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**AGENDA
NOTICE OF SPECIAL MEETING
OF THE
LEGISLATIVE POLICY COMMITTEE
July 30, 2014**

MEMBERS

Bill Bogaard, Mayor
Jacque Robinson, Vice Mayor, District 1
Steve Madison, District 6

STAFF

Julie A. Gutierrez, Assistant City Manager
Valerie Flores, Recording Secretary

MISSION STATEMENT

The City of Pasadena is dedicated to delivering exemplary municipal services, responsive to our entire community and consistent with our history, culture and unique character.

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*Language translation services are available for this meeting by calling (626) 744-4124 at least 24 hours in advance.
Habrá servicio de interpretación disponible para éstas juntas llamando al (626) 744-4124 por lo menos con 24 horas de anticipación.*

*Public meeting begins at 5:00 p.m.
Items on the agenda may not be called in order listed.*

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*Materials related to an item on this Agenda submitted to the Legislative Policy Committee **after** distribution of the agenda packet are available for public inspection in the City Clerk's Office at 100 N. Garfield Avenue, Room S-228, during normal business hours.*



OFFICE OF THE MAYOR

**CITY OF PASADENA
NOTICE OF SPECIAL MEETING
OF THE
LEGISLATIVE POLICY COMMITTEE
Wednesday, July 30, 2014 – 5:00 p.m.
100 N. Garfield Ave. – Fair Oaks Conference Room S039**

NOTICE IS HEREBY GIVEN that a special meeting of the Legislative Policy Committee will be held on Wednesday, July 30, 2014, at 5:00 p.m. in the Fair Oaks Conference Room located at 100 N. Garfield Ave., Room S039, Pasadena, California, for the purpose of considering only those items listed on the agenda below.

AGENDA

1. CALL TO ORDER/ROLL CALL

2. PUBLIC COMMENT - LIMITED TO ITEMS ON THIS SPECIAL MEETING AGENDA -
Please limit comments to 3 minutes each.

3. MINUTES

April 23, 2104 – Regular Meeting*
May 28, 2014 – Regular Meeting*
June 25, 2014 – Regular Meeting Cancellation*
July 9, 2014 – Special Meeting Cancellation*
July 23, 2014 – Regular Meeting Cancellation*

4. NEW BUSINESS

A. AB 2372 (Ammiano): Property Taxation: Change in Ownership*

5. OLD BUSINESS

A. Finalize Changes to the Resolution Adopting the City Council's Rules Governing Meetings, Proceedings, and Business*

6. INFORMATION ITEMS

- A. Briefing by David Jones on State Legislative Matters
- B. Briefing by Chris Giglio on Federal Legislative Matters

7. ADJOURNMENT

* Attachment

NEXT MEETING

August 27, 2014 -5:30pm



BILL BOGAARD, Chair
Legislative Policy Committee

I HEREBY CERTIFY that this notice, in its entirety, was posted on the City of Pasadena Council Chamber Building bulletin boards located outside of Room S249 and at the Information Kiosk, the City Clerk's Office and a copy was distributed to Central Library for posting this 24th day of July 2014, by 5:30 p.m.



DEBBIE CAMPOS
City Manager's Office

DISTRIBUTION:

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Mark Jomsky, City Clerk
William Boyer, Public Information Officer
Jana Stewart, Management Analyst III
Chris Giglio, Legislative Advocate
David Jones, Legislative Advocate
Valerie Flores, Recording Secretary
City Hall Information Kiosk
Pasadena Central Library
Neighborhood Connections

Barbara Boxer, U.S. Senator
Dianne Feinstein, U.S. Senator
Adam Schiff, U.S. Congressman
Judy Chu, U.S. Congresswoman
Carol Liu, State Senator
Chris Holden, State Assemblymember
La Opinion
Los Angeles Times
Pasadena Independent
Pasadena Journal
Pasadena NOW
Pasadena Star-News
Pasadena Weekly
Website: <http://www.ci.pasadena.ca.us>

MINUTES

April 23, 2014 – Regular Meeting*

May 28, 2014 – Regular Meetings*

June 25, 2014 – Regular Meeting Cancellation*

July 9, 2014 – Special Meeting Cancellation*

July 23, 2014 – Regular Meeting Cancellation*

**CITY OF PASADENA
LEGISLATIVE POLICY COMMITTEE MINUTES
CITY HALL
100 NORTH GARFIELD AVENUE
FAIR OAKS CONFERENCE ROOM – S039
APRIL 23, 2014
REGULAR MEETING**

OPENING Vice Mayor Robinson, Acting Chair, called the regular meeting of the Legislative Policy Committee to order at 5:46 p.m.

ROLL CALL Mayor Bill Bogaard, Chair (Absent)
Vice Mayor Jacque Robinson
Councilmember Steve Madison

Staff: Julie Gutierrez, Assistant City Manager
Javan Rad, Chief Assistant City Attorney
Angela Kimmey, Management Analyst IV, Water and Power
Valerie Flores, Recording Secretary

PUBLIC COMMENT No one appeared for public comment.

APPROVAL OF MINUTES It was moved by Councilmember Madison, seconded by Vice Mayor Robinson, to approve the minutes of February 26, 2014, as submitted. (Motion unanimously carried) (Absent: Mayor Bogaard)

INFORMATION ITEM **BRIEFING BY CHRIS GIGLIO ON FEDERAL LEGISLATIVE MATTERS (ORAL)**

A telephone conference call was conducted with Chris Giglio, Federal Legislative advocate for the City, who reported on the following:

- Status of the Fiscal Year 2015 Budget
- Update on the Transportation Reauthorization
- Update on Immigration Reform legislation
- Information on the Environmental Protection Agency's Clean Water Act

On the order of the Acting Chair, and by consensus of the Committee, the information was received and filed.

BRIEFING BY DAVID JONES ON STATE LEGISLATIVE MATTERS (ORAL)

A telephone conference call was conducted with David Jones and Kyra Ross, State Legislative advocate for the City, who reported on the following State legislative issues, and responded to questions:

- Information regarding the 2014 Legislative Action Day
- Governor's call for special sessions for "rain day" funds
- Ethics Training provided to State Senators
- Update on SB 1170 (Liu) surplus nonresidential properties
- Update on AB 2188 (Muratsuchi) solar energy permits
- Update on Cap and Trade legislative bills, including funding impacts (AB 32 and AB 1970)
- Update AB 2343 (Gattos) Human Society

- Update on SB 270 (Padilla) Solid Waste – single-use carryout bags

Angela Kimmey, Management Analyst IV, Water and Power, responded to question regarding cap and trade funds, investor owned utilities, and auction revenues.

Councilmember Madison asked staff for additional information on Cap and Trade auction revenues and funding impacts related to AB 32.

Following discussion, on the order of the Acting Chair, and by consensus of the Committee, the information was received and filed.

ADJOURNMENT

On the order of the Acting Chair, the regular meeting of the Legislative Policy Committee was adjourned at 6:10 p.m.

BILL BOGAARD, Chair
Legislative Policy Committee

ATTEST:

Valerie Flores
Recording Secretary

**CITY OF PASADENA
LEGISLATIVE POLICY COMMITTEE MINUTES
CITY HALL
100 NORTH GARFIELD AVENUE
FAIR OAKS CONFERENCE ROOM – S039
MAY 28, 2014
REGULAR MEETING**

OPENING The Chair called the regular meeting of the Legislative Policy Committee to order at 5:34 p.m.

ROLL CALL Mayor Bill Bogaard, Chair
Vice Mayor Jacque Robinson
Councilmember Steve Madison (Arrived at 5:38 p.m.)

Staff: Julie Gutierrez, Assistant City Manager
Javan Rad, Chief Assistant City Attorney
Mark Jomsky, City Clerk
Angela Kimmey, Management Analyst IV, Water and Power
Valerie Flores, Recording Secretary

PUBLIC COMMENT No one appeared for public comment.

APPROVAL OF MINUTES It was moved by Vice Mayor Robinson, seconded by Mayor Bogaard, to approve the minutes of March 26, 2014, as submitted. (Motion unanimously carried) (Absent: Councilmember Madison)

Councilmember Madison (Arrived at 5:38 p.m.) In reference to the March 26, 2014 meeting minutes, the Chair, with consensus of the Committee, stated that the restructuring of the Senior Commission will be discussed at the next City Council meeting and not agendized at a future Legislative Policy Committee meeting (as initially planned).

INFORMATION ITEM **BRIEFING BY CHRIS GIGLIO ON FEDERAL LEGISLATIVE MATTERS (ORAL)**

A telephone conference call was conducted with Chris Giglio, Federal Legislative advocate for the City, who reported on the status of the items listed below:

- Update on the Water Resources Reform and Development Act
- Update on the Workforce Investment Act
- Update on the Highway Trust Fund
- Proposed transportation reauthorization bill
- Update on the Federal Budget for Fiscal Year 2015
- Update on Immigration Reform legislation

On the order of the Chair, and by consensus of the Committee, the information was received and filed.

