

# Memorandum

To: Yvette M. Stowers, Executive Director

Date: December 1, 2023

/s/ David Yeung

From: David Yeung, Deputy Director  
Property Tax DepartmentSubject: **Proposition 1, Behavioral Health Services Program and Bond Measure**

## General Provision

Proposition 1 will appear on the March 5, 2024, Presidential Primary Election. It is made up of [Senate Bill 326](#), The Behavioral Health Services Act, and [Assembly Bill 531](#), The Behavioral Health Infrastructure Bond Act of 2023.

Senate Bill 326 amends the Mental Health Services Act (MHSA), which was enacted with the approval of [Proposition 63](#) in 2004. Proposition 63 imposed an additional 1% tax on income above \$1 million and dedicated the revenue to counties to fund mental health services and programs. Provisions of Senate Bill 326 would rename the MHSA to the Behavioral Health Services Act (BHSA). It would also expand the act to include treatment for substance use disorders. It would change how county mental health plans are required to spend revenue from the 1% tax including requiring 30% of the Behavioral Health Services Fund be allocated to housing intervention programs and increase the number of members on the oversight commission of the act.

The provisions of Assembly Bill 531 would create the Behavioral Health Infrastructure Bond Act to authorize \$6.380 billion in general obligation bonds to finance permanent supportive housing for veterans and others, as well as behavioral health treatment and residential settings for individuals experiencing homelessness or at risk of homelessness with severe behavioral health challenges. Included provisions would also allow for by right, streamlined ministerial review for capital projects funded by the bond. The monies in the fund shall be allocated as follows:

- \$1.05 billion for permanent supportive housing for homeless veterans who have mental health or substance abuse disorders,
- \$922 million to fund permanent supportive housing for people experiencing or at risk of homelessness and have behavioral health needs; and
- \$4.393 billion for grants for behavioral health treatment and housing eligible under the Behavioral Health Continuum Infrastructure Program.

Assembly Bill 531 does not specify the type of supportive housing to be built under its provisions. Therefore, as described below, until Proposition 1 is approved and implementing guidance is granted, it is impossible to determine the specific property tax effect on any supportive housing developed under its provisions.

## **Property Tax Implications for Housing Funded by Proposition 1**

Proposition 1 proposes to direct existing funds and raise new funds to expand supportive housing; however, much of the specifics, such as who will hold ownership of the property, what the purposes will be, and who will operate the property, are yet to be determined and will materially affect the property's taxability. Below, however, is a general description of real property taxation and several exemptions from taxation that may apply.

Section 1 of Article XIII of the California Constitution states that all property, not exempt, is taxable at the same percentage of fair market value. Fair market value is also known as full value or full cash value. (Cal. Const., Art. XIII, § 1, Rev. & Tax. Code, § 110.5.) Consistent with the California Constitution, section 401 requires that every assessor "assess all property subject to general property taxation at its full value." Section 110, subdivision (a) defines "full cash value" or "fair market value" as the amount a property would sell for in an arms-length transaction.

Accordingly, any facilities constructed pursuant to Proposition 1 would be assessable and taxed at its fair market value unless an exemption is applied. Sections 3 through 5 of Article XIII of the California Constitution lists exemptions from property taxation. Specific categories of exemptions are also set forth in the Revenue and Taxation Code (RTC) beginning with section 202. Several potentially relevant exemptions are as follows:

1. Property owned by state or local government is exempt from taxation under section 3 of Article XIII. For example, property owned by the Health and Human Services Agency, or the Department of Veterans Affairs would be exempt, as would property owned by city or county housing authorities.
2. Property owned by qualified nonprofits may be eligible for partial or full exemption. RTC section 214 provides that property used for a charitable, religious, hospital, or scientific purpose may be eligible for what is known as the welfare exemption. The nonprofit would have to apply with the State Board of Equalization (BOE) to be certified as a qualified organization and then with the County Assessor to qualify each property seeking the welfare exemption. Relevant qualified purposes may include hospitals, low-income housing, elderly or disabled housing, and emergency or temporary shelters.
3. Property used under a long-term lease by a qualified nonprofit for low-income housing may be eligible for a property tax exemption pursuant to RTC 236.
4. Under RTC section 215.1, property owned by a veteran's organization may be exempt from taxation. The veteran's organization must be chartered by the United States Congress and the property must be used exclusively for charitable purposes in the actual operation of a charitable activity; the property may not be used for fraternal, lodge, or social club purposes, except when the use is clearly incidental to a qualified veterans' organization's charitable purpose. In addition to meeting the provision of RTC section 215.1, the property must also meet certain provisions of RTC section 214.

Finally, if the property does not qualify for an exemption, it may still qualify for preferential assessment under RTC section 402.1. Under RTC section 402.1, if a property is subject to an enforceable governmental restriction, the County Assessor must take that restriction into account when assessing the property. The restriction may result in a lower assessment when compared to similar but unrestricted property.

### **Impact on Property Tax Administration**

If the voters approve Proposition 1, the BOE should, as the need arises, issue Letters to Assessors, review and update Assessors' Handbooks, issue annotated rulings of counsel, develop forms, and update the BOE website.

The BOE will also need to review the implementing statutes and potentially promulgate regulations to clarify and implement enacted statutes impacting the assessment of Proposition 1 supportive housing.

As mentioned previously, the welfare exemption is co-administered by the BOE and the 58 County Assessors. The BOE is responsible for determining whether an organization is qualified for the welfare exemption through the issuance of an Organizational Clearance Certificate (or issuance of a Supplemental Clearance Certificate for a limited partnership owning low-income rental housing), while the Assessor is responsible for determining whether the use of the property is eligible for the welfare exemption. Applications for the certificates are filed with the BOE. Depending on the number and types of property funded and constructed under Proposition 1, the increase in the number of applications could represent a substantial increase in workload for both the BOE and County Assessors.