



## Legislative Bill Analysis

[Senate Bill 989](#) (Hertzberg)

Date: June 13, 2022 (Amended)

Program: Property Taxes

Revenue and Taxation Code sections 2610.8 and 2636.1

Effective: January 1, 2023

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**Summary:** This bill proposes to add sections 2610.8 and 2636.1 to the Revenue and Taxation Code<sup>1</sup> (RTC) to add a disclosure on certain property tax bills regarding [Proposition 19](#) benefits and property tax deferment procedures. The bill also allows taxpayers to defer payment of local property taxes if their property meets certain qualifications.

**Summary of Amendments:** The **June 13, 2022**, amendments add a disclosure to local property tax bills regarding the base year value transfer provisions of Proposition 19 and property tax deferment procedures. The amendments additionally authorize a qualified taxpayer to defer payment of local property taxes if the two conditions discussed in the Summary section are met.

**Fiscal Impact Summary:** Indeterminable, but will likely result in a delay of local property tax revenue statewide.

**Existing Law:** For property tax purposes, the law requires assessors to reassess real property from its Proposition 13 protected value (called the "base year value") to its current market value whenever a change in ownership occurs.<sup>2</sup> Exceptions to this reassessment requirement have been enacted, including base year value transfers for property owners whose property has been damaged or destroyed in a disaster for which the Governor proclaimed a state of emergency. In addition, subject to many conditions, the law<sup>3</sup> allows homeowners at least age 55 years, or who are severely and permanently disabled, or victims of a wildfire or natural disaster, to sell their existing home (called the "original property"), buy or build a new one, and transfer their base year value to the new home (replacement home).

**Proposition 19 Over 55/Disabled/Victims of Wildfire or Natural Disaster Base Year Value Transfer.**

Operative April 1, 2021, Proposition 19 added section 2.1(b) to article XIII A of the California Constitution to allow homeowners who are over age 55, severely disabled, or victims of wildfire or natural disasters to transfer a base year value to a replacement home anywhere in California, regardless of the location or value. SB 539, the Proposition 19 implementation bill made clarifying changes to the provisions and added section 69.6.<sup>4</sup> Specifically:

- **Principal Place of Residence.** To qualify for this benefit, both the original property and the replacement home must be eligible for either the homeowners' or the disabled veterans' exemption, based on the claimant's ownership and occupation of the home as a principal place of residence.<sup>5</sup>
- **Original Property.** The original property must be sold. SB 539 clarified that the base year value of the original property cannot be transferred until the original property is sold.

<sup>1</sup> All code sections shall reference the Revenue and Taxation Code unless otherwise specified.

<sup>2</sup> Article XIII A, section 2 of the California Constitution.

<sup>3</sup> Article XIII A, section 2(a) of the California Constitution and RTC section 69.5.

<sup>4</sup> SB 539 (Hertzberg), Ch. 427, Stats. 2021.

<sup>5</sup> RTC section 69.6(b)(2).

*This staff analysis is provided to address various administrative, cost, revenue, and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.*

- **Replacement Property.** The replacement property must be purchased or newly constructed within two years of the sale of the original property.
- **Location.** The replacement property can be located anywhere in California.
- **Value.** The base year value may be transferred to a home of equal or lesser value. However, if the value of the replacement home is *greater* than the value of the original property, the difference in market values must be added to the transferred base year value. Victim of a wildfire or natural disaster who chooses not to rebuild on their substantially damaged property to use the value of their property prior to it being in a damaged condition for a base year value transfer.
- **Limitation on the Number of Base Year Value Transfers.** Homeowners over age 55 or severely disabled may use this base year value transfer up to three times. There is no limit on transfers for those who are victims of wildfires or natural disasters.

**Proposed Law: Adds Disclosure to Property Tax Bills.** The **June 13, 2022**, amendments require a disclosure to be printed on each tax bill for properties that have been purchased, newly constructed, or changed in ownership in the year preceding the tax bill that includes a brief summary of the Proposition 19 base year value transfer provisions and the property tax deferral procedures authorized by the bill.