BRIEFING BY DAVID JONES ON STATE LEGISLATIVE MATTERS (ORAL)

A telephone conference call was conducted with David Jones, State Legislative advocate for the City, who reported on the status of State legislative issues listed below, and responded to questions:

- Update on Suspense File bills
- Update on SB 1139 (Hueso) Renewable Portfolio Standards Program
- Update on SB 1455 (DeSaulnier) Library Bond
- Update on the State's Budget Conference Committee's actions
- Update on issues related to the State Water Bond
- Update on issues related to Proposition 13

Following discussion, on the order of the Chair, and by consensus of the Committee, the information was received and filed.

OLD BUSINESS

RESCIND RESOLUTION NO. 5893 AND ADOPT A RESOLUTION ESTABLISHING THE RULES GOVERNING THE PASADENA CITY COUNCIL'S MEETINGS, PROCEEDINGS, AND BUSINESS

Mark Jomsky, City Clerk, provided a PowerPoint presentation summarizing the agenda report, and responded to questions.

Following discussion, the Committee directed staff to revise the proposed resolution establishing the rules governing City Council meetings, as follows:

Rule 3.C.:

"C. Placement of Items on Agenda. An item may be placed on a future agenda of the City Council by any of the following methods:

1. By the Mayor, City Manager, City Attorney, or City Clerk.
2. By consensus of the City Council.
3. By any one member of the City Council advising the Mayor or City Manager of a request for an agenda item, subject to the orderly placement of the item for action.
4. By any one member of the City Council placing a written request for consideration of a future agenda item with the City Clerk, to be formally approved through five affirmative votes of the City Council. Said request will be placed on the next regular agenda.

If a member of the City Council notifies the City Clerk of his/her request for a future agenda item, the City Clerk shall notify the Mayor and City Manager prior to preparing the final agenda."

Rule 3.A.:

"A. Preparation by City Clerk. The City Clerk shall prepare an agenda at the direction of the Mayor, and in consultation with the City Manager and City Attorney, for each meeting of the City Council specifying the time and place of the meeting, and setting forth a brief general description of each item of business to be considered by the City Council at such meeting."

Following discussion, the Committee directed staff to return with the proposed changes for final review by the Legislative Policy Committee before forwarding to the full City Council for consideration.

ADJOURNMENT

On the order of the Chair, the regular meeting of the Legislative Policy Committee was adjourned at 6:50 p.m.

BILL BOGAARD, Chair
Legislative Policy Committee

ATTEST:

Valerie Flores
Recording Secretary

**CITY OF PASADENA
LEGISLATIVE POLICY COMMITTEE MINUTES
CITY HALL
100 NORTH GARFIELD AVENUE
FAIR OAKS CONFERENCE ROOM – S039
JUNE 25, 2014
REGULAR MEETING**

The regular meeting of the Legislative Policy Committee, scheduled for Wednesday, June 25, 2014, at 5:30 p.m., was cancelled as ordered on June 20, 2014, and posted as required by law.

BILL BOGAARD, Chair
Legislative Policy Committee

ATTEST:

Valerie Flores
Recording Secretary

6/25/2014

**CITY OF PASADENA
LEGISLATIVE POLICY COMMITTEE MINUTES
CITY HALL
100 NORTH GARFIELD AVENUE
FAIR OAKS CONFERENCE ROOM – S039
JULY 9, 2014
REGULAR MEETING**

The regular meeting of the Legislative Policy Committee, scheduled for Wednesday, July 9, 2014, at 5:30 p.m., was cancelled as ordered on July 9, 2014, and posted as required by law.

BILL BOGAARD, Chair
Legislative Policy Committee

ATTEST:

Valerie Flores
Recording Secretary

7/9/2014

**CITY OF PASADENA
LEGISLATIVE POLICY COMMITTEE MINUTES
CITY HALL
100 NORTH GARFIELD AVENUE
FAIR OAKS CONFERENCE ROOM – S039
JULY 23, 2014
REGULAR MEETING**

The regular meeting of the Legislative Policy Committee, scheduled for Wednesday, July 23, 2014, at 5:30 p.m., was cancelled as ordered on July 17, 2014, and posted as required by law.

BILL BOGAARD, Chair
Legislative Policy Committee

ATTEST:

Valerie Flores
Recording Secretary

7/23/2014

NEW BUSINESS

- A. AB 2372 (Ammiano): Property Taxation: Change in Ownership*




OFFICE OF THE CITY MANAGER

MEMORANDUM

July 30, 2014

TO: Legislative Policy Committee

FROM: Julie A. Gutierrez 
Assistant City Manager

SUBJECT: AB 2372 (Ammiano): Property Taxation: Change in Ownership

Assembly Member Tom Ammiano has authored AB 2371 titled Property taxation: change in ownership. This bill would modify what triggers a real property reassessment as it pertains to commercial property. At a previous Committee meeting, David Jones spoke briefly about this bill but at the time it was noted that further revisions to the bill were expected and suggested that staff continue to watch this bill. The California League of Cities also had taken a watch position. However, recently the League changed their position to support the bill. At this time the Committee may want to revisit this bill to determine if the City should take an affirmative position to support the bill.

I have attached for your review the analysis prepared by the League as well as a copy of the bill language as it currently exists.

AMENDED IN SENATE JULY 2, 2014
AMENDED IN ASSEMBLY MAY 28, 2014
AMENDED IN ASSEMBLY MAY 19, 2014
AMENDED IN ASSEMBLY APRIL 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2372

Introduced by Assembly Members Ammiano and Bocanegra

February 21, 2014

An act to amend Sections 64, 480.1, 480.2, and 482 of, to add Section 480.9 to, and to add and repeal Section 486 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2372, as amended, Ammiano. Property taxation: change in ownership.

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975–76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred.

Existing property tax law specifies those circumstances in which the transfer of ownership interests in a corporation, partnership, limited liability company, or other legal entity results in a change in ownership of the real property owned by that entity, and generally provides that a change in ownership as so described occurs if a legal entity or other person obtains a controlling or majority ownership interest in the legal

entity. Existing law also specifies other circumstances in which certain transfers of ownership interests in legal entities result in a change in ownership of the real property owned by those legal entities. *Existing law requires the Franchise Tax Board to include a question on corporation and income returns for partnerships, banks, and corporations to assist in the determination of whether a change in ownership as so described has occurred.*

This bill would ~~instead~~ specify that if, *on or after January 1, 2015*, 90% or more of the *direct or indirect* ownership interests in a legal entity are ~~sold or cumulatively transferred in a single transaction, as defined, the real property owned by that legal entity has changed ownership,~~ *one or more transactions, the transfer of the ownership interest is a change in ownership of the real property owned by the legal entity*, whether or not any one legal entity or person ~~that is a party to the transaction~~ acquires ~~more than 50% control~~ of the ownership interests. *This bill would require the Franchise Tax Board to include an additional question on corporation and income returns for partnerships, banks, and corporations to assist in the determination of whether a change in ownership as so described has occurred.* This bill would require the State Board of Equalization to report to the Legislature, no later than January 1, 2020, regarding the implementation of these changes in ownership, including, but not limited to, the economic impact and frequency of reassessments of real property owned by legal entities.

Existing law requires, upon a change in control or change in ownership of a legal entity that owns an interest in real property in this state, or when requested by the State Board of Equalization, that the person or legal entity acquiring ownership or control, or the legal entity that has undergone a change in ownership, file a change in ownership statement with the board, as specified. Existing law requires a penalty of 10% of the taxes applicable to the new base year value, as specified, or 10% of the current year's taxes on the property, as specified, to be added to the assessment made on the roll if a person or legal entity required to file a change in ownership statement fails to do so.

This bill would ~~require a person or legal entity acquiring ownership interests in a legal entity,~~ *if also require, in the case of a change in ownership when 90% or more of the ownership interests in the legal entity are sold or cumulatively transferred, as described above, the corporation, partnership, limited liability company, or other legal entity that underwent the change in ownership* to file a change in ownership

statement signed under penalty of perjury with the State Board of Equalization, *as specified*. This bill would increase the penalties for failure to file a change in ownership statement, as described above, from 10% to 15%.

This bill would require the State Board of Equalization to notify assessors if a change in control or a change in ownership of a legal entity has occurred.

By expanding the crime of perjury and by imposing new duties upon local county officials with respect to changes in ownership, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) The system for determining a change in ownership for the
- 4 purpose of assessment of commercial property is complex and
- 5 difficult to administer.
- 6 (2) Property ownership may include complex legal maneuvers
- 7 and methods of dividing up ownership when changes of ownership
- 8 actually occur.
- 9 (3) There are circumstances in which changes of ownership
- 10 have legally taken place that may not be known to the assessor
- 11 because they are deliberately obscured, for example, if the property

1 is kept in the name of the old property owner even when a company
2 is purchased.

