

1962

# ASSESSMENTS: HISTORICAL LANDMARK AREA

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(Read the text of the amendment, second paragraph, elsewhere in this pamphlet.) The owner could very well receive a higher rental for a tax exempt building leased to a tax exempt tenant than he would if the building were taxable and the tenant had to pay the taxes. There would be nothing dishonest about this, but why should the people of California amend their Constitution to make this kind of special privilege possible?

3. It is true that the proposition contains a "local option" feature which gives the Board of Supervisors of a County the power to make it effective or non-effective in a particular county. But remember that Supervisors levy taxes only for the support of County government. Why should Supervisors have this power to narrow the tax base of a city or a school district?

Should not all local governments have a right to be heard as to how the exemption affects them?

This proposal was sponsored through the Legislature by one relatively small chapter of a national charitable organization. **IT IS NOT A STATE-WIDE PROBLEM, AND CERTAINLY IS NOT GREAT ENOUGH TO JUSTIFY THE CREATION OF A WHOLE NEW CATEGORY OF PROPERTY TAX EXEMPTION!**

VOTE "NO" ON PROPOSITION #10!

FRANK J. WALTON  
Business executive  
Arcadia, California

**ASSESSMENTS: HISTORICAL LANDMARK AREA.** Senate Constitutional Amendment No. 12. Provides manner for assessing real property on which is located any structure of historical significance located within a historical landmark area established by state law or city ordinance; owner must agree to pay increased taxes if he changes use during year and pay increased taxes for five preceding years if law or ordinance establishing area is repealed. Before assessor may so assess property Legislature must pass law specifically so authorizing in that historical landmark area.

11

YES	
NO	

For Full Text of Measure, See Page 15, Part II

**Analysis by the Legislative Counsel**

This measure would add a new section 1h to Article XIII of the Constitution governing the assessment for tax purposes of real property in an historical landmark area when a structure of historical significance is located on such real property. It would require the assessor, under certain conditions, to assess such property on the basis of the use to which it will actually be devoted during the tax year. Under present law the assessment would have to be made on the basis of the highest and best use to which the property could be devoted, no matter what it is actually used for.

In order to qualify for such special treatment the property must be in an historical landmark area established by a State Law or city ordinance which specifically describes the area to be preserved, prohibits the construction, alteration, demolition or destruction of any structure in the area without a permit from the State or city, and prohibits entirely any construction or alteration of structures unless the exterior conforms to the type of architecture commonly associated with the historical period to which the area relates. If the historical landmark area is established by a city ordinance, the ordinance must state that this new section of the Constitution is operative within the city.

If a law or ordinance meeting these requirements is enacted and the Legislature subsequently enacts a law specifically permitting property in the particular landmark area to be assessed pursuant to the new Section 1h, it will be so assessed on certain conditions.

One of these conditions is that the owner of the property must agree in writing with the assessor that the property will not be used for any purpose during the tax year other than the purpose for which it is used on the lien date. Upon violation of such agreement the owner or his successor in interest becomes liable for the difference between the taxes paid or payable and the taxes which would have been paid or payable if the property had been assessed in the usual manner.

The other condition is that the owner must agree in writing with the assessor that if the law or ordinance establishing the historical landmark area is repealed, the owner or his successor in interest will pay an amount equal to the difference between the taxes paid or payable and the taxes which would have been paid or payable if the property had been assessed in the usual manner. Liability for this payment is limited to the five year period preceding the date the law or ordinance is repealed.

The measure would specifically permit the assessor, in assessing property to which it applies, to consider the existence of mines, minerals and quarries.

**Argument in Favor of Proposition No. 11**

Proposition 11 proposes to resolve a serious policy problem concerning the assessment of historical landmarks preserved by city ordinance or state easements. If not resolved, the present situation can result in serious tax injustices.

The 1959 Legislature amended the Government Code, Section 37361, to allow cities to

establish, by ordinance, "special conditions or regulations for (the) protection, enhancement, preservation or use" of places or structures of historic or aesthetic interest. Santa Barbara has been the primary city to benefit from the 1959 statute. The Santa Barbara City Council has established an historical area by passing an ordinance, "El Pueblo Viejo," which states that no historic structure within a designated area may be altered without the consent of the city council. Since the ordinance has been in effect, "El Pueblo Viejo" has proved to be a source of both satisfaction and profit to the people of Santa Barbara. Several other cities are preparing to establish similar historic areas.

The only problem raised by the 1959 statute has been in the area of assessment policy. Under present constitutional provisions (Article XI, Section 12), the assessor must assess property in proportion to its "full cash value." In the case of an ordinance such as Santa Barbara's, the style and form of historic structures are carefully preserved. Since it follows that the potential use of the structure and its surrounding land is restricted, the assessor faces serious difficulty in determining "full cash value." His problems are multiplied by the fact that most historic sites which are now or will likely be covered by city ordinances or state easements are located near the heart of highly developed urban areas. Thus, the traditional assessment guidelines would result eventually in a confiscatory level of taxation. These conditions and provisions of the Constitution have placed assessors in an extremely difficult position.

