



IDEAS + ACTION FOR A BETTER CITY

a member-supported nonprofit organization

# San Francisco and California November 2020 Voter Guide

## Ballot analysis and recommendations

<p>PROP Health, Parks and Streets Bond</p> <p>VOTE YES ✓</p>	<p>PROP New Department of Sanitation and Streets</p> <p>VOTE NO ✗</p>	<p>PROP City Commission Membership Requirements</p> <p>VOTE YES ✓</p>	<p>PROP Sheriff Oversight</p> <p>VOTE YES ✓</p>	<p>PROP Police Staffing</p> <p>VOTE YES ✓</p>	<p>PROP Business Tax Changes</p> <p>VOTE YES ✓</p>	<p>PROP Youth Voting in Local Elections</p> <p>VOTE YES ✓</p>
<p>PROP Small Business Initiative</p> <p>VOTE YES ✓</p>	<p>PROP Transfer Tax Increase</p> <p>VOTE NO ✗</p>	<p>PROP Schools Parcel Tax</p> <p>VOTE YES ✓</p>	<p>PROP City-Owned Affordable Housing</p> <p>VOTE YES ✓</p>	<p>PROP Disproportionate CEO Pay Tax</p> <p>NO RECOMMENDATION —</p>	<p>PROP Stem Cell Bond</p> <p>VOTE NO ✗</p>	<p>PROP Commercial Property Tax Changes</p> <p>VOTE YES ✓</p>
<p>PROP Affirmative Action</p> <p>VOTE YES ✓</p>	<p>PROP Voting Rights for People on Parole</p> <p>VOTE YES ✓</p>	<p>PROP Primary Voting for 17-Year-Olds</p> <p>VOTE YES ✓</p>	<p>PROP Property Tax Transfers</p> <p>VOTE YES ✓</p>	<p>PROP Rollback of Crime Leniency Laws</p> <p>VOTE NO ✗</p>	<p>PROP Rent Control</p> <p>VOTE NO ✗</p>	<p>PROP App-Based Driver Classification</p> <p>VOTE NO ✗</p>
<p>PROP Private Dialysis Clinics</p> <p>VOTE NO ✗</p>	<p>PROP Consumer Data Privacy</p> <p>NO RECOMMENDATION —</p>	<p>PROP End Cash Bail</p> <p>VOTE YES ✓</p>	<p>MEASURE Caltrain Sales Tax</p> <p>VOTE YES ✓</p>			

The goal of the SPUR Voter Guide is to offer objective analysis and advise voters on which measures will deliver real solutions.

Our Ballot Analysis Committee heard arguments from both sides of the issues, debated the measures’ merits and provided recommendations to our San Francisco Board of Directors. The board then voted, with a 60 percent vote required for SPUR to make a recommendation.

SPUR’s San Francisco Board of Directors debated and voted on SPUR’s local San Francisco ballot recommendations on August 26, 2020.

**San Francisco Ballot Analysis Committee:** Bob Gamble (Co-Chair), Molly Turner (Co-Chair), Nadia Anderson, Peter Back, Chris Brown, Michaela Cassidy, Jim Chappell, Kim-Mai Cutler, Tamsen Drew, Stephen Engblom, Don Falk, Diane Filippi, Ed Harrington, Vince Hoenigman, Traci Lee, Aaron Johnson, Greg Johnson, Hao Ko, Jim Lazarus, Terry Micheau, Rebecca Prozan, Joe Speicher, Doug Shoemaker and Fran Weld.

**SPUR Staff:** Susannah Parsons, Hannah Schwartz, Katie Ettman, Eli Zigas, Ben Grant, Michelle Huttenhoff, Kristy Wang

**Editors:** Valerie Sinzdak, Karen Steen, Colleen Valles

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## Prop A

# Health, Parks and Streets Bond

BOND

## Health and Homelessness, Parks, and Streets Bond

Issues \$487.5 million in general obligation bonds for capital projects for: mental health, substance abuse and homelessness programs; parks and recreation facilities; and street improvement, maintenance and repair.

Vote YES



## What the Measure Would Do

Proposition A would authorize the City and County of San Francisco to issue general obligation bonds totaling \$487.5 million for numerous capital projects in three major categories: mental health, substance abuse and homelessness; parks, open space and recreation facilities; and street maintenance and improvements.

The measure would fund a number of capital projects across the three categories, and is largely framed as an investment in employment and economic recovery in the context of the COVID-19 public health emergency.