3 (4) Deeds are filed that describe ownership patterns of such
4 complexity that it is difficult for the legal powers of the counties,
5 and the enforcement powers of the assessor, to be exercised.

6 (5) Transactions occur that should be identified as changes of
7 ownership, for example, a 90 percent or more purchase of a
8 company, that are not reassessed because of the division of
9 ownership shares.

10 (b) Therefore, it is the intent of the Legislature to provide all of
11 the following:

12 (1) Greater clarity with regard to those circumstances in which
13 a change in ownership has occurred.

14 (2) Greater transparency in ownership patterns with respect to
15 the filing of deeds and with respect to other real property and
16 financial transactions.

17 (3) Improved reporting and stronger enforcement.

18 (c) It is further the intent of the Legislature that changes in
19 ownership in which 90 percent or more of the ownership of a
20 business, whether through mergers, private equity buyouts, transfer
21 of ownership from one financial institution to another, transfers
22 of shares of limited liability companies or trusts, transfers of
23 partnership shares, or other changes by which 90 percent or more
24 is transferred shall constitute a change of ownership subject to
25 reassessment.

26 SEC. 2. Section 64 of the Revenue and Taxation Code is
27 amended to read:

28 64. (a) Except as provided in subdivision (i) of Section 61 and
29 subdivisions (c) and (d), the purchase or transfer of ownership
30 interests in legal entities, such as corporate stock or partnership or
31 limited liability company interests, does not constitute a transfer
32 of the real property of the legal entity. This subdivision applies to
33 the purchase or transfer of ownership interests in a partnership
34 without regard to whether it is a continuing or a dissolved
35 partnership.

36 (b) Any corporate reorganization, where all of the corporations
37 involved are members of an affiliated group, and that qualifies as
38 a reorganization under Section 368 of the United States Internal
39 Revenue Code and that is accepted as a nontaxable event by similar
40 California statutes, or any transfer of real property among members

1 of an affiliated group, or any reorganization of farm credit
2 institutions pursuant to the federal Farm Credit Act of 1971 (Public
3 Law 92-181), as amended, shall not be a change of ownership.
4 The taxpayer shall furnish proof, under penalty of perjury, to the
5 assessor that the transfer meets the requirements of this subdivision.

6 For purposes of this subdivision, "affiliated group" means one
7 or more chains of corporations connected through stock ownership
8 with a common parent corporation if both of the following
9 conditions are met:

10 (1) One hundred percent of the voting stock, exclusive of any
11 share owned by directors, of each of the corporations, except the
12 parent corporation, is owned by one or more of the other
13 corporations.

14 (2) The common parent corporation owns, directly, 100 percent
15 of the voting stock, exclusive of any shares owned by directors,
16 of at least one of the other corporations.

17 (c) (1) (A) When a corporation, partnership, limited liability
18 company, other legal entity, or any other person obtains control
19 through direct or indirect ownership or control of more than 50
20 percent of the voting stock of any corporation, or obtains a majority
21 ownership interest in any partnership, limited liability company,
22 or other legal entity through the purchase or transfer of corporate
23 stock, partnership, or limited liability company interest, or
24 ownership interests in other legal entities, including any purchase
25 or transfer of 50 percent or less of the ownership interest through
26 which control or a majority ownership interest is obtained, the
27 purchase or transfer of that stock or other interest shall be a change
28 of ownership of the real property owned by the corporation,
29 partnership, limited liability company, or other legal entity in which
30 the controlling interest is obtained.

31 (B) (i) ~~When (I) On or after January 1, 2015, whenever~~ 90
32 percent or more of the *direct or indirect* ownership interests in a
33 legal entity are ~~sold or cumulatively~~ transferred in a single
34 transaction to a legal entity or person, whether by merger,
35 acquisition, private equity buyout, transfer of partnership shares,
36 or any other means by which a legal entity or person acquires the
37 ownership interests of another legal entity, including the
38 subsidiaries or affiliates of the legal entity and the property owned
39 by those subsidiaries or affiliates, the purchase or transfer of the
40 ownership interests is a change of ownership of the real property

1 owned by the legal entity, whether or not any one legal entity or
2 person that is a party to the transaction acquires more than 50
3 percent of the ownership interests *one or more transactions, the*
4 *transfer of the ownership interest is a change in ownership of the*
5 *real property owned by the legal entity, including the real property*
6 *owned by a legal entity under its control, whether or not any one*
7 *legal entity or person acquires control of the ownership interests.*

8 (II) *The date of reappraisal shall be the date of the transfer of*
9 *the ownership interest representing individually or cumulatively*
10 *90 percent of the ownership interest.*

11 (ii) For purposes of this subparagraph:

12 (I) *“Control” means control as described in subparagraph (A).*

13 (I) ~~“Established securities market” means an established~~
14 ~~securities market as defined in Section 1.7704-1(b) of Title 26 of~~
15 ~~the Code of Federal Regulations.~~

16 (II) *“Legal entity” means a corporation, partnership, limited*
17 *liability company, or other legal entity.*

18 (III) *“Original transaction” means a transaction that occurs on*
19 *or after January 1, 2015.*

20 (IV)

21 (III) *“Ownership interests” means corporate voting stock,*
22 *partnership capital and profits interests, limited liability company*
23 *membership interests, and other ownership interests in legal*
24 *entities.*

25 (V) (ia) *“Single transaction” means a transaction in which 90*
26 *percent or more of the ownership interests are cumulatively sold*
27 *or transferred in either one calendar year or within a 36-month*
28 *period beginning on the date of the original transaction when any*
29 *percentage of ownership interests are sold or transferred.*

30 (ib) ~~For purposes of this subclause, whenever an ownership~~
31 ~~interest is counted as having been sold or transferred in a single~~
32 ~~transaction, that has resulted in a change of ownership, it shall not~~
33 ~~be counted again in determining whether any other transaction~~
34 ~~results in a change of ownership.~~

35 (VI) ~~“Sold or transferred”~~

36 (IV) *“Transferred” does not include a sale of stock or interests*
37 *of a publicly traded corporation or a publicly traded partnership*
38 *in the regular course of a trading activity on an established*
39 *securities market, as defined in Section 1.7704-1(b) of Title 26 of*
40 *the Code of Federal Regulations, unless shares are acquired as*

1 part of a merger, acquisition, private equity buyout, transfer of
2 partnership shares, or any other means by which a change of
3 ownership would otherwise occur pursuant to this subparagraph.

4 *(V) Multiple transfers of the same ownership interest shall be*
5 *counted only once in determining whether cumulatively 90 percent*
6 *or more of the ownership interests have transferred.*

7 (2) On or after January 1, 1996, when an owner of a majority
8 ownership interest in any partnership obtains all of the remaining
9 ownership interests in that partnership or otherwise becomes the
10 sole partner, the purchase or transfer of the minority interests,
11 subject to the appropriate application of the step-transaction
12 doctrine, shall not be a change in ownership of the real property
13 owned by the partnership.

14 (d) If property is transferred on or after March 1, 1975, to a
15 legal entity in a transaction excluded from change in ownership
16 by paragraph (2) of subdivision (a) of Section 62, then the persons
17 holding ownership interests in that legal entity immediately after
18 the transfer shall be considered the "original coowners." Whenever
19 shares or other ownership interests representing cumulatively more
20 than 50 percent of the total interests in the entity are transferred
21 by any of the original coowners in one or more transactions, a
22 change in ownership of that real property owned by the legal entity
23 shall have occurred, and the property that was previously excluded
24 from change in ownership under the provisions of paragraph (2)
25 of subdivision (a) of Section 62 shall be reappraised.

26 The date of reappraisal shall be the date of the transfer of the
27 ownership interest representing individually or cumulatively more
28 than 50 percent of the interests in the entity.

29 A transfer of shares or other ownership interests that results in
30 a change in control of a corporation, partnership, limited liability
31 company, or any other legal entity is subject to reappraisal as
32 provided in subdivision (c) rather than this subdivision.

33 (e) (1) To assist in the determination of whether a change of
34 ownership has occurred under subdivision (c) or (d), the Franchise
35 Tax Board shall include ~~a question~~ *questions* in substantially the
36 following form on returns for partnerships, banks, and corporations
37 (except tax-exempt organizations):

38 If the

39 (A) *If the* corporation (or partnership or limited liability
40 company) owns real property in California, has cumulatively more

1 than 50 percent of the voting stock (or more than 50 percent of
2 total interest in both partnership or limited liability company capital
3 and partnership or limited liability company profits) (1) been
4 transferred by the corporation (or partnership or limited liability
5 company) since March 1, 1975, or (2) been acquired by another
6 legal entity or person during the year? (See instructions.)

