California State
Board *of* Equalization

Legislative Bill Analysis

County-Assessed Properties Division

Assembly Constitutional Amendment 20 (Steinorth) @ 1/3/2018
Assembly Bill 1748 (Steinorth) @ 4/24/2018
Program: Property Taxes
Sponsor: Author
California Constitution Article XIII A, Section 2, and Revenue and Taxation Code Section 69.5
Effective: If approved by voters, operative 1/1/19

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Summary: Subject to voter approval, allows property owners at least 55 years of age or severely disabled to transfer their principal residence base year value an unlimited number of times, regardless of value, anywhere in California. For property owners younger than 55 years of age, allows a principal residence base year value transfer one time only, regardless of value or location.

Amendments: Since the previous analysis, Assembly Bill 1748 was amended to eliminate the proportional decrease for a replacement home that is of equal or lesser value than the original property and add a definition of "equal or lesser" value.

Purpose: To allow a base year value transfer anywhere in California, regardless of value.

Fiscal Impact Summary: Revenue loss of at least $1.3 billion annually.

Existing Law: For property tax purposes, the law requires assessors to reassess real property from its Proposition 13 protected value (called the "base year value") to its current market value whenever a change in ownership occurs.[1] However, subject to many conditions, the law[2] allows homeowners at least age 55 years or qualified disabled persons to sell their existing home (called the "original property"), buy or build a new one, and transfer their base year value to the new home. This benefit gives homeowners property tax relief by allowing property taxes to remain essentially the same[3] after the move, provided they purchase a home of equal or lesser value. The replacement home must be purchased within 2 years, before or after, the original property's sale.

Principal Place of Residence. To qualify for this benefit, both the original property and the replacement home must be eligible for either the homeowners' exemption or the disabled veterans' exemption, based on the property owner's ownership and usage of the home as a principal place of residence.[4]

Location Limitation. The replacement home must be located either (1) in the same county as the original property, or (2) in a county that accepts "intercounty" transfers. Currently the 11 counties that have enabling ordinances are Alameda, El Dorado (until November 7, 2018), Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Mateo, Santa Clara, Tuolumne, and Ventura.

One-Time Benefit. Eligibility for this benefit consists of many requirements. Currently, the "claimant" cannot have previously used the base year value transfer under section 69.5.[5] The law defines a claimant

[1] California Constitution article XIII A, section 2.
[2] California Constitution article XIII A, section 2(a), Revenue and Taxation Code (RTC) section 69.5.
[3] The property tax bill is not identical because the precise tax rate and direct levies (special assessments, parcel taxes, etc.) differ for each home's location.
[4] RTC sections 69.5(b)(2), 69.5(b)(4), and 69.5(g)(10).
[5] RTC section 69.5(b)(7). The law allows a second base year value transfer if the person previously granted a base year value transfer subsequently becomes disabled and files a disability-based claim.

as any person claiming this property tax relief.[6] The law also considers a spouse who shares title of the newly purchased home with the claimant to be a "claimant" for purposes of future transfers. The law[7] allows a second base year value transfer if the person previously granted a base year value transfer subsequently becomes disabled and files a disability-based claim.

Statewide Tracking Database. To monitor and enforce this one-time base year value transfer limit statewide, the law[8] requires the Board of Equalization (BOE) to maintain a database to track persons granted a base year value transfer. When married persons file a claim to transfer the base year value of their current home to a newly purchased home to which they share title, their names and social security numbers are entered in the database. This ensures that neither person will be allowed a future transfer.

Co-Owner's Transfer to Replacement Home. If the original property was co-owned by two or more persons, regardless of their relationship, and each co-owner purchases or newly constructs a separate replacement home, the law[9] allows only one of the former co-owners to transfer the base year value of the sold home. Current law does not allow a base year value to be split among co-owners.

