

1962

## WELFARE EXEMPTION: LEASED PROPERTY

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**10 WELFARE EXEMPTION: LEASED PROPERTY.** Assembly Constitutional Amendment No. 24. Permits extension of welfare tax exemption for religious, hospital or charitable purposes to property leased for a period of 99 years (excluding houses or dwellings), such exemption to be applicable only to improvements by lessee in accordance with procedures and limitations adopted by Legislature. Provides that exemption for leased property shall only be effective in counties so providing by ordinance.

YES

NO

For Full Text of Measure, See Page 14, Part II

**Analysis by the Legislative Counsel**

This measure would amend Section 1c of Article XIII of the Constitution to permit the Legislature to exempt from taxation property leased for 99 years by a nonprofit community chest, fund, foundation or corporation organized and operated for religious, hospital or charitable purposes, if the property is used exclusively for religious, hospital or charitable purposes. The existing provision permits the exemption of property so used only if it is owned by such a community chest, fund, foundation or corporation.

The new exemption extends only to value added to the property after the effective date of the lease, and cannot extend to property used as a home or dwelling. The measure specifically authorizes the Legislature to enact laws designed to insure that any exemption of such leased property benefits the organization entitled to the exemption and does not benefit any private property owner or other individual.

The new exemption would be available only in those counties which adopt ordinances making it available. To be effective for a particular tax year such an ordinance must be adopted at least 30 days prior to the lien date for that year.

**Argument in Favor of Proposition No. 10**

The Constitution of the State of California presently authorizes the Legislature to exempt from taxation all or any portion of property used exclusively for a religious, hospital or charitable purpose and owned by a nonprofit organization established and operated for such a purpose.

This measure would extend the authorization by making it applicable, under special circumstances, also to property of the kind described that has been leased for 99 years to an organization of the type mentioned.

Many of these organizations provide health and welfare services on the property thus leased that are as important and helpful to the citizens of this State as those provided by similar, currently exempt organizations on property that they themselves own. The only distinction between the organizations is that some own the property which they use in performing their function and some merely lease the property used by them. This distinction is more apparent than real, however, particularly as between an organization that owns its property outright and another that leases its property for 99 years.

The present difference in the tax treatment of these organizations is patently unjust and inequitable. It is also inconsistent with the policy of this State to encourage private charitable agencies to engage in public service and prevents many of such agencies from obtaining the additional facilities that are needed to meet our constantly mounting population needs.

While the extension of the exemption that this amendment would permit might result in a loss of some property tax revenue, the additional health and welfare services that will result from the extension would undoubtedly more than compensate for any such loss.

A "Yes" vote on this measure will cure an injustice and help promote the policy of this State to assist private charitable agencies to perform services that are beneficial to the public.

JEROME R. WALDIE  
Assemblyman, 10th District

WILLIAM BYRON RUMFORD  
Assemblyman, 17th District

**Argument Against Proposition No. 10**

A "NO" VOTE ON PROPOSITION #10 IS URGED FOR REASONS WHICH FOLLOW:

1. This is another measure which would erode the property tax base upon which cities, counties, and school districts depend for their primary support.

Regardless of the merits of the various religious, hospital and charitable organizations which could take advantage of this amendment, voters should remember that every time a piece of property becomes tax exempt, the tax burden borne by all other property is that much greater. In view of the fact that more than \$1,500,000,000 of property is already exempt under existing law, voters should be very cautious about allowing new categories of exemptions to creep in. The "tax shift" resulting from tax exemptions is already very large and still growing. Unless the people VOTE "NO" ON PROPOSITION #10, it will grow even faster.

2. Another reason to be cautious about Proposition #10 is because it contains loopholes from which persons not entitled to the exemption could derive a benefit. For instance, this could happen: A charity leases a bare tract of land for a period of 99 years, with an agreement that the owner will erect a building on it. The building is tax exempt under Proposition #10 because it is "value added to the property" subsequent to the effective date of the lease.

(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

At the general session, no bill, other than the Budget Bill, shall be heard by any committee until 20 calendar days have elapsed following the date the bill was first introduced, or shall be acted upon by either house until 30 calendar days have elapsed following the date the bill was first introduced; provided, that this provision may be dispensed with by the consent of three-fourths of the members of the house.

Second—That subdivision (d) is added to Section 2 of Article IV, to read:

(d) In addition to any other recess, Legislature may take one recess of not more than 10 calendar days at a general session which shall not be counted in computing the limitation on the duration of general sessions.

**GENERAL OBLIGATION BONDS. Assembly Constitutional Amendment No.**

9

40. Authorizes Legislature to establish "General Obligation Bond Proceeds Fund" and to place proceeds of all general obligation bond issues in said fund. Requires separate account for proceeds of each issue and permits payment only in accordance with law authorizing the issuance. Authorizes Legislature to abolish any general bond fund in the State Treasury if transferred into "General Obligation Bond Proceeds Fund" and it may later re-establish such fund.

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 XVI**

Sec. 15. The Legislature may create and establish a "General Obligation Bond Proceeds Fund" in the State Treasury, and may provide for the proceeds of the sale of general obligation bonds of the State heretofore or hereafter issued, including any sums paid as accrued interest thereon, under any or all acts authorizing the issuance of such bonds, to be paid into or transferred to, as the case may be, the "General Obligation Bond Proceeds Fund." Accounts shall be maintained in the "General Obligation Bond Proceeds Fund" of all moneys deposited in the State Treasury to the credit of that fund

and the proceeds of each bond issue shall be maintained as a separate and distinct account and shall be paid out only in accordance with the law authorizing the issuance of the particular bonds from which the proceeds were derived. The Legislature may abolish, subject to the conditions of this section, any fund in the State Treasury heretofore or hereafter created by any act for the purpose of having deposited therein the proceeds from the issuance of bonds if such proceeds are transferred to or paid into the "General Obligation Bond Proceeds Fund" pursuant to the authority granted in this section; provided, however, that nothing in this section shall prevent the Legislature from re-establishing any bond proceeds fund so abolished and transferring back to its credit all proceeds in the "General Obligation Bond Proceeds Fund" which constitute the proceeds of the particular bond fund being re-established.

**WELFARE EXEMPTION: LEASED PROPERTY. Assembly Constitutional Amendment No. 24.**

10

Permits extension of welfare tax exemption for religious, hospital or charitable purposes to property leased for a period of 99 years (excluding houses or dwellings), such exemption to be applicable only to improvements by lessee in accordance with procedures and limitations adopted by Legislature. Provides that exemption for leased property shall only be effective in counties so providing by ordinance.

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 XIII**

Sec. 1e. In addition to such exemptions as are now provided in this Constitution, the Legislature may exempt from taxation all or any portion of property used exclusively for religious, hospital or charitable purposes and owned or leased for a period of 99 years by community chests, funds, foundations or corporations organized and operated for religious,

hospital or charitable purposes, not conducted for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual. As used in this section, "property used exclusively for religious, hospital or charitable purposes" shall include a building and its equipment in the course of construction on or after the first Monday of March, 1954, together with the land on which it is located as may be required for the use and occupation of the building, to be used exclusively for religious, hospital or charitable purposes.

In the case of leased property, the exemption shall extend only to value added to the property.

... 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-