

SA2005RF0059

January 24, 2005

VIA MESSENGER

Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814

Attn: Tricia Knight
Re: *Tax Fairness Act of 2005*

RECEIVED
JAN 26 2005

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Dear Ms. Knight:

Pursuant to Elections Code section 9002, we request that the Attorney General prepare a title and summary of a measure entitled the "*Tax Fairness Act of 2005*." The text of the measure, a check for \$200.00, the address at which we are registered to vote and the signed statement certifying that we will not willfully allow initiative signatures to be used for purposes other than qualification of the measure are enclosed.

Please direct all correspondence and inquiries regarding this measure to:

Sincerely,

Wayne ~~of~~dos

Section 1: This measure shall be called the Tax Fairness Act of 2005

The people do find all of the following:

- a. The current assessment system is unfair to homeowners. In particular, homeowners currently face property tax reassessment upon change in ownership of a home, but businesses are able to exploit loopholes to avoid reassessment on major hotels, shopping centers, office buildings, and other large corporate properties, despite changing ownership frequently.
- b. Because of this unfair system, the burden of property taxes has shifted on to homeowners and away from the owners of commercial and industrial property.
- c. The current assessment system for non-residential property is loophole-ridden, anti-competitive, and harmful to schools, local government, homeowners and renters, the environment and the state's infrastructure.
- d. Local government, schools, and our physical infrastructure have suffered because the non-residential property tax base has been inadequate to finance our pressing needs.

- e. One of our economy's greatest needs, investment in infrastructure, is harmed because the windfall gain to commercial property owners from taxpayer-financed infrastructure is never captured.
- f. The current assessment system is also bad for business investment in California, because new investors are often paying far more in property taxes than their direct competitors and are required to pay fees and exactions when they make these investments.
- g. The failure to appropriately assess commercial and industrial land leads to land speculation, sprawl, and over-reliance of local government on sales taxes.

Section 2. Therefore it is the intent of the people to do the following in this measure:

- a. Provide for the periodic reassessment of non-residential property to market value, with exceptions as described in this measure.
- b. Provide for the exclusion of \$500,000 in personal property tax for all businesses, in order to simplify the system and provide tax relief for small businesses.

- c. Insure that any governmental revenues that accrue as a result of this measure are spent on vital public services or to provide tax relief to senior citizens.
- d. Provide an additional funding source to increase the minimum guaranteed funding for school districts.

Section 3:

Article XIII A of the California Constitution is amended to read:

Add new SEC. 2.5. (a) Notwithstanding section 2, for the lien date for the 2006-07 fiscal year and each lien date thereafter, the "full cash value" of nonresidential real property that is not used for commercial agricultural production or is otherwise exempt under the Constitution or statute is the fair market value of that property as of that date.

(b) For purposes of this section:

(1) "Nonresidential real property" means any real property other than a constructed single-family or multifamily unit that is intended to be used primarily as a permanent residence and is used primarily as a permanent residence or that is zoned as a residence, and the

land on which that unit constructed, or any portion of the property used as a residence.

(2) Nonresidential real property is "used for commercial agricultural production" if that real property is used and zoned for producing commercial agricultural commodities and is real property to which either of the following applies:

(A) The real property is an unimproved parcel.

(B) The parcel of real property contains only living improvements.

(3) "Unimproved parcel" means a parcel of real property to which both of the following apply:

(A) The parcel is used and zoned for producing commercial agricultural commodities.

(B) The parcel does not contain a single-family residence or a multifamily residence that was subdivided in accordance with the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code), or any successor to that law, or that was described and conveyed in one or more deeds separating the parcel from all adjoining property.

(4) "Otherwise exempt under the Constitution or statute" means any property which is exempt from taxation pursuant to the Constitution, or any property exempt by statute enacted consistent with and permissible under the Constitution.

Section 4. Article XIII, section 2 of the California Constitution is amended to read:

SEC. 2. (a) The Legislature may provide for property taxation of all forms of tangible personal property, shares of capital stock, evidences of indebtedness, and any legal or equitable interest therein not exempt under any other provision of this article. The Legislature, two-thirds of the membership of each house concurring, may classify such personal property for differential taxation or for exemption. The tax on any interest in notes, debentures, shares of capital stock, bonds, solvent credits, deeds of trust, or mortgages shall not exceed four-tenths of one percent of full value, and the tax per dollar of full value shall not be higher on personal property than on real property in the same taxing jurisdiction.

(b) For all taxpayers paying the tax on tangible personal property, \$500,000 in personal property shall be exempt from taxation. The Legislature may increase this amount, but may not reduce it.

Section 5. Expenditure of proceeds of this measure

Any increased revenues resulting from this enactment shall be distributed as follows:

1. Fifty percent of any such revenues shall be allocated, on a per unit of average daily attendance basis, to all school districts within the county of collection eligible for funding pursuant to Article XVI, Section 8 of the California Constitution. It is the intent of this section to increase the minimum guarantee of funds that must be allocated to school districts pursuant to Section 8 of Article XVI of the California Constitution, and thus the revenues allocated to school districts pursuant to this section shall supplement and not supplant any other monies otherwise available for support of such school districts. Not less than ten percent of the total funds authorized by this subsection shall be spent on instructional materials.

2. Fifteen percent of any such revenues shall be allocated for transportation projects within the county of collection and shall supplement and not supplant monies otherwise available for transportation projects. The California Transportation Commission shall develop rules and procedures for allocating such monies among the jurisdictions providing such services within each county in a manner that maximizes the use of such monies to reduce or prevent traffic congestion.

3. Twenty percent of any such revenues shall be allocated for Senior Citizens' Property Tax relief to supplement, and not supplant, existing property tax relief programs. The Legislature shall enact laws to ensure that monies generated by

this subsection are expended in a manner to reduce the number of senior citizens forced from their residence as a result of property tax levies.

4. Fifteen percent of any such revenues shall be allocated to enhance public safety, and shall supplement, and not supplant, monies otherwise available to local public safety agencies. Monies allocated pursuant to this subsection shall be allocated to the various public safety providers within the county of collection on the basis of the number of full-time equivalent public safety officers employed by each agency within that county at the start of each fiscal year. Public safety officers include all peace officers and firefighters employed within the county. In addition, the Board of Supervisors of each county may, by ordinance enacted by a four-fifths vote, include additional categories of public safety within this allocation. No public safety agency shall be eligible for an allocation from this subsection if it budgets, from sources other than this allocations from this subsection, for less public safety officers in the fiscal year of allocation than it budgeted for in the immediate prior year from all funding sources other than allocations made pursuant to this subsection.