Value Limit. To qualify for this benefit, the replacement property's market value as of the date of purchase must be equal to or less than the original property's market value on the date of its sale. If the replacement home does not satisfy the "equal or lesser value" test, then no benefit is available. The meaning of "equal or lesser value" depends on when the replacement property is purchased. In general, equal or lesser value means:[10]

- 100 percent or less of the market value of the original property if a replacement property was purchased or newly constructed *before* the sale of the original property, or
- 105 percent or less of the market value of the original property if a replacement property was purchased or newly constructed *within the first year* after the sale of the original property, or
- 110 percent or less of the market value of the original property if a replacement property was purchased or newly constructed *within the second year* after the sale of the original property.

Proposed Law:

If voter approved, this constitutional amendment authorizes the Legislature to allow any number of base year value transfers of a principal residence for persons age 55 years or older or severely disabled, regardless of value or location. In addition, the constitutional amendment allows a person younger than 55 years of age to transfer the base year value of a principal residence one time.

Assembly Bill 1748, Section 2, contains the implementing amendments to RTC section 69.5.

Replacement Property Value. Assembly Bill 1748 proposes to implement the base year value transfer to a home of that is of equal or lesser value. This bill proposes to allow a partial benefit for a replacement home that is of *greater* value.

[6] RTC section 69.5(g)(9).
[7] RTC section 69.5(b)(7).
[8] RTC section 69.5(b)(7).
[9] Section 69.5(d)(2) and (3).
[10] RTC section 69.5(g)(5).

- The original property's base year value may be transferred to a replacement home of equal or lesser value if the full cash value of the replacement home meets one of the following value comparison tests:
  - 100 percent: If the replacement dwelling is purchased or newly constructed prior to the date of the sale of the original property
  - 105 percent: If the replacement dwelling is purchased or newly constructed within the first year following the date of the sale of the original property
  - 110 percent: If the replace replacement dwelling is purchased or newly constructed within the first year following the date of the sale of the original property
- For a replacement home of greater value, the replacement home's base year value would be calculated by adding the difference between the original property's market value and the replacement home's market value to the original property's base year value. *Section 69.5(a)(2)(A)*

Base Year Value Transfer by Co-Owners to Separate Replacement Dwellings. Assembly Bill 1748 allows co-owners who purchase separate replacement homes to transfer the base year value in proportion to their ownership interest in the original property. *Section 69.5(d)(2)*

Value Comparison Test. Assembly Bill 1748 modifies the value comparison test when the replacement home is purchased before the original property is sold and the market value of the replacement home has declined in value between its date of purchase and the date of sale of the original property. In this situation, the market value of the replacement home on the date the original property sells is used for the "equal or lesser" value comparison test. *Section 69.5(g)(4)(B)*

Contingent Enactment. Assembly Bill 1748 becomes operative only if voters approve Assembly Constitutional Amendment 20.

In General: **Property Tax System.** In 1978, voters approved Proposition 13. Under this system, property is reassessed to its current market value only after a change in ownership or new construction. Generally, the property's sales price sets the property's assessed value, and annual increases thereafter are limited to the rate of inflation up to 2 percent.

Base Year Values. At the time of the ownership change, the value for property tax purposes is redetermined based on current market value. This established value is described as the "base year value." Thereafter, the base year value is subject to annual increases for inflation limited to 2 percent per year. This value is described as the "factored base year value." The Proposition 13 system can result in substantial property tax savings for long-term property owners.

Base Year Value Transfers. Voters have approved three constitutional amendments permitting persons to transfer their Proposition 13 base year value from one home to another that is of equal or lesser value. The base year value transfer avoids reassessment of the newly purchased home to its fair market value.

- **Intracounty.** In 1986, Proposition 60[11] amended the constitution to allow persons over the age of 55 to sell a principal residence and transfer its base year value to a replacement principal residence within the same county.
- **Intercounty.** In 1988, Proposition 90[12] amended the constitution to extend these provisions to a replacement residence located in another county on a county-optional basis. Currently, eleven counties accept transfers from homes located in another county.
- **Disabled Persons**. In 1990, Proposition 110[13] amended the constitution to extend these provisions to any severely and permanently disabled person regardless of age.