7 *(B) If the corporation (or partnership or limited liability*
8 *company) owns real property in California, has cumulatively 90*
9 *percent or more of the voting stock (or 90 percent or more of total*
10 *interest in both partnership or limited liability company capital*
11 *and partnership or limited liability company profits) of this*
12 *corporation (or partnership or limited liability company) been*
13 *transferred since January 1, 2015, during the year? (See*
14 *instructions.)*

15 If the

16 *(2) If the entity answers "yes" to (1) or (2) in the above question;*
17 *any of the questions, then the Franchise Tax Board shall furnish*
18 *the names and addresses of that entity and of the stock or*
19 *partnership or limited liability company ownership interest*
20 *transferees to the State Board of Equalization.*

21 *(f) For purposes of this section, legal entity ownership interests*
22 *owned by a legal entity shall be considered as being owned by or*
23 *transferred to its owners proportionately.*

24 *(g) A change in ownership of real property owned by a legal*
25 *entity under this section restarts the cumulating of transferred*
26 *ownership interests for purposes of determining whether another*
27 *change in ownership of that real property occurs under this section.*

28 ~~(f)~~

29 *(h) The board may prescribe regulations as may be necessary*
30 *to carry out the purposes of the act adding this subdivision.*

31 SEC. 3. Section 480.1 of the Revenue and Taxation Code is
32 amended to read:

33 480.1. (a) Whenever there is a change in control or a change
34 in ownership of any corporation, partnership, limited liability
35 company, or other legal entity, as defined in subdivision (c) of
36 Section 64, a signed change in ownership statement as provided
37 for in subdivision (b), shall be filed by the person or legal entity
38 ~~acquiring ownership of the corporation, partnership, limited~~
39 ~~liability company, or other legal entity~~ with the board at its office
40 in Sacramento within 90 days from the date of the change in control

1 or the change in ownership of the corporation, partnership, limited
2 liability company, or other legal entity. *Sacramento*. The statement
3 shall list all counties in which the corporation, partnership, limited
4 liability company, or legal entity owns real property.

5 (1) *In the case of a change in control pursuant to subparagraph*
6 *(A) of paragraph (1) of subdivision (c) of Section 64, the statement*
7 *shall be filed by the person or legal entity acquiring ownership*
8 *control of the corporation, partnership, limited liability company,*
9 *or other legal entity. The statement shall be filed within 90 days*
10 *from the date of the change in control of the corporation,*
11 *partnership, limited liability company, or other legal entity.*

12 (2) *In the case of a change in ownership pursuant to*
13 *subparagraph (B) of paragraph (1) of subdivision (c), the statement*
14 *shall be filed by the corporation, partnership, limited liability*
15 *company, or other legal entity that underwent the change in*
16 *ownership. The statement shall be filed within 90 days from the*
17 *date that 90 percent or more of the ownership interests in this*
18 *entity cumulatively transferred.*

19 (b) The change in ownership statement as required pursuant to
20 subdivision (a), shall be declared to be true under penalty of perjury
21 and shall give such information relative to the ownership
22 acquisition transaction as the board shall prescribe after
23 consultation with the California Assessors' Association. The
24 information shall include, but not be limited to, a description of
25 the property owned by the corporation, partnership, limited liability
26 company, or other legal entity, the parties to the transaction, and
27 the date of the ownership acquisition. The change in ownership
28 statement shall not include any question which is not germane to
29 the assessment function. The statement shall contain a notice that
30 is printed, with the title in at least 12-point boldface type and the
31 body in at least 8-point boldface type, in *substantially* the following
32 form:

33
34
35 "Important Notice"

36
37 "The law requires any person or legal entity acquiring ownership
38 in any corporation, partnership, limited liability company, or other
39 legal entity owning real property in California subject to local
40 property taxation to complete and file a change in ownership

1 statement with the State Board of Equalization at its office in
2 Sacramento. The change in ownership statement must be filed
3 within 90 days from the date of the change in control or the change
4 in ownership of a corporation, partnership, limited liability
5 company, or other legal entity. *In the case of a change in control*
6 *pursuant to subparagraph (A) of paragraph (1) of subdivision (c)*
7 *of Section 64 of the Revenue and Taxation Code, the statement*
8 *shall be filed by the person or legal entity acquiring ownership*
9 *control of the corporation, partnership, limited liability company,*
10 *or other legal entity. In the case of a change in ownership pursuant*
11 *to subparagraph (B) of paragraph (1) of subdivision (c) of Section*
12 *64 of the Revenue and Taxation Code, the statement shall be filed*
13 *by the corporation, partnership, limited liability company, or other*
14 *legal entity that underwent the change in ownership. The law*
15 further requires that a change in ownership statement be completed
16 and filed whenever a written request is made therefor by the State
17 Board of Equalization, regardless of whether a change in control
18 or a change in ownership of the legal entity has occurred. The
19 failure to file a change in ownership statement within 90 days from
20 the earlier of (1) the date of the change in control or a change in
21 ownership of the corporation, partnership, limited liability
22 company, or other legal entity, or (2) the date of a written request
23 by the State Board of Equalization, results in a penalty of 15
24 percent of the taxes applicable to the new base year value reflecting
25 the change in control or the change in ownership of the real
26 property owned by the corporation, partnership, limited liability
27 company, or legal entity (or 15 percent of the current year's taxes
28 on that property if no change in control or change in ownership
29 occurred). This penalty will be added to the assessment roll and
30 shall be collected like any other delinquent property taxes, and be
31 subject to the same penalties for nonpayment.”

32
33 (c) In the case of a corporation, the change in ownership
34 statement shall be signed either by an officer of the corporation or
35 an employee or agent who has been designated in writing by the
36 board of directors to sign such statements on behalf of the
37 corporation. In the case of a partnership, limited liability company,
38 or other legal entity, the statement shall be signed by an officer,
39 partner, manager, or an employee or agent who has been designated

1 in writing by the partnership, limited liability company, or legal
2 entity.

3 (d) No person or entity acting for or on behalf of the parties to
4 a transfer of real property shall incur liability for the consequences
5 of assistance rendered to the transferee in preparation of any change
6 in ownership statement, and no action may be brought or
7 maintained against any person or entity as a result of that
8 assistance.

9 Nothing in this section shall create a duty, either directly or by
10 implication, that such assistance be rendered by any person or
11 entity acting for or on behalf of parties to a transfer of real property.

12 (e) The board or assessors may inspect any and all records and
13 documents of a corporation, partnership, limited liability company,
14 or legal entity to ascertain whether a change in control or a change
15 in ownership as defined in subdivision (c) of Section 64 has
16 occurred. The corporation, partnership, limited liability company,
17 or legal entity shall, upon request, make those documents available
18 to the board during normal business hours.

19 SEC. 4. Section 480.2 of the Revenue and Taxation Code is
20 amended to read:

21 480.2. (a) Whenever there is a change in ownership of any
22 corporation, partnership, limited liability company, or other legal
23 entity, as defined in subdivision (d) of Section 64, a signed change
24 in ownership statement as provided in subdivision (b) shall be filed
25 by the corporation, partnership, limited liability company, or other
26 legal entity with the board at its office in Sacramento within 90
27 days from the date of the change in ownership of the corporation,
28 partnership, limited liability company, or other legal entity. The
29 statement shall list all counties in which the corporation,
30 partnership, limited liability company, or legal entity owns real
31 property.

32 (b) The change in ownership statement required pursuant to
33 subdivision (a) shall be declared to be true under penalty of perjury
34 and shall give that information relative to the ownership interest
35 acquisition transaction as the board shall prescribe after
36 consultation with the California Assessors' Association. The
37 information shall include, but not be limited to, a description of
38 the property owned by the corporation, partnership, limited liability
39 company, or other legal entity, the parties to the transaction, the
40 date of the ownership interest acquisition, and a listing of the

1 “original coowners” of the corporation, partnership, limited liability
2 company, or other legal entity prior to the transaction. The change
3 in ownership statement shall not include any question which is not
4 germane to the assessment function. The statement shall contain
5 a notice that is printed, with the title in at least 12-point boldface
6 type and the body in at least 8-point boldface type, in the following
7 form:

8
9 “Important Notice”

10
11 “The law requires any corporation, partnership, limited liability
12 company, or other legal entity owning real property in California
13 subject to local property taxation and transferring shares or other
14 ownership interest in such legal entity that constitute a change in
15 ownership pursuant to subdivision (d) of Section 64 of the Revenue
16 and Taxation Code to complete and file a change in ownership
17 statement with the State Board of Equalization at its office in
18 Sacramento. The change in ownership statement must be filed
19 within 90 days from the date that shares or other ownership
20 interests representing cumulatively more than 50 percent of the
21 total control or ownership interests in the entity are transferred by
22 any of the original coowners in one or more transactions. The law
23 further requires that a change in ownership statement be completed
24 and filed whenever a written request is made therefor by the State
25 Board of Equalization, regardless of whether a change in ownership
26 of the legal entity has occurred. The failure to file a change in
27 ownership statement within 90 days from the earlier of the date of
28 the change in ownership of the corporation, partnership, limited
29 liability company, or other legal entity, or the date of a written
30 request by the State Board of Equalization, results in a penalty of
31 15 percent of the taxes applicable to the new base year value
32 reflecting the change in ownership of the real property owned by
33 the corporation, partnership, limited liability company, or legal
34 entity (or 15 percent of the current year’s taxes on that real property
35 if no change in ownership occurred). This penalty will be added
36 to the assessment roll and shall be collected like any other
37 delinquent property taxes, and be subject to the same penalties for
38 nonpayment.”