**Allows Deferral of Local Property Taxes.** The **June 13, 2022**, amendments allow a taxpayer to defer local property taxes, without penalty or interest, if both of the following conditions apply:

- The property owner has claimed the property tax relief pursuant to section 69.6 for the property, but the County Assessor has not completed its determination of the property's eligibility for property tax relief under section 69.6;
- The property owner requests deferral with the County Assessor within one calendar year, but before January 1, 2024, of receiving the first tax bill for the property.

**Deferred Payment.** The **June 13, 2022**, amendments specify local property taxes that have been deferred by a taxpayer shall be deferred until either the County Assessor has reassessed the property and a corrected tax bill prepared pursuant to section 69.6 has been sent to the property owner<sup>6</sup> or the County Assessor has determined the property is not eligible for exclusion pursuant to section 69.6 and the County Assessor has notified the property owner.<sup>7</sup>

**Payment of Deferred Local Property Taxes.** The **June 13, 2022**, amendments specify the following timeframe for payment of deferred local property taxes:

**Eligible Taxpayers**

- For taxpayers that deferred payment, and County Assessors have reassessed the property and reissued a corrected tax bill, local property taxes shall become due and payable December 10 or 30 days after the date the corrected bill is mailed or electronically transmitted to the property owner, whichever is later. Second installments of local property taxes that have been deferred are due and payable April 10 or 30 days after the date the corrected bill is mailed or electronically transmitted to the property owner, whichever is later. Deferred taxes that are unpaid shall

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<sup>6</sup> Section 2636.1, subd. (b)(1)

<sup>7</sup> Section 2636.1, subd. (b)(2)

become delinquent at 5 p.m., or the close of business, whichever is later, of the due date and shall be subject to delinquency penalties as provided by law.

**Ineligible Taxpayers:**

- For taxpayers that deferred payment, and County Assessors have determined are not eligible for deferment shall have taxes be due and payable December 10 or 30 days after the postmark date or date of mailing printed on the County Assessor's notice to the property owner, whichever is later. Second installments of property taxes that have been deferred pursuant to this section but that have since been corrected shall be due and payable April 10 or 30 days after the postmark date or date of mailing printed on the county assessor's notice to the property owner, whichever is later. Deferred taxes that are unpaid shall become delinquent at 5 p.m., or the close of business, whichever is later, of the due date and shall be subject to delinquency penalties as provided by law.

**Does Not Apply to Impound Accounts.** The **June 13, 2022**, amendments specify that deferment of local property taxes does not apply to property taxes paid through impound accounts.

**Effective Date.** The **June 13, 2022**, amendments specify the local property tax deferment section shall remain in effect only until January 1, 2026, and as of that date is repealed.

**In General: Property Tax System.** In 1978, voters approved [Proposition 13](#), which added article XIII A to the California Constitution. Under this system, property is valued at its full cash value shown on the 1975 tax bill, with annual increases thereafter limited to the amount of inflation or 2 percent, whichever is less, until the property changes ownership or new construction occurs. Once a reassessable event occurs (i.e., a change in ownership or new construction), the value of the property for tax purposes is redetermined based on its current market value. The value initially established, or redetermined where appropriate, is referred to as the "base year value." Because real estate values generally appreciate at a rate greater than 2-percent per year, when an event occurs triggering a reassessment of property to its current market value, the reassessed value (i.e., its new base year value) will likely be substantially higher.

California property tax law provides for various situations where the base year value of a property is either: (1) retained, notwithstanding that new construction has taken place or that the property has changed ownership, or (2) transferred to another property, notwithstanding that the property has changed ownership. These special situations are provided pursuant to various constitutional amendments modifying the original Proposition 13 framework and serve to avoid the otherwise required reassessment of a property to its current market value.

**Over 55/Disabled Base Year Value Transfers.** Prior to **November 3, 2020**, voters approved three constitutional amendments permitting persons over age 55 or disabled to transfer their Proposition 13 base year value from one home to another that is of equal or lesser value<sup>8</sup>. The base year value transfer avoids reassessment of the newly purchased home to its fair market value.