To overcome the difficulty, Proposition 11 stipulates that significant historic property within an authorized historical area may be assessed on the basis of its use during any given year. It has been drawn very narrowly to fit only special situations and has safeguards at every step. Oil, gas and mineral rights will be subject to full taxation wherever they occur. To prevent abuses, each historical ordinance must be approved by the Legislature before it will be subject to the new tax policy. Furthermore, the owner of an historic structure may not change its use during a given year without incurring a higher tax rate. Finally, if an historical ordinance is repealed, the owner of an historic structure subject to the provisions of Proposition 11 will be obliged to pay full taxes for five years next preceding that year in which the ordinance or law was repealed.

Proposition 11 is strongly endorsed by California historical societies. After safeguarding amendments were adopted in the Senate, it faced no opposition during its legislative committee hearings and passed both houses unanimously.

**ALBERT S. RODDA**  
State Senator, Sacramento County

**ALVIN C. WEINGAND**  
State Senator, Santa Barbara County

#### **Argument Against Proposition No. 11**

Californians who think this measure through, and visualize how it will affect their own communities will VOTE NO ON PROPOSITION #11.

Sponsors of this measure make an appealing argument by referring to our colorful history and talking about the dangers threatened by "confiscatory" taxation. They fail to emphasize that all of the property which would be benefited by the preferential tax treatment contained in Proposition #11 is privately owned, and all the tax savings realized by these private owners will be passed on and added to the equally confiscatory tax burden borne by all the rest of us!

If it is really in the public interest to preserve unchanged certain historical areas of California, is it not better to have the really important ones acquired by the public instead of permitting areas of partial tax exemption to be located hit-or-miss wherever the political pressures are strong enough to declare them to be of historical significance?

Another difficulty with Proposition #11 is the opportunity for land speculators to acquire these properties, held them for years at low taxes, and, when the restrictions are lifted, make a substantial gain at the relatively low cost of merely paying up five years of back taxes. While the Proposition contains restrictions which would make this practice difficult it does not in fact prohibit this kind of abuse.

Serious students of property taxation will recognize other defects. For instance, the proposal is full of restrictions, but completely lacking in definitions! Just what is a "structure of historical significance?" To one group it might be the site of the 1966 World Series; to another it might be the summer home of a distinguished novelist. So far as Proposition #11 is concerned, the building could have been built last year. Should something as loosely drawn as that be placed in the Constitution?

Proposition #11 is also defective because it pushes one step further the dangerous practice of assessing property not in accordance with its value, as most property is assessed, but according to the particular use that is being made of it at the time. This is a bad policy. In practical effect, it shifts the tax load off the favored property and passes it on to the rest of us. If the property is truly valuable, it should bear the same burdens on the same basis as comparable property of equal value.

**YOUR "NO" VOTE ON PROPOSITION #11  
WILL HELP TO STOP THIS BAD POLICY  
FROM SPREADING IN CALIFORNIA.**

**ROBERT L. GOLD**  
Management Consultant  
South Pasadena, California

... subsequent to the effective date of the ... and the Legislature may adopt such ... and procedures as are deemed appropriate to assure that the exemption for leased property herein authorized shall inure to the benefit of the organization entitled to exemption pursuant to this section, and not to the benefit of a private property owner or other individual. In the case of leased property, the

exemption shall not extend to property used as a home or dwelling. In the case of leased property, the exemption shall be effective in any county in which the governing body of the county provides by ordinance that it shall be effective in such county. Such an ordinance shall not be effective as to any tax year unless it is adopted at least 30 days prior to the lien date for that year.

**ASSESSMENTS: HISTORICAL LANDMARK AREA.** Senate Constitutional Amendment No. 12. Provides manner for assessing real property on which is located any structure of historical significance located within a historical landmark area established by state law or city ordinance; owner must agree to pay increased taxes if he changes use during year and pay increased taxes for five preceding years if law or ordinance establishing area is repealed. Before assessor may so assess property Legislature must pass law specifically so authorizing in that historical landmark area.

11

YES	
NO	

(This proposed amendment does not expressly amend any existing section of the Constitution, but adds a new section thereto; therefore, the provisions thereof are printed in **BLACK-FACED TYPE** to indicate that they are **NEW**.)

**PROPOSED AMENDMENT TO  
ARTICLE XIII**

Sec. 1h. (a) Notwithstanding any other provision of this Constitution, and subject to conditions set forth in subdivisions (b), (c) and (d) of this section, the assessor, in assessing any real property upon which is located any structure of historical significance which is located within a historical landmark area established by state law or by city ordinance for the preservation, protection, enhancement and perpetuation of special historical structures, shall consider no factors other than those relevant to the particular use to which it will be devoted during the year for which the assessment is made, except that the assessor shall, however, take into consideration the existence of any mines, minerals and quarries in the property, including but not limited to oil, gas and other hydrocarbon substances.

(b) In establishing an area as a historical landmark area:

(1) The ordinance shall state that this section shall be operative within the boundaries of the city.