39 (c) In the case of a corporation, the change in ownership
40 statement shall be signed either by an officer of the corporation or

1 an employee or agent who has been designated in writing by the
2 board of directors to sign such statements on behalf of the
3 corporation. In the case of a partnership, limited liability company,
4 or other legal entity, the statement shall be signed by an officer,
5 partner, manager, or an employee or agent who has been designated
6 in writing by the partnership, limited liability company, or legal
7 entity.

8 (d) No person or entity acting for or on behalf of the parties to
9 a transfer of real property shall incur liability for the consequences
10 of assistance rendered to the transferee in preparation of any change
11 in ownership statement, and no action may be brought or
12 maintained against any person or entity as a result of that
13 assistance.

14 Nothing in this section shall create a duty, either directly or by
15 implication, that such assistance be rendered by any person or
16 entity acting for or on behalf of parties to a transfer of real property.

17 (e) The board or assessors may inspect any and all records and
18 documents of a corporation, partnership, limited liability company,
19 or legal entity to ascertain whether a change in ownership as
20 defined in subdivision (d) of Section 64 has occurred. The
21 corporation, partnership, limited liability company, or legal entity
22 shall upon request, make those documents available to the board
23 during normal business hours.

24 SEC. 5. Section 480.9 is added to the Revenue and Taxation
25 Code, to read:

26 480.9. The board shall notify assessors if a change in control
27 or a change in ownership described in Section 64 has occurred.

28 SEC. 6. Section 482 of the Revenue and Taxation Code is
29 amended to read:

30 482. (a) (1) If a person or legal entity required to file a
31 statement described in Section 480 fails to do so within 90 days
32 from the date a written request is mailed by the assessor, a penalty
33 of either: (A) one hundred dollars (\$100), or (B) 10 percent of the
34 taxes applicable to the new base year value reflecting the change
35 in ownership of the real property or manufactured home, whichever
36 is greater, but not to exceed five thousand dollars (\$5,000) if the
37 property is eligible for the homeowners' exemption or twenty
38 thousand dollars (\$20,000) if the property is not eligible for the
39 homeowners' exemption if the failure to file was not willful, shall,
40 except as otherwise provided in this section, be added to the

1 assessment made on the roll. The penalty shall apply for failure to
2 file a complete change in ownership statement notwithstanding
3 the fact that the assessor determines that no change in ownership
4 has occurred as defined in Chapter 2 (commencing with Section
5 60) of Part 0.5. The penalty may also be applied if after a request
6 the transferee files an incomplete statement and does not supply
7 the missing information upon a second request.

8 (2) The assessor shall mail the written request specified in
9 paragraph (1) to the mailing address of the transferee as provided
10 by subdivision (f).

11 (b) If a person or legal entity required to file a statement
12 described in Section 480.1 or 480.2 fails to do so within 90 days
13 from the earlier of (1) the date of the change in control or the
14 change in ownership of the corporation, partnership, limited
15 liability company, or other legal entity, or (2) the date of a written
16 request by the State Board of Equalization, a penalty of 15 percent
17 of the taxes applicable to the new base year value reflecting the
18 change in control or change in ownership of the real property
19 owned by the corporation, partnership, or legal entity, or 15 percent
20 of the current year's taxes on that property if no change in control
21 or change in ownership occurred, shall be added by the county
22 assessor to the assessment made on the roll. The penalty shall apply
23 for failure to file a complete statement with the board
24 notwithstanding the fact that the board determines that no change
25 in control or change in ownership has occurred as defined in
26 subdivision (c) or (d) of Section 64. The penalty may also be
27 applied if after a request the person or legal entity files an
28 incomplete statement and does not supply the missing information
29 upon that second request to complete the statement. That penalty
30 shall be in lieu of the penalty provisions of subdivision (a).

31 (c) The penalty for failure to file a timely statement pursuant to
32 Sections 480, 480.1, and 480.2 for any one transfer may be imposed
33 only one time, even though the assessor may initiate a request as
34 often as he or she deems necessary.

35 (d) The penalty shall be added to the roll in the same manner
36 as a special assessment and treated, collected, and subject to the
37 same penalties for the delinquency as all other taxes on the roll in
38 which it is entered.

39 (1) When the transfer to be reported under this section is of a
40 portion of a property or parcel appearing on the roll during the

1 fiscal year in which the 90-day period expires, the current year's
2 taxes shall be prorated so the penalty will be computed on the
3 proportion of property which has transferred.

4 (2) Any penalty added to the roll pursuant to this section
5 between January 1 and June 30 may be entered either on the
6 unsecured roll or the roll being prepared. After January 1, the
7 penalty may be added to the current roll only with the approval of
8 the tax collector.

9 (3) If the property is transferred or conveyed to a bona fide
10 purchaser for value or becomes subject to a lien of a bona fide
11 encumbrancer for value after the transfer of ownership resulting
12 in the imposition of the penalty and before the enrollment of the
13 penalty, the penalty shall be entered on the unsecured roll in the
14 name of the transferee whose failure to file the change in ownership
15 statement resulted in the imposition of the penalty.

16 (e) When a penalty imposed pursuant to this section is entered
17 on the unsecured roll, the tax collector may immediately file a
18 certificate authorized by Section 2191.3.

19 (f) Notice of any penalty added to either the secured or
20 unsecured roll pursuant to this section, which shall identify the
21 parcel or parcels for which the penalty is assessed, and the written
22 request to file a statement specified in subdivision (a), which shall
23 identify the real property or manufactured home for which the
24 statement is required to be filed, shall be mailed by the assessor
25 to the transferee at his or her address contained in any recorded
26 instrument or document evidencing a transfer of an interest in real
27 property or manufactured home or the address specified for mailing
28 tax information contained in the preliminary change in ownership
29 report. If the transferee has subsequently notified the assessor of
30 a change in address for mailing tax information, the assessor shall
31 mail the notice of any penalty, or the written request to file a
32 statement specified in subdivision (a), to this address. If there is
33 no address specified for mailing tax information on either the
34 recorded instrument, the document evidencing a transfer of an
35 interest in real property or manufactured home, or on the filed
36 preliminary change in ownership report, and the transferee has not
37 provided an address for purposes of mailing tax information, the
38 assessor shall mail the notice of any penalty, or the written request
39 to file a statement specified in subdivision (a), to the transferee at
40 any address reasonably known to the assessor.

1 SEC. 7. Section 486 is added to the Revenue and Taxation
2 Code, to read:

3 486. (a) The board shall report to the Legislature, no later than
4 January 1, 2020, regarding the implementation of subparagraph
5 (B) of paragraph (1) of subdivision (c) of Section 64, including,
6 but not limited to, the ~~economic~~ *revenue* impact and frequency of
7 reassessments of real property owned by legal entities.

8 (b) (1) A report submitted pursuant to subdivision (a) shall be
9 submitted in compliance with Section 9795 of the Government
10 Code.

11 (2) Pursuant to Section 10231.5 of the Government Code, this
12 section is repealed on January 1, 2024.

13 SEC. 8. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution for certain
15 costs that may be incurred by a local agency or school district
16 because, in that regard, this act creates a new crime or infraction,
17 eliminates a crime or infraction, or changes the penalty for a crime
18 or infraction, within the meaning of Section 17556 of the
19 Government Code, or changes the definition of a crime within the
20 meaning of Section 6 of Article XIII B of the California
21 Constitution.

22 However, if the Commission on State Mandates determines that
23 this act contains other costs mandated by the state, reimbursement
24 to local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.

27 SEC. 9. This act provides for a tax levy within the meaning of
28 Article IV of the Constitution and shall go into immediate effect.

O

REVENUE & TAXATION POLICY COMMITTEE
Legislative Agenda
July 2014
 (*denotes proposed consent item)

Staff: Dan Carrigg (916) 658-8222

1. AB 2372 (Ammiano): Commercial Property Tax Assessments.

Summary:

AB 2372 clarifies and expands the definition of "change in ownership" for property tax reassessment purposes to include instances when 90 percent or more of the ownership interests in a legal entity (defined to mean corporation, limited liability company, partnership), or other legal entity holding the property are sold or transferred in a single transaction or in multiple transactions occurring over a period of up to three years, except for publicly-traded companies.

