in Assembly June 26, 2020

Sue Parker

Chief Clerk of the Assembly

Adopted in Senate June 25, 2020

Secretary of the Senate

This resolution was received by the Secretary of State this 1st day of July, 2020, at 2 o'clock P. M.

Deputy Secretary of State

RESOLUTION CHAPTER 31

Assembly Constitutional Amendment No. 11—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Sections 2.1, 2.2, and 2.3 to Article XIII A thereof, relating to tax limitation.

LEGISLATIVE COUNSEL'S DIGEST

ACA 11, Mullin. The Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act.

The California Constitution limits the amount of ad valorem taxes on real property to 1% of the full cash value of that property, defined as the county assessor's valuation of real property as shown on the 1975–76 tax bill and, thereafter, the appraised value of the property when purchased, newly constructed, or a change in ownership occurs after the 1975 assessment, subject to an annual inflation adjustment not to exceed 2%. The California Constitution authorizes the Legislature to authorize a person over 55 years of age or any severely and permanently disabled person residing in property eligible for the homeowner's exemption to transfer the base year value of that property to a replacement dwelling of equal or lesser value located in the same county, or another county that has adopted an ordinance allowing base years value transfers from other counties, as provided. The California Constitution also provides that the purchase or transfer of the principal residence, and the first $1,000,000 of other real property, of a transferor in the case of a transfer between parents and their children, or between grandparents and their grandchildren if all the parents of those grandchildren are deceased, is not a "purchase" or "change in ownership" for purposes of determining the "full cash value" of property for taxation.

This measure, beginning on and after April 1, 2021, would authorize an owner of a primary residence who is over 55 years of age, severely disabled, or a victim of a wildfire or natural disaster, as defined, to transfer the taxable value, defined as the base year value plus inflation adjustments, of their primary residence to a replacement primary residence located anywhere in

the state, regardless of the location or value of the replacement primary residence, that is purchased or newly constructed as that person's principal residence within 2 years of the sale of the original primary residence. The measure would limit a person who is over 55 years of age or severely disabled to 3 transfers under these provisions.

The measure, beginning on and after February 16, 2021, would exclude from the terms "purchase" and "change in ownership" for purposes of determining the "full cash value" of property the purchase or transfer of a family home or family farm, as those terms are defined, of the transferor in the case of a transfer between parents and their children, or between grandparents and their grandchildren if all the parents of those grandchildren are deceased. In the case of a transfer of a family home, the measure would require that the property continue as the family home of the transferee. The measure would require that the taxable value of the property be determined as provided. In the case of property tax benefits provided to a family home under these provisions, the bill would require the transferee to claim the homeowner's or disabled veteran's exemption within one year of the transfer. The measure would specify that the above-described provisions relating to transfers between parents or grandparents and children or grandchildren would apply to transfers occurring on or before February 15, 2021.

The measure would establish the California Fire Response Fund in the State Treasury. The measure would require the Controller to annually transfer a specified amount, based on calculations by the Director of Finance, of the additional revenues and savings that accrued to the state from the implementation of this measure's provisions from the General Fund to that fund. However, the measure would provide that, if the amount required to be transferred to the California Fire Response Fund exceeds the amount transferred for the previous fiscal year by more than 10%, that excess amount would not be transferred to the California Fire Response Fund. The measure would require the Legislature to appropriate moneys in the fund solely for the purpose of funding fire suppression staffing by the Department of Forestry and Fire Protection and underfunded special districts that provide fire protection services, as provided.

The measure would also establish the County Revenue Protection Fund and continuously appropriate moneys in that fund for the purpose of reimbursing eligible local agencies, as provided. The measure would require the Controller to annually transfer a specified amount, based on the above-described calculations by the Director of Finance, from the General Fund to that fund. The measure would require each county to annually determine the gain of the county and any local agency within the county resulting from the implementation of this measure and, if that amount of gain is negative, provide that specified eligible local agencies may receive a reimbursement from the County Revenue Protection Fund. The measure would require the California Department of Tax and Fee Administration to provide a reimbursement to each eligible local agency that has a negative gain, determined every 3 years based on the aggregate gain of the eligible local agency, as provided, and require the Controller to transfer any remaining balance in the County Revenue Protection Fund to the General Fund at the end of each 3-year period, to be available for appropriation for any purpose.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2019–20 Regular Session commencing on the third day of December 2018, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

First—This measure shall be known, and may be cited, as the Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act.

