

From: January 14-15, 2021 Board Meeting-Public Comment
To: Meeting Info
Subject: [External] January 14-15, 2021 Board Meeting-Public Comment
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Public Comment

From: Ronald Oertel
Agenda Item: M2a. Board Discussion on Strike Team Reports, Part 2
Meeting Date: 01/15/21

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Agenda Item(s):

II. Board Governance

Continued - Proposed amendments of the Board Members' Governance Policy

J. Administrative Consent Agenda - Retirement Resolutions and Approval of Board Meeting Minutes

K1a. Organizational Update - Report on the status of pending and upcoming organizational issues

K1c. Operational Priorities & Projects - Report on the status of operational priorities and agency projects

K2a. Legal Workload Quarterly Report - General discussion on the Legal Department's workload over the last three months

K4a. Update on Legislative Issues - Update on legislative bills impacting the BOE both administrative and program related

K5a. Taxpayers' Rights Advocate Office Update - Update on activities of the Taxpayers' Rights Advocate Office

M2a1. Legislative Actions

M2a2. Guidance and Rulemaking

M2a4. Communications Plan: Education and Outreach

Comment:

Not sure which agenda item this refers to, in regard to Proposition 19. In any case, here's my input. Note that it is several paragraphs in length: My comments are made in regard to concerns regarding lack of clarity, unintended impacts and incorrect interpretations regarding Proposition 19 as it relates to parent-child transfers. I was not informed of or aware of the BOE meeting until today (1/15/21) – despite multiple phone calls and messages to your office regarding this proposition (as well as multiple, unsuccessful attempts to communicate with legislative representatives over the past couple of months). However, I was subsequently able to view a portion of the meeting online. First, I'd like to thank your legal representative for acknowledging that the BOE's Letter to County Assessors (dated December 11th, 2020) was incorrect regarding the primary home requirement in regard to "family farms". As with other concerns, the initial, incorrect interpretation appears to be primarily due to a poorly-worded ballot measure, placed on the ballot at the last moment in conjunction with special interests and without due diligence. Although the BOE's legal representative acknowledges confusion regarding the interpretation of "continue" (which is at the very heart of the proposition), he ultimately interprets it in a manner that is not supported by the ballot measure itself, and is likely not what voters intended. For example, some definitions of the word "continue" include "carry on", "resume" or "commence". The ballot measure does support an interpretation of a home "continuing" as a primary home of a transferee, but says nothing whatsoever regarding a current primary home requirement of a transferor. As such, it appears that voters interpreted the measure to include any home that would "continue" as a primary home of a transferee, without necessarily being the current primary home of the transferor. In fact, that's what some

of the ballot arguments essentially state. As an example of the confusion, one commenter (during the meeting on 1/14) noted that a home (while not the primary home of a transferor) was already the primary home of a future transferee. And yet, this was interpreted (by your legal representative) as “not qualifying” for an exclusion, in regard to the portion owned by the parent. Again, this interpretation is not supported by the ballot language, nor does it appear to be the intent of voters. Then there’s the disproportionate impact this would have on those with disabilities (erg., parents with several children – one or more of whom might have a disability), who would not necessarily be able to afford the parent’s “primary home” – and were instead planning (for years, if not decades) to ultimately move into a home that is not the parent’s primary home. Unfortunately, those disabled/limited income children may not be able to afford the increased tax. Of course, this would also apply for those with disabilities who intended to move into a parent’s primary home (but with a market value in excess of the excluded amount afforded by Proposition 19), who would then be effectively priced-out of that home as a result of the increased tax, as noted by another commenter today. (Another unforeseen impact of the lack of clarity in the ballot measure, itself – and again, disproportionately impacting those with disabilities/limited incomes.) The disproportionate impact would also affect parents of advanced age/disability (and at high risk of Covid, and impacted by shutdowns), who (unlike younger, healthier parents) are not able to take any action to mitigate the impacts of this devastating proposal for their children (disabled, or not) prior to its implementation. As far as “continuing”, the same question would apply regarding family farms (e.g., those with previous, past, or potential farming activities, but which may not be currently active). Again, the ballot measure does not address this, nor does it address the degree/amount of farming, ranching, or logging activities required. As an example, it appears this should include a child “continuing” farming operations, without necessarily demonstrating commercial farming operations as of the date of transfer. (Perhaps more so, in the case of parents who were no longer able to continue farming activities due to advanced age and/or disability.) Then there’s the lack of understanding (on the part of an average voter) regarding the definition of either a “family home” or “family farm”. It is likely that many voters assumed that this included any home (e.g., a parent’s primary home, vacation home, an unused home, a home already occupied by a child, or rental property) that was not intended to “continue” as a rental property. (Again, I’d refer to the ballot arguments regarding that as well.) It is difficult to believe that the intent of voters was to price children out of “family homes” or “family farms”, nor is it likely that voters understood what those terms meant. It may be that this confusing terminology was intentional, in an effort to gain support for the proposal. Someone I know actually supported the proposal (due to the “carrot” afforded by the proposition), without understanding the devastating impacts on their own family (the much larger “stick”). I suspect that person is far from alone. This type of confusion is likely the result of allowing real estate interests to advance a self-interested proposal (at the last possible moment for inclusion on the ballot) without the legislature vetting its devastating impacts on future generations. I understand that the legislature went so far as to call a “special election” at the last possible moment to ensure that this proposal appeared on the November ballot, in which most voters were far more focused on the presidential race. Another commenter (on 1/14) also noted that this proposition is essentially “two ballot measures” in one, adding to the confusion (and possible legal vulnerabilities). The lack of clarity, misleading arguments and interpretations, the self-interests behind it, the manner in which this was placed on the ballot, and the absolutely devastating impact this will have on a significant number of families (which likely won’t be fully understood until they receive a supplemental or massively-increased tax bill) demonstrate a complete and total lack of due diligence on the part of the legislature. I urge the board to note these concerns, consider the possibility that their legal representative’s interpretation is not correct (e.g., in regard to how an “average voter” interpreted the

proposition, terminology, and the arguments presented), and request that the legislature consider clarifying it in a manner that was likely intended by voters. Sincerely, Ronald Oertel