More specifically, AB 2372:

- Applies to specified transfers regardless of how many parties are involved or whether or not any one legal entity or person that is a party to the transaction acquires more than 50 percent of the ownership interests.
- Increases the penalties for failure to file a change in ownership statement from the current penalty of 10 percent to 15 percent of the taxes applicable to the new base year reflecting the change in control or change in ownership of the real property owned by the legal entity.
- Requires the BOE notify county assessors if a change in control or change in ownership of a legal entity has occurred.
- Requires the BOE submit a report to the Legislature no later than January 1, 2020 regarding the implementation of these changes in ownership, including, but not limited to, the economic impact and frequency of reassessments of real property owned by legal entities.

Background:

Approved in June 1978, Proposition 13 was crafted in response to public outcry stemming from skyrocketing property tax rates on homes, businesses and farms as a result of the 1973-75 recession. Prop. 13 provisions affecting local government finance include:

- Rolling back property values for tax purposes to the 1976 level. Capping property taxes at 1 percent of property cash value and limiting annual property value increases to 2 percent;
- Mandating all property value reassessments, regardless of commercial or residential status, only take place after a building changes ownership or undergoes major construction (prior to Prop. 13, properties were reassessed annually);
- Requiring 2/3 voter approval for state tax increases and local special tax increases; and
- Giving state lawmakers the ability to allocate property tax revenues among local jurisdictions;

Prop. 13 lowered the property tax burden for elderly, low-income and commercial property owners; local government agencies property tax revenues were cut by an estimated 60 percent. This resulted in greater reliance on state General Fund for county and school spending, and cities and counties expanding local user fees and enacting other taxes to make up for lost revenues.

Existing Law:

Prop. 13 requires commercial properties be taxed on their full market value if a "change in ownership" occurs. The initiative, however, did not define the term "change in ownership," leaving it to the Legislature. Following the passage of the initiative, the Legislature formed a working group which ultimately developed a statutory definition which states that a "change in ownership" does not occur unless one owner acquires more than 50 percent of a property. While changes in ownership of residential

properties are relatively easy for assessors to track, commercial property is much more difficult. Ownership shares in legal entities that own commercial property can change over time without triggering the 50% standard or a change in title.

According to the author's office, this "loophole" in statute has allowed property owners, by dividing ownership into shares not exceeding 50 percent, to avoid triggering a property value reassessment even in circumstances where 100 percent of the ownership changes hands.

A 2010 California Tax Reform Association 2010 report reviewed private equity buyouts and bank mergers and found several examples where it has been discovered that huge "changes of ownership" in major properties occurred which have gone without reassessment. Examples from the report include:

- In 2008 Wells Fargo & Company purchased Wachovia Corporation for a reported \$15.1 billion in an all-stock deal, but to date reports suggest reassessment of the California properties have yet to be assessed.
- In a 2006 reported \$6.6 billion buyout of Toys "R" Us, Inc.; Bain Capital Partners; Kohlberg, Kravis, Roberts & Company; and Vornado Realty Trust acquired worldwide operations of Toys "R" Us and Babies "R" Us. However with each of the three investors gaining equal stakes of ownership in the buyout, California properties have failed to be properly reassessed.

In addition, the *Santa Rosa Press Democrat* found the following local example:

"Consider the example of the Fairmont Miramar Hotel in Santa Monica. As reported by the Los Angeles Times, computer magnate Michael Dell agreed to buy the hotel for \$200 million. Before the deal closed, ownership was divided among Dell, his wife and a limited liability corporation. Dell assumed control of the hotel, but because no single buyer acquired a majority interest, the sale isn't recognized by state law as a change of ownership for the purpose of assessing property taxes.

Thus, the new owners are taxed based on a 1999 valuation of \$86 million rather than the \$200 million they paid for the hotel. The difference is about \$1 million a year that would otherwise go to the public schools and local government." (Editorial. 2014, May 23. Closing a loophole in Proposition 13. *Santa Rosa Press Democrat*.)

Policy Brief: Changing Property Tax Assessments for Commercial Property

Since the enactment of Prop 13, which capped property tax assessment at 1% of market value, there have been several debates about the taxation of commercial property:

1) Capturing Changes in Ownership of Commercial Property:

The contention is that the residential properties are sold more frequently, their sales are easier to track and the property is reassessed (typically upward) with each sale based upon the final sales price. Commercial properties do not change ownership as frequently; these ownership changes are more difficult to track and attorneys have devised ways of changing ownership structures that avoid triggering a reassessment. Because of this, it is argued, that residential property owners are paying an increasing share of the property tax burden.

There is some data that supports this argument. In a November 29, 2012, report *Understanding California's Property Taxes*, the Legislative Analyst Office states that the assessed value of owner-occupied homes represented 32 percent of statewide assessed valuation in 1986-87, and after a peak of 39 percent in 2005-06, the share was 36 percent in 2011-12. Further, the report cites data from Los Angeles County where the share of total assessed value for commercial property declined from 40 to 30 percent between 1985 and 2012. The LAO, however, notes that some of these changes could also reflect changing consumer demand for larger homes with more amenities over that period, and the changing nature of that states commercial sector with a reduction in manufacturing.

<http://www.lao.ca.gov/reports/2012/tax/property-tax-primer-112912.aspx>

Assembly Member Tom Ammiano has introduced similar legislation in the past to no avail. His most recent attempt was last year with AB 188, a bill seeking similar provisions of AB 2372, and AB 448 in 2011, which would have required reassessment of property owned by a legal entity whenever 100 percent of the ownership interests in that legal entity were sold or transferred. Both bills were opposed heavily by business groups, such as CalChamber, and never made it out of the Assembly.

2) Proposal to Establish a "Split Roll:"

A more contentious debate is over whether a "split roll" should be established, where commercial properties would be reassessed based upon their current market value, and the process for assessing homeowners would remain the same. These proposals have varied over the years, but it is a high stakes political battle.

For example, one proposal in 2005 was estimated to increase commercial property taxes by \$3.5 billion. Such proposals surfaced in the Legislature in 2013 were bitterly contested, and unable to secure the two-thirds vote needed for such a measure to pass even with a Democrat supermajority. The expected battleground for similar proposals continues to be via a future initiative that would need to be qualified for the ballot by signature gathering – which may be avoided if the perceived compromise between the bill's author/proponent groups and opposition/business groups continues and AB 2372 become law.

PPIC Poll & Pro-Reform Ballot Measure

Recent polls have shown that voter opinion is increasingly leaning towards supporting Prop 13 reform measures. According to a January 2014 Public Policy Institute of California (PPIC) survey, 59 percent of likely voters support (36 percent oppose) having commercial property taxed according to their current market value –referred to as a "split roll" system. For years, business groups have fiercely and successfully lobbied against such split roll proposals.

League Policy:

Existing League policy does not specifically address either of the above issues.

The policies that approach these issues most closely are:

- *Ensure the integrity of existing city revenue sources for all cities, including the city share and situs allocation, where applicable, of property tax, sales tax, vehicle license fees, etc.*
- *Additional revenue is required in the state/local revenue structure. There is not enough money generated by the current system or allocated to the local level by the current system to meet the requirements of a growing population and deteriorating services and facilities.*

While not spelled out specifically in existing policies, the League has been supportive in the past of various efforts to increase the collection of taxes that are owed to local government. One example is the League's strong support for collecting the "use tax" from internet sales. These taxes are owed, but not being collected. When these taxes are collected it creates equity among taxpayers and benefits both state and local government. In other areas, the League has supported voluntary data sharing between state and local agencies to help identify businesses that may seek to avoid responsibility for paying state and local taxes.

Fiscal Impact:

An accurate impact study estimating the fiscal costs/savings of implementing AB 2372 is yet to be completed. However, under the assumption that AB 2372 will increase the number of commercial property tax reassessments, it can be assumed that significant local revenues will be generated as a result of increased property values and reassessment frequency.

In addition, significant state savings could occur from additional property tax monies generated. The additional revenues would decrease the state's General Fund Proposition 98 education funding guarantee obligation.

The BOE has estimated an annual revenue gain of \$73 million per year.

Comments:

- 1) This bill focuses on identifying ownership transfers of commercial property that are currently not being captured due to complex strategies that mask ownership transfers or inadequate transparency and reporting. Such legislation is seeking to ensure that taxes that are owed are collected. Local agencies would benefit from this legislation by receiving more property tax revenue when additional changes of ownership of commercial property are captured.
- 2) The author has carried similar bills in the past, often supported by the California Tax Reform Association. The politics around this year's version changed several months ago when the business community, led by the California Chamber of Commerce, reached an agreement on language and switched their position to support. Some impetus for this agreement may lie in broader concerns in the business community over a potential effort by Prop. 13 reformers to sponsor an aggressive "split roll" initiative for the November, 2016 ballot. The existing agreement is shaky. Recently, the California Tax Reform Association sent an Oppose, Unless Amended letter, identifying provisions that should be tightened. While groups like CalChamber and CA Business Roundtable currently support the bill, their position may change if unacceptable amendments are added to the bill in the Senate. Should the bill lose its pro-business support, it would likely lose Senate Republican votes as well, which would be needed to meet the 2/3 vote requirement for passage.
- 3) The analysis of this measure by the Senate Governance and Finance Committee, as well as the discussion of the League's Revenue and Taxation Committee, recognized this measure does not provide a complete solution to the problem of commercial changes in ownership. While it may pose more obstacles, sophisticated owners can still find ways of working around the structure of the measure. Still, some transactions will be captured by this measure than otherwise would occur leading to more revenue for local agencies.
- 4) As of June 30, the updated amendments to this measure that were taken in the Senate Governance and Finance Committee have not yet appeared in print. According to the committee consultant, the amendments will address some of the concerns raised by the California Tax Reform Association and California Teachers Association aimed at tightening the bill's provisions to avoid sophisticated "work arounds." League staff will review the revised bill when it appears in print and provide an update to the board.