- **Intracounty.** In 1986, [Proposition 60](#)<sup>9</sup> amended the constitution to allow persons who are over the age of 55 to sell a principal residence and transfer its base year value to a replacement principal residence within the same county.
- **Intercounty.** In 1988, [Proposition 90](#)<sup>10</sup> amended the constitution to extend these provisions to a replacement residence located in another county on a county-optional basis. Relevant to this bill,

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<sup>8</sup> Article XIII A, section 2(a).

<sup>9</sup> [Proposition 60](#), approved November 4, 1986.

<sup>10</sup> [Proposition 90](#), approved November 8, 1988.

the law gives each county board of supervisors the option to accept intercounty base year value transfers from homeowners moving from a different county. The boards of supervisors are required to consult with local affected agencies, cities, special districts, school districts, and community college districts, before making the decision to enact a necessary local ordinance.

- **Disabled Persons.** In 1990, [Proposition 110](#)<sup>11</sup> amended the constitution to extend these provisions to any severely disabled person regardless of age.

RTC section [69.5](#) implements these three propositions.

The BOE's Assessors' Handbook [Section 401](#), *Change in Ownership*,<sup>12</sup> (September 2010) chapter 14, provides more details, and the BOE's website includes FAQ's for [Propositions 60/90](#) and [Proposition 110](#).

**Payment of Property Taxes.** The County Tax Collector is responsible for preparing property tax bills. Bills for the regular secured assessment roll (generally real property) are mailed by November 1 and are due in two equal installments. The first installment is due November 1 and becomes delinquent December 10. The second installment is due on February 1 and becomes delinquent April 10 unless.

If taxes are not paid by the delinquent date, there is a 10 percent penalty.<sup>13</sup> After the second installment of taxes is delinquent, the County Tax Collector shall collect a cost of \$10 for preparing delinquent tax records and giving notice of delinquency.<sup>14</sup>

If a taxpayer receives a notice of impending default, and the taxes remain unpaid on the date the notice says they are due, the property is declared tax-defaulted. Monthly redemption penalties of 1.5 percent are added to the unpaid taxes. The property owner has the right to redeem the property by paying the taxes, penalties, and costs within five years of the date the property becomes tax-defaulted. If the property is not redeemed within five years, the property may be sold at public auction or acquired by a public agency.<sup>15</sup>

**Background:** Proposition 19, approved by the voters on November 3, 2020, as relevant here, added section 2.1 to article XIII A of the California Constitution to provide the following two types of property tax relief:

- Operative February 16, 2021, sections 2.1(c) and (d) replaced the former parent-child and grandparent-grandchild exclusions with a new intergenerational transfer exclusion, if the property continues as the family home or family farm of the transferee, and requires the family home or family farm to meet a specified value test.
- Operative April 1, 2021, section 2.1(b) allows a base year value transfer for homeowners who are over age 55, severely disabled, or victims of a wildfire or natural disaster to a replacement home in California, regardless of location or value.

To receive a Proposition 19 base year value transfer, a taxpayer must file a claim form with the County Assessor where the taxpayer's new and current residence is located after both transactions (current and prior residence) have been completed and the taxpayer is living in the current residence. The taxpayer may receive the Proposition 19 claim form from the website of the County Assessor where the new residence is located.

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<sup>11</sup> [Proposition 110](#), approved June 5, 1990.

<sup>12</sup> This document is in the process of being converted to be ADA compliant and is available upon request.

<sup>13</sup> Sections 2617 and 2618.

<sup>14</sup> Section 2621.

<sup>15</sup> Board of Equalization, *California Property Tax: An Overview, Publication 29*.

County Assessors then process Proposition 19 claim forms and verify that the purchases meet the qualifications of a base year value transfer and issue an updated taxpayer base year value and adjusted property tax bill.

### **Commentary:**

- 1. Summary of Amendments.** The **June 13, 2022**, amendments specify certain local property tax bills should have a summary of Proposition 19 property tax provisions and a summary of property tax deferment offered by this bill. Additionally, the amendments allow taxpayers to defer local property taxes if they have claimed relief under section 69.6 provisions and requests deferment within one calendar year, but before January 1, 2024, of receiving the first tax bill for the property.
- 2. Potentially Lengthy Delay.** The bill authorizes taxpayers to defer payment of local property taxes until County Assessors determine whether the property is eligible for a base year value transfer and issue a corrected tax bill or until County Assessors deny a claim. Currently, the bill allows payment of deferred local property taxes to be either of the following, the new date of December 10 and April 10 or the date following the correction or determination of ineligibility, whichever is later.