(2) The law or ordinance shall provide for the preservation, protection, enhancement and perpetuation of structures of special historical interest.

(3) The structures shall be located within an historical landmark area specifically described in the law or ordinance.

(4) The law or ordinance shall prohibit the demolition or destruction of any structure within the area without first obtaining a permit from the State or city, whichever establishes the area, or a specified department or other agency thereof.

(5) The law or ordinance shall prohibit the construction or alteration of any structure within the area unless the exterior of the structure conforms to a type of architecture specified in the law or ordinance that is commonly associated with the historical period to which the area relates.

(6) The law or ordinance shall prohibit the construction or alteration of any structure within the area without first obtaining a permit from the State or city, whichever establishes the area, or a specified department or other agency thereof.

(c) (1) The assessor shall not assess any property pursuant to subdivision (a) of this section unless each owner of the property agrees in writing with the assessor, prior to the completion of the assessment roll, that in the event the law or city ordinance which establishes an area as a historical landmark area is repealed, the owner, his heirs, successors, administrators, executors or assigns will pay the taxing agency involved an amount equal to the difference between the taxes paid or payable on the basis of the assessment made and any greater sum of taxes that would have been paid or payable for each year affected in the absence of any such agreement for a period not exceeding five years next preceding the year in which the law or ordinance was repealed.

(2) The assessor shall not assess any property for any tax year pursuant to subdivision (a) of this section unless each owner of the property agrees in writing with the assessor, prior to the completion of the assessment roll for that year that the property to be assessed pursuant to subdivision (a) shall not be used for any purpose during the tax year other than that for which it is used on the lien date for that year. In the event the property is used for such other purposes during the tax year, the owner, his successors, administrators, executors or assigns shall be liable to the local taxing agency involved for an amount equal to the difference between the taxes paid or pay-

able for that year on the basis of the assessment made and any greater sum of taxes that would have been paid or payable for that year in the absence of such agreement.

(d) The assessor shall not assess any property pursuant to subdivision (a) of this section

unless after the enactment or adoption of a law or ordinance which establishes any historical landmark area, the Legislature enacts a law to specifically permit the assessor to so assess the property in that particular historical landmark area.

<b>12</b>	<b>AID TO WIDOWS OF VETERANS.</b> Senate Constitutional Amendment No. 24. Provides that State money or credit can be used in aiding widows of veterans who served during time of war in acquiring or paying for farms or homes.	YES	
		NO	

(This proposed amendment does not expressly amend any existing section of the Constitution, but adds a new section thereto; therefore, the provisions thereof are printed in **BLACK-FACED TYPE** to indicate that they are **NEW**.)

**PROPOSED AMENDMENT TO  
ARTICLE IV**

Sec. 31.5. Nothing contained in this Constitution shall prohibit the use of state money or credit in aiding widows of veterans who served in the armed forces of the United States during time of war, in the acquisition of, or payments for, farms or homes.

<b>13</b>	<b>COLLEGE EXEMPTION: EXTENSION OF.</b> Senate Constitutional Amendment No. 32. Extends nonprofit college tax exemption to all grounds within which buildings are located used exclusively for purposes of education rather than limiting exempt area to 100 acres.	YES	
		NO	

(This proposed amendment expressly amends an existing section of the Constitution; therefore **EXISTING PROVISIONS** proposed to be **DELETED** are printed in **STRIKED TYPE**.)

grounds within which its buildings are located ~~not exceeding 100 acres in area~~; its securities and income used exclusively for the purposes of education.

**PROPOSED AMENDMENT  
TO ARTICLE XIII**

SEC. 1a. Any educational institution of collegiate grade within the State of California, not conducted for profit, shall hold exempt from taxation its buildings and equipment, its

The exemption granted by this section applies to and includes a building in the course of construction on or after the first Monday of March, 1950, and the land on which the building is located, if the property is intended when completed to be used exclusively for the purposes of education.

<b>14</b>	<b>SALE OF TIDELANDS.</b> Senate Constitutional Amendment No. 38. Permits sale, subject to conditions imposed by the Legislature, of tidelands within 2 miles of any incorporated city, city and county, or town reserved to the State solely for street purposes when Legislature declares they are not used and are no longer necessary for navigation purposes.	YES	
		NO	

(This proposed amendment expressly amends an existing section of the Constitution; therefore **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BLACK-FACED TYPE**.)

**PROPOSED AMENDMENT TO  
ARTICLE XV**

SEC. 3. All tidelands within two miles of any incorporated city, city and county, or town in this State, and fronting on the waters of any harbor, estuary, bay, or inlet used for the purposes of navigation, shall be withheld from

grant or sale to private persons, partnerships, or corporations; provided, however, that any such tidelands, reserved to the State solely for street purposes, which the Legislature finds and declares are not used for navigation purposes and are not necessary for such purposes may be sold to any town, city, county, city and county, municipal corporations, private persons, partnerships or corporations subject to such conditions as the Legislature determines are necessary to be imposed in connection with any such sales in order to protect the public interest.