Support and Opposition (as of June 23, 2014):

Support:

California Association of Realtors
 California Business Properties Association
 California Business Roundtable
 California Chamber of Commerce
 California State Association of Counties
 City of Sacramento
 Los Angeles Mayor Eric Garcetti
 Los Angeles Chamber of Commerce

Neutral:

American Federation of State, County and Municipal Employees

California Labor Federation

Opposition:

California Taxpayers' Association
 California Tax Reform Association (unless amended)
 California Teachers Association

Committee Recommendation:

The committee moved and seconded a position of SUPPORT on AB 2372. The voice vote originally taken was inconclusive so another vote was taken by a raise of hands. The committee voted to support the measure 23-20. During the committee discussion those who spoke in support mentioned improved equity between commercial and residential for capturing changes of ownership and potential additional revenues for local agencies. Those who voted in opposition raised concerns regarding the economic impacts more frequent reassessments would have on local businesses and the ways the requirements of the bill could be evaded by sophisticated parties.

Board Action:

***2. Medical Injury Compensation Reform Act (MICRA) Ballot Initiative; The Troy and Alana Pack Patient Safety Act of 2014. (Proposition 46)**

Summary:

The Troy and Alana Pack Patient Safety Act of 2014, through signature gathering, has qualified for the November 2014 statewide ballot. It relates to medical malpractice and compensation, and has four key components.

- 1) *Removes the cap on noneconomic damages for medical negligence lawsuits.*
 This measure would adjust the current \$250,000 cap on noneconomic damages for inflation. According to the Legislative Analyst Office (LAO) this would bring the new cap to \$1.1 million and would be adjusted annually.
- 2) *Requires reporting of suspected physician drug or alcohol impairment or failure to follow appropriate standard of care.*
 Physicians would be required to report to the Medical Board of California any instance where another physician appears to be impaired by drugs or alcohol while on duty. This provision also requires reporting in instances where a physician provided an inappropriate standard of care.
- 3) *Requires hospitals to conduct alcohol and drug testing on physicians.*
 This requirement would include random drug and alcohol screening, testing after an adverse event, and at the direction of the Medical Board.
- 4) *Requires health care practitioners and pharmacists to consult the Controlled Substance Utilization and Review Evaluation System (CURES).*
 CURES is an electronic monitoring system for the prescribing and dispensing of specific controlled substances. It is monitored by the California State Department of Justice (DOJ) and is intended to curb prescription drug abuse.

Background:

MICRA Background:


California's Existing Medical Malpractice Cap (MICRA) was signed by Gov. Jerry Brown during his first term as Governor, the 1975 MICRA law was created during a special legislative session to address increasing medical liability costs. Legislation was enacted and implemented via the following California

OLD BUSINESS

- A. Finalize Changes to the Resolution Adopting the City Council's Rules Governing Meetings, Proceedings, and Business*



OFFICE OF THE CITY CLERK

TO: Legislative Policy Committee
FROM: Mark Jomsky, City Clerk 
DATE: July 30, 2014
SUBJECT: Finalize Changes to the Resolution Adopting the City Council's Rules Governing Meetings, Proceedings, and Business

On May 28, 2014, the Legislative Policy Committee provided direction to staff to finalize recommended changes to the proposed resolution adopting the City Council's rules governing meetings, proceedings, and business.

Placement of Items on Agenda

The following language incorporates the proposed changes to Rule 3.C., as directed by the Committee:

- "C. Placement of Items on Agenda. An item may be placed on a future agenda of the City Council by any of the following methods:
1. By the Mayor, City Manager, City Attorney, or City Clerk.
 2. By a vote or consensus of the City Council.
 3. By any member of the City Council submitting a request for an agenda item to the Mayor or City Manager, with the timing to be determined based on the orderly placement of the item for consideration.
 4. By any member of the City Council placing a written request for consideration of a future agenda item with the City Clerk, to be formally approved by a vote of the City Council. Said request will be placed on the next regular meeting agenda. If a member of the City Council notifies the City Clerk of his/her request for a future agenda item, the City Clerk shall notify the Mayor and City Manager prior to preparing the final agenda."

Recommendation: It is recommended that the Legislative Policy Committee approve the amended language to Rule 3.C., to be forwarded to the full City Council for consideration.

Preparation of Agenda

The Committee also discussed the need to amend Rule 3.A., and proposed the following amendment to the language:

“A. Preparation by City Clerk. The City Clerk shall prepare an agenda at the direction of the Mayor, following and in consultation with the City Manager and City Attorney, for each meeting of the City Council specifying the time and place of the meeting, and setting forth a brief general description of each item of business to be considered by the City Council at such meeting.”

To clarify, the proposed changes to Rule 3.A., as written above, do not reflect how the agenda is currently prepared. In terms of the agenda process, it is more accurate to state that the City Clerk’s Office prepares a draft of the City Council’s agenda for each meeting in consultation with the Mayor, City Manager, and City Attorney. As an alternative, staff recommends that the Committee consider amending Rule 3.A. to reflect the current practice, as follows:

“A. Preparation by City Clerk. The City Clerk shall prepare an agenda, ~~following~~ in consultation with the Mayor, ~~and~~ City Manager, ~~and~~ City Attorney, for each meeting of the City Council, specifying the time and place of the meeting, and setting forth a brief general description of each item of business to be considered by the City Council at such meeting.”

Should the Committee not agree with either version of the language presented above, a third option would be to maintain the status quo and continue to utilize the language from the 1987 policy, as follows:

“A. Preparation by City Clerk. The City Clerk shall prepare an agenda, following consultation with the Mayor and City Manager, for each meeting of the City Council, specifying the time and place of the meeting, and setting forth a brief general description of each item of business to be considered by the City Council at such meeting.”

Recommendation: It is recommended that the Legislative Policy Committee consider one of the following options in moving forward with amendments to Rule 3.A., or provide further direction to staff:

- 1) Approve the amendment as discussed at the May 28, 2014 Legislative Policy Committee meeting;
- 2) Approve the staff recommended alternative reflecting the preparation of the agenda consistent with current practices; or
- 3) Maintain the status quo and continue to utilize the language from the 1987 policy.

The attached draft resolution reflects staff’s recommended changes, including Option No. 2 (above) for Rule 3.A. If acceptable to the Committee, it would be appropriate to approve the resolution and forward it to the full City Council for consideration.

RESOLUTION NO: _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASADENA ESTABLISHING RULES FOR THE CONDUCT OF ITS MEETINGS, PROCEEDINGS, AND BUSINESS

WHEREAS, the Board of Directors of the City of Pasadena adopted rules for the conduct of its meetings, proceedings, and business by Resolution No. 5893 on December 7, 1987; and

WHEREAS, subsequent policy decisions and changes require an amendment to the rules governing City Council meetings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Pasadena as follows:

SECTION 1. The City Council of the City of Pasadena does hereby establish the following rules for the conduct of its meetings, proceedings, and business.

RULE 1. MEETINGS

A. Meetings. Regular meeting times and places and procedures for special and adjourned meetings of the City Council shall be established by ordinance.

B. Mayor. The Mayor shall preside over all meetings of the City Council. In his/her absence, the Vice Mayor shall serve as presiding officer. In the absence of both the Mayor and Vice Mayor, the City Council shall designate a senior member of the City Council to serve as presiding officer.

C. Workshop Meetings. The City Council may reserve a meeting each calendar month for the purpose of conducting a workshop meeting. The workshop meeting need not be conducted, and may be either cancelled, or utilized as a regularly scheduled City Council meeting.

D. Meeting Schedule. The City Clerk shall prepare, following consultation with the Mayor and the City Manager, an annual schedule of meetings of the City Council identifying dates for regular, special, and/or joint meetings, as well as proposed meetings to be cancelled. This schedule shall be distributed to the full City Council prior to finalization.

RULE 2. ORDER OF BUSINESS

The business of the City Council, at its meetings, shall be conducted in accordance with the following order of business:

CLOSED SESSION (To be heard at 5:30 p.m., and/or at the conclusion of the meeting)

PUBLIC MEETING (To be called to order at 6:30 p.m. or shortly thereafter)

ROLL CALL, PLEDGE OF ALLEGIANCE, AND CEREMONIAL MATTERS

(Presentations, Proclamations, and Introductions)

PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA (Public comment will be limited to a total of 20 minutes at the beginning of the meeting and will continue at the conclusion of the meeting, if necessary. Please limit comments to 3 minutes each.)