Second—That Section 2.1 is added to Article XIII A thereof, to read:

SEC. 2.1. (a) Limitation on Property Tax Increases on Primary Residences for Seniors, the Severely Disabled, Wildfire and Natural Disaster Victims, and Families. It is the intent of the Legislature in proposing, and the people in adopting, this section to do both of the following:

(1) Limit property tax increases on primary residences by removing unfair location restrictions on homeowners who are severely disabled, victims of wildfires or other natural disasters, or seniors over 55 years of age that need to move closer to family

or medical care, downsize, find a home that better fits their needs, or replace a damaged home and limit damage from wildfires on homes through dedicated funding for fire protection and emergency response.

(2) Limit property tax increases on family homes used as a primary residence by protecting the right of parents and grandparents to pass on their family home to their children and grandchildren for continued use as a primary residence, while eliminating unfair tax loopholes used by East Coast investors, celebrities, wealthy non-California residents, and trust fund heirs to avoid paying a fair share of property taxes on vacation homes, income properties, and beachfront rentals they own in California.

(b) Property Tax Fairness for Seniors, the Severely Disabled, and Victims of Wildfire and Natural Disasters. Notwithstanding any other provision of this Constitution or any other law, beginning on and after April 1, 2021, the following shall apply:

(1) Subject to applicable procedures and definitions as provided by statute, an owner of a primary residence who is over 55 years of age, severely disabled, or a victim of a wildfire or natural disaster may transfer the taxable value of their primary residence to a replacement primary residence located anywhere in this state, regardless of the location or value of the replacement primary residence, that is purchased or newly constructed as that person's principal residence within two years of the sale of the original primary residence.

(2) For purposes of this subdivision:

(A) For any transfer of taxable value to a replacement primary residence of equal or lesser value than the original primary residence, the taxable value of the replacement primary residence shall be deemed to be the taxable value of the original primary residence.

(B) For any transfer of taxable value to a replacement primary residence of greater value than the original primary residence, the taxable value of the replacement primary residence shall be calculated by adding the difference between the full cash value of the original primary residence and the full cash value of the replacement primary residence to the taxable value of the original primary residence.

(3) An owner of a primary residence who is over 55 years of age or severely disabled shall not be allowed to transfer the taxable

value of a primary residence more than three times pursuant to this subdivision.

(4) Any person who seeks to transfer the taxable value of their primary residence pursuant to this subdivision shall file an application with the assessor of the county in which the replacement primary residence is located. The application shall, at minimum, include information comparable to that identified in paragraph (1) of subdivision (f) of Section 69.5 of the Revenue and Taxation Code, as that section read on January 1, 2020.

(c) Property Tax Fairness for Family Homes. Notwithstanding any other provision of this Constitution or any other law, beginning on and after February 16, 2021, the following shall apply:

(1) For purposes of subdivision (a) of Section 2, the terms "purchased" and "change in ownership" do not include the purchase or transfer of a family home of the transferor in the case of a transfer between parents and their children, as defined by the Legislature, if the property continues as the family home of the transferee. This subdivision shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree. The new taxable value of the family home of the transferee shall be the sum of both of the following:

(A) The taxable value of the family home, subject to adjustment as authorized by subdivision (b) of Section 2, determined as of the date immediately prior to the date of the purchase by, or transfer to, the transferee.

(B) The applicable of the following amounts:

(i) If the assessed value of the family home upon purchase by, or transfer to, the transferee is less than the sum of the taxable value described in subparagraph (A) plus one million dollars ($1,000,000), then zero dollars ($0).

(ii) If the assessed value of the family home upon purchase by, or transfer to, the transferee is equal to or more than the sum of the taxable value described in subparagraph (A) plus one million dollars ($1,000,000), an amount equal to the assessed value of the family home upon purchase by, or transfer to, the transferee, minus the sum of the taxable value described in subparagraph (A) and one million dollars ($1,000,000).