County Assessors cannot determine if a taxpayer qualifies for a base year value transfer under Proposition 19 until they have valued both properties and determined the market value of each, which may require coordination between two counties should the properties be in different counties. Currently, some counties are behind in processing transfers, as well as processing claims for base year value transfers, so there is no timetable for when claims are resolved. This could potentially lead to lengthy delays of when deferred property taxes must be paid since the deferment is open ended since the deadline is left open ended by specifying *whichever is later*. The delay in local property tax revenues can have significant downstream effects on local governments that rely on property tax revenues coming in on time.

- 3. County Assessor Workload.** County Assessors have a large and diverse workload ensuring properties are assessed accurately, exemptions applied and claim forms are processed efficiently while a county's staffing may vary from large to small. With budgets set by their respective County Board of Supervisors, County Assessors may not have the staff or resources necessary to be able to process Proposition 19 claim forms in a more expeditious manner.
- 4. Deferment Claims.** The bill allows taxpayers to claim local property tax revenue deferment before January 1, 2024. Taxpayers who have Proposition 19 claims in this timeframe may benefit from this deferment, but what occurs if the claims process backlog still exists beyond January 1, 2024? Taxpayers who have claims outside this window will then be required to pay their property taxes even if the backlog persists.
- 5. Technical Clarification.** The **June 20, 2022**, amendments added subdivision (c), paragraph (2) relating deferred property tax payments for ineligible claimants. In relation to the first installment, the language references tax bills that "have been deemed correct," but in the second installment language, the paragraph references "since have been corrected." Since the denial of the claim means the tax bill was issued correctly, the author may wish to consider the technical amendment below to reference "been deemed correct."

*(2) First installments of property taxes that have been deferred pursuant to this section but that have been deemed correct pursuant to paragraph (2) of subdivision (b) shall be due and payable December 10 or 30 days after the postmark date or date of mailing printed on the county assessor's notice to the property owner, whichever is later. Second installments of property taxes that have been deferred pursuant to this section but that have ~~since been corrected~~ been deemed correct shall be due and payable April 10 or 30 days after the postmark date or date of mailing printed on the county assessor's notice to the property owner, whichever is later.*

**Costs:** The BOE would incur costs of approximately \$1,734 and 21 personnel hours to issue a Letters to Assessors notifying County Assessors of the change in law.

**Revenue Impact:** The revenue impact of SB 989 is difficult to estimate. This bill authorizes taxpayers to defer payment of local property taxes if a property owner has claimed a Proposition 19 base year value transfer and County Assessors have not processed the claim and if the taxpayer requests deferment within one calendar year, but before January 1, 2024, of receiving their first tax bill for the property.

Under Proposition 19, a replacement home can be purchased or constructed anywhere in California and of any value. It is difficult to attribute how many taxpayers would request deferment of local property taxes under this bill and are ultimately eligible for the deferment. However, using statewide average values and limited Proposition 19 transfer data, staff can attempt to compute an average revenue impact if taxpayers were to request and be eligible for deferment.

According to the California Association of Realtors, the January 2021 median home price in California was \$699,920. For roll year 2021-22, the estimated average assessed value of a property receiving the homeowners' exemption is \$466,000. Therefore, where a claim for transfer is granted, the estimated amount of assessed value difference per home on average is \$234,000 (\$700,000 – \$466,000). Average revenue loss at the basic 1-percent property tax rate is estimated at \$2,340 per replacement home (\$234,000 x 1%). From April 1, 2021, to March 31, 2022, 25 counties reported 2,027 total Proposition 19 transfer claims. If every taxpayer who transferred their base year value had applied for local property tax deferment under this bill, local counties would have experienced approximately \$4.7 million in delayed local property tax revenue.