Article XIII A, section 2 of the California Constitution provides, in pertinent part:

> [T]he Legislature may provide that under appropriate circumstances and pursuant to definitions and procedures established by the Legislature, any person over the age of 55 years who resides in property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII and any implementing legislation may transfer the base year value of the property entitled to exemption, with the adjustments authorized by subdivision (b), to any replacement dwelling of equal or lesser value located within the same county and purchased or newly constructed by that person as his or her principal residence within two years of the sale of the original property. [¶…¶]
>
> The Legislature may extend the provisions of this subdivision relating to the transfer of base year values from original properties to replacement dwellings of homeowners over the age of 55 years to severely disabled homeowners.

RTC section 69.5 implements all three propositions.

The BOE's Assessors' Handbook Section 401 *Change in Ownership*, chapter 14 at page 106, provides more details, and the BOE's website includes FAQ's for Propositions 60/90 and Proposition 110.

Legislative Background:

Assembly Bill 1378 (Holden) of the 2015-16 session would have allowed spouses to each make separate base year value transfer claims related to the one-time only benefit provided to persons 55 years and over that move from one home to another. This bill was vetoed.

The following table lists previous legislative attempts to allow a partial benefit for replacement homes of greater value.

[11] Proposition 60, approved November 4, 1986.
[12] Proposition 90, approved November 8, 1988.
[13] Proposition 110, approved June 5, 1990.

Bill Number	Legislative Session	Author	Disposition
ACA 12/AB 2668	2015-16	Mullin	ACA 12 was not heard. AB 2668 was held in the Assembly Appropriations Committee
SCA 9/SB 378	2015-16	Beall	SCA 9 did not pass out of the Senate Elections and Constitutional Amendments Committee. SB 378 was held in the Senate Appropriations Committee.
SCA 11/SB 274	2009-10	Dutton	Did not pass out of Senate Revenue and Taxation Committee. This bill also expanded the purchase window from within two years to three years of the original property's sale date.
SCA 24/SB 1610	2007-08	Dutton	Did not pass out of Senate Revenue and Taxation Committee. This bill also expanded the purchase window from within two years to three years of the original property's sale date.

The following table lists previous legislative attempts to require all counties to accept intercounty base year value transfers.

Bill Number	Legislative Session	Author	Disposition
AB 1172* as amended 3/21/13	2013-14	Bocanegra	Limited to persons 65+. Not heard with the intercounty provisions. Amended out 01/06/14
SCA 31/SB 1415	2009-10	Walters	Not heard.
ACA 39/AB 1960	1978-98	Takasugi	Held in Assembly Appropriations Committee
ACA 57/AB 3234	1987-88	Mojonnier	Not heard.

* Assembly Bill 1172 only applied to homeowners 65 years and older. Those between the ages of 55 and 64 remained limited to the county in which they currently reside or those counties with active ordinances.

* Assembly Bill 1172, as amended January 6, 2014, would have required the California Research Bureau to evaluate the revenue impact if California enacted a statute similar to Florida's "Save Our Homes" portability statute. (Florida Stat., Sec. 193.155(8); we note that Florida's program is not age-restricted.) These provisions were amended out of that bill. However, a study was conducted under the Faculty Fellows Program. In 2016, The Center for California Studies, published *Economic Impacts of a Property Assessment Portability Law*, 2016, Dr. Adrian R. Flessig, California State University, Fullerton. The study concluded that Florida's portability law "will provide an additional incentive for residential property owners to sell their home and purchase another residence. This will increase turnover rates and homeowner mobility."

Commentary:

1. **Summary of Amendments.** The **April 24, 2018** amendments to Assembly Bill 1748 eliminate the proportional decrease for a replacement home that is of equal or lesser value than the original property and add a definition of "equal or lesser" value.