(2) Paragraph (1) shall also apply to a purchase or transfer of the family home between grandparents and their grandchildren if all of the parents of those grandchildren, who qualify as children

of the grandparents, are deceased as of the date of the purchase or transfer.

(3) Paragraphs (1) and (2) shall also apply to the purchase or transfer of a family farm. For purposes of this paragraph, any reference to a "family home" in paragraph (1) or (2) shall be deemed to instead refer to a "family farm."

(4) Beginning on February 16, 2023, and every other February 16 thereafter, the State Board of Equalization shall adjust the one million dollar ($1,000,000) amount described in paragraph (1) for inflation to reflect the percentage change in the House Price Index for California for the prior calendar year, as determined by the Federal Housing Finance Agency. The State Board of Equalization shall calculate and publish the adjustments required by this paragraph.

(5) (A) Subject to subparagraph (B), in order to receive the property tax benefit provided by this section for the purchase or transfer of a family home, the transferee shall claim the homeowner's exemption or disabled veteran's exemption at the time of the purchase or transfer of the family home.

(B) A transferee who fails to claim the homeowner's exemption or disabled veteran's exemption at the time of the purchase or transfer of the family home may receive the property tax benefit provided by this section by claiming the homeowner's exemption or disabled veteran's exemption within one year of the purchase or transfer of the family home and shall be entitled to a refund of taxes previously owed or paid between the date of the transfer and the date the transferee claims the homeowner's exemption or disabled veteran's exemption.

(d) Subdivision (h) of Section 2 shall apply to any purchase or transfer that occurs on or before February 15, 2021, but shall not apply to any purchase or transfer occurring after that date. Subdivision (h) of Section 2 shall be inoperative as of February 16, 2021.

(e) For purposes of this section:

(1) "Disabled veteran's exemption" means the exemption authorized by subdivision (a) of Section 4 of Article XIII.

(2) "Family farm" means any real property which is under cultivation or which is being used for pasture or grazing, or that is used to produce any agricultural commodity, as that term is

defined in Section 51201 of the Government Code as that section read on January 1, 2020.

(3) "Family home" has the same meaning as "principal residence," as that term is used in subdivision (k) of Section 3 of Article XIII.

(4) "Full cash value" has the same meaning as defined in subdivision (a) of Section 2.

(5) "Homeowner's exemption" means the exemption provided by subdivision (k) of Section 3 of Article XIII.

(6) "Natural disaster" means the existence, as declared by the Governor, of conditions of disaster or extreme peril to the safety of persons or property within the affected area caused by conditions such as fire, flood, drought, storm, mudslide, earthquake, civil disorder, foreign invasion, or volcanic eruption.

(7) "Primary residence" means a residence eligible for either of the following:

(A) The homeowner's exemption.

(B) The disabled veteran's exemption.

(8) "Principal residence" as used in subdivision (b) has the same meaning as that term is used in subdivision (a) of Section 2.

(9) "Replacement primary residence" has the same meaning as "replacement dwelling," as that term is defined in subdivision (a) of Section 2.

(10) "Taxable value" means the base year value determined in accordance with subdivision (a) of Section 2 plus any adjustment authorized by subdivision (b) of Section 2.

(11) "Victim of a wildfire or natural disaster" means the owner of a primary residence that has been substantially damaged as a result of a wildfire or natural disaster that amounts to more than 50 percent of the improvement value of the primary residence immediately before the wildfire or natural disaster. For purposes of this paragraph, "damage" includes a diminution in the value of the primary residence as a result of restricted access caused by the wildfire or natural disaster.

(12) "Wildfire" has the same meaning as defined in subdivision (j) of Section 51177 of the Government Code, as that section read on January 1, 2020.

Third—That Section 2.2 is added to Article XIII A thereof, to read:

SEC. 2.2. (a) Protection of Fire Services, Emergency Response, and County Services. It is the intent of the Legislature in proposing, and the people in adopting, this section and Section 2.3 to do both of the following:

(1) Dedicate revenue for fire protection and emergency response, address inequities in underfunded fire districts, ensure all communities are protected from wildfires, and safeguard the lives of millions of Californians.