CONSENT CALENDAR (The Consent Calendar consists of routine items submitted by the City Manager, Mayor/City Council, Advisory Bodies, City Attorney, and City Clerk, which will be approved by one motion and one vote unless removed for separate discussion, including the approval of minutes, receive and file claims, and the setting of public hearings)

OLD BUSINESS

REPORTS AND COMMENTS FROM COUNCIL & COMMITTEE MEMBERS

Economic Development and Technology Committee

Finance Committee

Legislative Policy Committee

Municipal Services Committee

Public Safety Committee

PUBLIC HEARINGS (Scheduled for 7:00 p.m. or shortly thereafter)

RECOMMENDATIONS FROM OFFICERS AND DEPARTMENTS

ORDINANCES

First Reading

Second Reading

INFORMATION ITEM/WORKSHOP

BRIEF REPORTS FROM REPRESENTATIVES/REQUESTS FOR FUTURE AGENDA ITEMS

ADJOURNMENT

A posting statement by the City Clerk will be provided on the next page following the agenda. Departures from said order of business may be authorized from time to time at the discretion of the Mayor and/or by consent of the City Council.

RULE 3. AGENDA

A. Preparation by City Clerk. The City Clerk shall prepare an agenda, in consultation with the Mayor, City Manager, and City Attorney, for each meeting of the City Council, specifying the time and place of the meeting, and setting forth a brief general description of each item of business to be considered by the City Council at such meeting.

B. Times Certain. Certain items shall be listed on the agenda for a time certain. Such listings shall mean that the item shall be heard as soon as reasonably possible after the specified time.

C. Placement of Items on Agenda. An item may be placed on a future agenda of the City Council by any of the following methods:

1. By the Mayor, City Manager, City Attorney, or City Clerk.
2. By a vote or consensus of the City Council.
3. By any member of the City Council submitting a request for an agenda item to the Mayor or City Manager, with the timing to be determined based on the orderly placement of the item for consideration.
4. By any member of the City Council placing a written request for consideration of a future agenda item with the City Clerk, to be formally approved by a vote of the City Council. Said request will be placed on the next regular meeting agenda. If a member of the City Council notifies the City Clerk of his/her request for a future agenda item, the City Clerk shall notify the Mayor and City Manager prior to preparing the final agenda.

All agenda items shall be placed on the agenda, and all agendas shall be prepared pursuant to the requirements of the Ralph M. Brown Act (California Government Code Sections 54950 et seq.).

D. Scheduling. The City Clerk is hereby empowered to and shall endeavor, in consultation with the City Manager, to schedule sufficient time between public hearings and other scheduled business matters such that the public is not kept unduly waiting, and the City Council will have sufficient time to review necessary materials, hear testimony, and deliberate matters among themselves.

E. Posting. The resultant final agenda for each regular meeting shall be posted at least 72 hours prior to the meeting in accordance with the Ralph M. Brown Act (California Government Code Sections 54950 et seq.). The City Clerk shall maintain a record of such posting as contained in the posting statement.

F. Availability of Agenda Materials. The City Clerk shall post the agenda, agenda materials, and supplemental agenda materials on the City's agenda webpage.

Any interested person may request copies of agenda reports by contacting the City Clerk and paying the established rate of reproduction, as provided by the City Council by resolution, or may make copies on their own from the agenda materials posted on the City's agenda webpage or from those copies found at the Central Library.

G. Advance Distribution of Documentation for Major Matters. Documentation prepared relating to major policies, that may be associated with or supporting discussion items, public hearings, or ordinances, which have attracted or are prospectively believed to attract significant public attention and interest, should be, whenever possible, distributed at least one week in advance to allow for public dissemination and encourage public comment. This excludes agenda reports and presentation materials, which will be prepared and disseminated to the public in accordance with the Brown Act.

RULE 4. PUBLIC HEARINGS

A. Time for Consideration. Public Hearings and matters noticed or ordered to be held by the City Council shall be commenced at the time specified for the hearing or consideration of such matters, or as soon thereafter as is reasonably possible.

B. Continuance of Hearings. Any public hearing being held or noticed to be held by the City Council at any meeting of the City Council may, by order or vote of the Council, be continued or reconvened to any subsequent meeting of the City Council.

C. Public Discussion at Hearings. Upon opening a public hearing and before any motion is adopted relating to the merits of the matter to be heard, the Mayor shall inquire if there are any persons present who desire to speak on the matter which is to be heard or to present evidence relating to such matter. Any person desiring to so speak or present evidence will be asked to complete a speaker's request card and submit it to the City Clerk or Sergeant at Arms (see Rule 6-C below for additional details). Upon being recognized by the Mayor, such person may speak or present evidence relevant to the matter being heard, limited to three minutes. The Mayor, in his/her discretion, and/or in consultation with the City Council, may limit or extend time for public comment as he/she may find reasonable under the circumstances. No person shall be permitted to speak or present evidence until he/she is recognized by the Mayor and given permission by the Mayor to speak or present evidence. Members of the City Council who wish to ask questions of the person, or of each other, or who wish to discuss the subject matter

of the hearing during the course of the hearing, may do so, but only after being recognized by the Mayor.

All persons interested in the matter which is the subject of the hearing shall be entitled to submit written evidence which will be part of the record and shall be given reasonable opportunity to present oral evidence relevant to such subject. All evidence presented shall be retained by the City as part of the City Clerk's official record for the item being discussed or considered; however, parties displaying models and large exhibits may substitute photographs to be placed in the official record. Also, interested persons shall be given reasonable opportunity to present arguments for or against any proposed action. However, no person shall be permitted, during such hearing, to speak or present evidence relating to matters not relevant to the matter which is the subject of the hearing.

It shall be the policy of the City Council that legally required and advertised public hearings may have higher time priority over other time scheduled agenda items which have been so scheduled in the normal course of City business rather than for statutory or other legal reasons.

RULE 5. ROBERT'S RULES OF ORDER

In all matters not otherwise provided for herein, the proceedings for the City Council shall be governed under "Robert's Rules of Order", the most current edition.

RULE 6. PETITIONS AND COMMUNICATIONS

A. Petitions and Communications Not on the Agenda. If a person or group wishes to present to the City Council at its meeting a written or oral petition or communication, such submission will be permitted at the time the City Council takes up "Public Comment on matters not on the agenda" as indicated on the agenda format as adopted herein.

B. Addressing the City Council. Each person addressing the City Council will be asked to approach the audience microphone, give his/her name and address in an audible tone of voice for the record, and unless further time is granted by the Mayor or presiding officer, shall limit his/her comments to three minutes. Members of the public will be asked to direct comments to the City Council as a body. Any person making personal, impertinent or slanderous remarks, or who shall become boisterous or threatening or personally abusive while addressing the City Council shall be asked by the Mayor to cease and desist such activity, and may be requested to leave the meeting in the event the behavior continues to disrupt the meeting proceedings (see RULE 7 – DISORDERLY CONDUCT).

C. Speaker Cards. The City of Pasadena encourages and welcomes public participation on matters related to the City's business. Any person desiring to speak to the City Council during public comment on matters not on the agenda, or during the comment period for items on the agenda, is asked to submit a speaker card. Speaker cards may be submitted to the City Clerk or Sergeant at Arms at the start of the City Council meeting (no earlier than 5:30 p.m. for regular meetings), or any time after the start of the meeting, up to, and during, consideration of the item.

Public comment on matters not on the agenda will be limited to a total of 20 minutes at the beginning of the meeting, and will continue, if necessary, in the event that not all speakers are heard in the initial 20-minute period, after all other business of the meeting is concluded. Speaker cards for public comment on matters not on the agenda must be received by the Sergeant at Arms or City Clerk prior to the completion of the initial 20-minute period. Public comment speakers shall limit comments to no more than 3 minutes each. The Mayor, in his/her discretion, and/or in consultation with the City Council, may limit or extend time for public comment as he/she may find reasonable under the circumstances.

RULE 7. DISORDERLY CONDUCT

The Mayor or presiding officer shall have the authority to preserve order at all meetings of the City Council, to remove or cause the removal of any person from any meeting of the City Council for disorderly conduct, or conduct as hereinabove stated in Rule 6-B, and to enforce the rules of the City Council. The Mayor or presiding officer may command the assistance of the Sergeant at Arms or any peace officer of the City who shall enforce all lawful orders directed by the Mayor or presiding officer to restore order at any meeting of the City Council.

ADOPTED at the regular meeting of the City Council of the City of Pasadena on the _____ day of _____ 2014.

AYES:
NOES:
ABSENT:
ABSTAIN:

Mark Jomsky, City Clerk

Approved as to form:

Michele Beal Bagneris, City Attorney