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

2. **Principal Place of Residence.** A property owner who owns residential property and occupies it as a principal place of residence is eligible for a base year value transfer under section 69.5 if that person is also eligible for either of the homeowners' exemption[14] or the disabled veterans' exemption.[15] In order to clarify that "property that is eligible for the homeowners' exemption" under section 69.5(a) also includes property that is eligible for the disabled veterans' exemption as stated in section 69.5(g)(10), the author may want to consider the following changes:

   Suggested changes to Assembly Constitutional Amendment 20:

   (6) (A) On and after January 1, 2019, subject to any applicable procedures and definitions as provided by statute, the base year value of property that is ~~eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII~~ *the principal place of residence* of any person aged 55 years or older or who is severely disabled, may be transferred to any replacement dwelling, regardless of its value or whether it is located within the same county, that is purchased or newly constructed by that person as his or her principal residence within two years of the sale of the original property.

   (B) On and after January 1, 2019, subject to any applicable procedures and definitions as provided by statute, the base year value of property that is ~~eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII~~ *the principal place of residence* of any person younger than 55 years of age may be transferred to any replacement dwelling, regardless of its value or whether it is located within the same county, that is purchased or newly constructed by that person as his or her principal residence within two years of the sale of the original property. Only one such transfer is allowed a person while he or she is younger than 55 years of age.

   Suggested changes to Assembly Bill 1748, Section 2:

   (a) (1) Notwithstanding any other law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, the base year value of property that is ~~eligible for the homeowners' exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218~~ *the principal place of residence* of any person, regardless of age or disability, shall, subject to the procedures provided in this section, be transferred to any replacement dwelling, regardless of the value of the replacement dwelling or whether the replacement dwelling is located within the same county, that is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that the base year value of the original property shall not be transferred to the replacement dwelling until the original property is sold.

   (b) (2) The original property is eligible for the homeowners' exemption *or disabled veterans' exemption* as the result of the person's ownership and occupation of the property as his or her principal residence, either at the time of its sale, or at the time when the original property was substantially damaged or destroyed by misfortune or calamity, or within two years of the purchase or new construction of the replacement dwelling.

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[14] See Cal. Const., art. XIII, sec. 3(k); RTC sec. 218.
[15] See Cal. Const. art. XIII, sec. 4(a); RTC sec. 205.5; see also RTC sec. 69.5(g)(10).

(b) (3) At the time of filing for the property tax relief provided by subdivision (a), the person is an owner of a replacement dwelling and occupies it as his or her principal place of residence and, as a result thereof, the property is currently eligible for the homeowners' exemption *or disabled veterans' exemption* or would be eligible for the exemption except that the property is already receiving the exemption because of an exemption filed by the previous owner.

(g) (8) "~~Property that is eligible for the homeowners' exemption~~ *Principle place of residence*" includes property that is the principal place of residence of its owner and is ~~entitled to exemption pursuant to~~ *eligible for either the homeowners' exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 or the disabled veterans' exemption under subdivision (a) of Section 4 of Article XIII of the California Constitution and* Section 205.5.

3. **One-Time-Only Limitations for Persons Younger than Age 55.** How will this limitation be monitored? Currently section 69.5(b)(7) requires county assessors to quarterly report to the BOE information from claims filed to identify all claimants who have received relief. The BOE currently maintains a database to track the one-time-only limit and quarterly sends assessors a report that lists persons who have filed duplicate claims. Section 69.5 that will go into effect January 1, 2019 (Section 2) does not contain similar language. If this limitation will not be tracked, then the author may want to consider eliminating the requirement that the social security number be reported to the assessor when filing the claim form (sec. 69.5(f)(1)(A)).