(2) Protect county revenues and other vital local services.

(b) (1) The California Fire Response Fund is hereby created within the State Treasury.

(2) The County Revenue Protection Fund is hereby created within the State Treasury. Moneys in the County Revenue Protection Fund are continuously appropriated, without regard to fiscal year, for the purpose of reimbursing eligible local agencies that incur a negative gain, and paying the administrative costs of the California Department of Tax and Fee Administration, in accordance with Section 2.3. Moneys in the fund shall only be expended as provided in Section 2.3.

(c) For purposes of the calculations required by Section 8 of Article XVI, moneys in the California Fire Response Fund and the County Revenue Protection Fund shall be deemed to be General Fund revenues which may be appropriated pursuant to Article XIII B.

(d) The Director of Finance shall do the following, as applicable:

(1) On or before September 1, 2022, and on or before each subsequent September 1 through September 1, 2027, calculate the additional revenues and savings that accrued to the state from the implementation of Section 2.1, including, but not limited to, any increase in state income tax revenues and net savings to the state arising from any reduction in the state's funding obligation under Section 8 of Article XVI, during the immediately preceding fiscal year ending on June 30. In making the calculation required by this paragraph, the Director of Finance shall use actual data or best available estimates where actual data is not available. The calculation shall be final and shall not be adjusted for any subsequent changes in the underlying data. The Director of Finance shall certify the results of the calculation to the Legislature and the Controller no later than September 1 of each year.

(2) On or before September 1, 2028, and each subsequent September 1 thereafter, calculate the additional revenues and savings that accrued to the state from the implementation of Section 2.1, including, but not limited to, any increase in state income tax revenues and net savings to the state arising from any reduction in the state's funding obligation under Section 8 of Article XVI during the immediately preceding fiscal year ending on June 30 by multiplying the amount from the immediately preceding fiscal year ending on June 30 by the rate of increase in property tax revenues allocated to local agencies in that fiscal year. In making the calculation required by this paragraph, the Director of Finance shall use actual data or best available estimates where actual data is not available. The calculation shall be final and shall not be adjusted for any subsequent changes in the underlying data. The Director of Finance shall certify the results of the calculation to the Legislature and the Controller no later than September 1 of each fiscal year.

(e) No later than September 15, 2022, and each subsequent September 15 thereafter, the Controller shall do both of the following:

(1) Transfer from the General Fund to the California Fire Response Fund an amount equal to 75 percent of the amount calculated by the Director of Finance pursuant to subdivision (d) for the applicable year.

(2) Transfer from the General Fund to the County Revenue Protection Fund an amount equal to 15 percent of the amount calculated by the Director of Finance pursuant to subdivision (d) for the applicable year. Moneys transferred to the County Revenue Protection Fund pursuant to this paragraph shall be used to reimburse eligible local agencies with a negative gain, as provided in Section 2.3.

(f) Moneys in the California Fire Response Fund shall be appropriated by the Legislature in each fiscal year exclusively for the purposes of this section and, except as otherwise provided in subdivision (g), shall not be appropriated for any other purpose. Moneys in the California Fire Response Fund may be used upon appropriation without regard to fiscal year and shall be used to expand fire suppression staffing, as set forth in paragraphs (1) to (4), inclusive, and not to supplant existing state or local funds utilized for those purposes.

(1) Twenty percent of the moneys in the California Fire Response Fund shall be appropriated to the Department of Forestry and Fire Protection to fund fire suppression staffing.

(2) Eighty percent of the moneys in the California Fire Response Fund shall be deposited in the Special District Fire Response Fund, which is hereby created as a subaccount within the California Fire Response Fund, and appropriated to special districts that provide fire protection services in accordance with the following criteria:

(A) Fifty percent of the amount described in this paragraph shall be used to fund fire suppression staffing in underfunded special districts that provide fire protection services, were formed after July 1, 1978, and employ full-time or full-time-equivalent station-based personnel who are immediately available to comprise at least 50 percent of an initial full alarm assignment.

(B) Twenty-five percent of the amount described in this paragraph shall be used to fund fire suppression staffing in special districts that provide fire protection services, were formed before July 1, 1978, are underfunded due to a disproportionately low share of property tax revenue and an increase in service level demands since July 1, 1978, and employ full-time or full-time-equivalent station-based personnel who are immediately available to comprise at least 50 percent of an initial full alarm assignment.

(C) Twenty-five percent of the amount described in this paragraph shall be used to fund fire suppression staffing in underfunded special districts that provide fire protection services and employ full-time or full-time-equivalent station-based personnel who are immediately available to comprise at least 30 percent but less than 50 percent of an initial full alarm assignment.

(3) In determining whether a special district that provides fire protection services is underfunded for purposes of paragraph (2), the Legislature shall take into account the following factors, in order of priority:

(A) The degree to which the special district's property tax revenue is insufficient to sustain adequate fire suppression, as measured against the population density, size of the service area, and number of taxpayers within the boundaries of the special district.

(B) Whether the special district, upon formation, received a property tax allocation in accordance with Chapter 282 of the Statutes of 1979.

(C) Geographic diversity.

(4) The allocation of moneys to a special district that qualifies pursuant to paragraph (2) shall be in the form of grants, with a term of not less than 10 years, in order to ensure that the special district can engage in responsible budgeting and sustain adequate fire suppression services over the long term.

(g) Notwithstanding subdivision (f), if in any fiscal year after the first fiscal year for which moneys are transferred from the General Fund to the California Fire Response Fund pursuant to this section the amount transferred exceeds the amount transferred in the previous fiscal year by more than 10 percent, the Controller shall not transfer the amount in excess of that 10 percent, which shall be available for appropriation from the General Fund for any purpose.

Fourth—That Section 2.3 is added to Article XIII A thereof, to read:

SEC. 2.3. (a) Each county shall annually, no later than the date specified by the California Department of Tax and Fee Administration by regulations adopted pursuant to this section, determine the gain for the county and for each local agency in the county resulting from implementation of Section 2.1 by adding the following amounts:

(1) The revenue increase resulting from the sale and reassessment of original primary residences for outbound intercounty transfers pursuant to subdivision (b) of Section 2.1.

(2) The revenue decrease, which shall be expressed as a negative number, resulting from the transfer of taxable values of original primary residences located in other counties to replacement primary residences located within the county for inbound intercounty transfers pursuant to subdivision (b) of Section 2.1.

(3) The revenue increase resulting from subdivision (c) of Section 2.1.

(b) A county or any local agency in the county that has a positive gain determined pursuant to subdivision (a) shall not be eligible to receive reimbursement from the County Revenue Protection Fund. A county or any local agency in the county that has a negative gain determined pursuant to subdivision (a) shall be deemed to be an eligible local agency entitled to a reimbursement from the County Revenue Protection Fund.

(c) The California Department of Tax and Fee Administration shall determine each eligible local agency's aggregate gain every three years, based on the amounts determined pursuant to subdivision (a) for each of those three years, and provide reimbursement to each eligible local agency with a negative gain from the moneys in the County Revenue Protection Fund equal to that amount. If there are insufficient moneys in that fund to cover the total amount of reimbursements under this section, the California Department of Tax and Fee Administration shall allocate a pro rata share of the moneys in the fund to each eligible local agency based on the amount of the eligible local agency's reimbursement relative to the total amount of reimbursements under this section.

(d) At the end of each three-year period described in subdivision (c), after the California Department of Tax and Fee Administration has reimbursed each eligible local agency that has experienced a negative gain during that three-year period, the Controller shall transfer the remaining balance, if any, in the County Revenue Protection Fund to the General Fund, to be available for appropriation for any purpose.

(e) The California Department of Tax and Fee Administration shall promulgate regulations to implement this section pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), as may be amended from time to time by the Legislature, or any successor to those provisions.

(f) For purposes of this section and Section 2.2, an "eligible local agency" is a county, a city, a city and county, a special district, or a school district as determined pursuant to subdivision (o) of Section 42238.02 of the Education Code as it read on January 8, 2020, that has a negative gain as determined pursuant to this section.

FILED
in the office of the Secretary of State
of the State of California

JUL 01 2020

By _____
Deputy Secretary of State

Attest:

_____
Secretary of State