4. **Value Comparison Test.** Under Assembly Bill 1748, section 69.5(d)(2) (Section 2) allows co-owners to transfer their proportional interest to separate replacement dwellings. The value to be transferred by each is allocated according to each owner's proportional interest. This is equitable as long as each co-owner acquired the real property jointly at the same time. However, this would not be equitable if each co-owner acquired his or her interest at different times and have different base year values.[16]

   For example, assume that two people, Person A and Person B, acquire a single-family residence as equal co-owners and the new base year value is $100,000 (i.e., $50,000 for each undivided one-half interest). Three years later, Person B transfers his interest to Person C. The market value of the interest at the time of transfer is $75,000. The home, at this point, has a split base year value. The base year value of Person A's property is $50,000 (which is one-half of the $100,000 when the original base-year value was created), and the base-year value of Person C's interest is $75,000. The total value showing on the roll would be $125,000. Under Assembly Bill 1748, if Person A and Person C sell their home and each acquire a separate replacement home, the allocated portion of the base year value that each can take to a replacement home is $62,500 since each owns a 50 percent interest. This results in Person A having a higher base year value and Person C having a lower base year value than they would have had if they were to take their separate base year values.

   To clarify that the value to be transferred is the value associated with the co-owner's interest, the author may want to consider adding the following language to subdivision (g)(1):

[16] See Letter To Assessors 85/85 for advice given to county assessors on tracking ownership interests in real property.

(C) In the case where the original property was owned by two or more persons who each purchase or newly construct separate replacement dwellings, the "base year value of the original property" means the value allocated according to each co-owner's proportional interest or each co-owner's base year value if each co-owner acquired his or her interest at different times.

5. **Technical Suggestions.** Assembly Constitutional Amendment 20 allows a base year value transfer for persons "aged 55 years or older." Under Assembly Bill 1748, section 69.5(b)(5) (Section 2) provides that a person shall be eligible for relief only "If the person is not a person *over the age of 55 years* or a severely and permanently disabled person, the person has not previously been granted the property tax relief provided by this section." To be consistent with other references to the age limit in Assembly Bill 1748, the author may want to consider changing the reference from "over the age of 55 years" to "at least 55 years of age."

   Also, we note that in section 69.5(h)(4) (Section 2), the punctuation is missing at the end of the paragraph.

6. **Related Legislation.** Assembly Constitutional Amendment 7 (Bocanegra) was introduced to allow a base year value transfer for persons at least age 55/disabled to replacement property located anywhere in California. Assembly Constitutional Amendment 12 and Assembly Bill 1596 (Gloria) propose to allow base year value transfers from one home to another when a person buys or builds a new home to accommodate a disabled child's needs. Senate Constitutional Amendment 19 (Gaines) was introduced to allow a base year value transfer for veterans.

Costs: If approved, the BOE would have to update its publications and website and address ongoing implementation issues that will result under these new provisions. These costs are absorbable. However, if the BOE will be required to monitor the one-time-only limitation for persons younger than age 55, the BOE would incur costs to either modify the existing database or create a new database to track this new one-time-only limitation.

Revenue Impact: **Background, Methodology, and Assumptions.** Predicting the number of additional transfers resulting from this constitutional amendment is difficult. However, based on historical data from county assessors, BOE staff estimates the average annual number of transfers of single family residences during the past two decades is 740,000 per year. Included in this total are homeowners of all ages. According to the California Association of Realtors, the median California home price in November 2017 was $546,820. The Fiscal Year 2016-17 average assessed value of a property receiving the homeowners' exemption was $372,000. Therefore, for each transfer, the estimated assessed value difference is about $174,820 ($546,820 - $372,000), or $1,748 per transfer at the basic 1 percent property tax rate. Revenue loss can then be computed as follows:

740,000 transfers x $1,748 per transfer = $1.3 billion

Revenue Summary. If approved, this constitutional amendment would initially reduce property tax revenues at the basic 1 percent tax rate by at least $1.3 billion annually.

Qualifying remarks. Generally, eligibility for the described property tax relief requires a sale of the original property; i.e. a change in ownership subjecting the original property to reappraisal at its current fair market value. This revenue estimate does not account for the change in the assessed value to the original property.

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

The historical average number of transfers is a baseline. While this proposal allows for only one such transfer for homeowners under 55, it may encourage more homeowners to sell sooner than otherwise planned, thereby greatly increasing the average number of annual transfers.

This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.