The bond would direct:

- \$239 million to parks and open space, including \$25 million to renovate the Japantown Peace Plaza, \$30 million to double the space of the Gene Friend Recreation Center in the South of Market area, and \$29 million to create a waterfront park at India Basin. This also includes a \$54 million project to renovate Portsmouth Square in Chinatown.
- \$147 million to permanent supportive housing, transitional housing and shelters.
- \$60 million to projects addressing mental health and substance-use disorders, including construction of a new Behavioral Health Access Center for mental health and addiction services, among other facilities.
- \$42 million dollars to streets, with three quarters going toward paving and the remainder toward curb ramps and structures like stairs and retaining walls.

The projects funded by this measure are recommended in the city's 10-year capital plan. Prop. A also meets the city's policy that new bond debt is taken on only as existing debt is retired and thus does not raise property taxes above 2006 rates. The Citizens' General Obligation Bond Oversight Committee would review how the bond money is spent.

## The Backstory

This measure was proposed by Mayor London Breed and, after some modifications, was approved unanimously for the ballot by the Board of Supervisors. With a large number of priorities in the city's 10-year capital plan competing for bond funding, city leaders generally put bond measures

forward in a deliberate sequence to cover the full range of issues (e.g., housing one cycle, parks another). Although this measure contains several different types of projects, the unanimous Board approval reflects a general consensus on the measure's priorities and package of projects.

As a bond measure, Prop. A requires a two-thirds majority to pass.

## Equity Impacts

The projects identified in Prop. A generally benefit low-income communities, communities of color, people without homes and people who have disabilities. Proposed major parks and recreation projects are located in SoMA, Visitation Valley, Chinatown, India Basin and Japantown. Public open space amenities are especially important to an equitable city during the current public health emergency, when struggling communities are further disadvantaged by having less access to open space, mobility and school-based services. Funding for improved streets and curb ramps directly benefits those with disabilities and limited mobility. In addition, these projects would generate jobs in our current and severe economic crisis that furthers the burdens faced by those who already have the least.

## Pros

- This measure funds important housing, public health, open space and streets projects, many of which directly benefit low-income communities and people of color.
- Prop. A would create an estimated 5.93 jobs per million construction dollars during a severe economic downturn.
- The measure would provide public open space that is critical to enabling health, safety and social resilience during this and future public health crises.
- This measure is a fiscally responsible use of the city's bonding capacity, constrained to keeping property taxes at or below 2006 rates.

## Cons

- The measure lacks a clear set of criteria for its selection of projects, with some projects appearing to be included for political support.
- As with all expenditures, funding these projects means other worthy priorities would have to wait for subsequent rounds of bond funding.

## SPUR's Recommendation

Although this measure includes a wide range of seemingly unrelated projects, they are beneficial to the city and would particularly benefit vulnerable populations and communities impacted by systemic racism. The investments funded by Prop. A support SPUR's vision for an equitable "15-minute city," where neighborhoods — including public spaces — are designed for safety and belonging and where residents can easily take care of their regular activities without the use of a car.

Overall, this measure is a fiscally responsible use of the city's bonding authority and is likely to provide meaningful economic stimulus, job creation and social support during a time of prolonged economic and public health crisis.

Vote YES on Prop A - Health, Parks and Streets Bond



## Prop B

# New Department of Sanitation and Streets

CHARTER AMENDMENT

## Department of Sanitation and Streets, Sanitation and Streets Commission and Public Works Commission

Establishes a new Department of Sanitation and Streets by splitting up the Department of Public Works and creates oversight commissions for both departments.

Vote NO



## What the Measure Would Do

Proposition B would transfer some of the existing responsibilities of the Department of Public Works to a new Department of Sanitation and Streets. The new department would be responsible for:

- Keeping streets and sidewalks clean and in good repair
- Maintaining public restrooms along streets and sidewalks
- Managing city trash cans
- Removing graffiti in public rights-of-way
- Maintaining street trees
- Repairing, remodeling and managing city-owned buildings and facilities

In the future, the Board of Supervisors could transfer these responsibilities to other agencies with a two-thirds majority vote of the board, rather than having to return to voters to make those changes.

The Department of Public Works (which would keep its name) would continue to be responsible for:

- Designing, building and constructing many public buildings
- Designing, building, and constructing most public infrastructure on the city's rights-of-way (such as streets and sidewalks)

The measure would also create two new commissions to oversee each of the departments. The commissions would each have five members: two appointed by the mayor (and confirmed by the Board of Supervisors), one appointed by the city controller (and confirmed by the Board of Supervisors) and two appointed by the Board of Supervisors. Currently, the director of the Department of Public Works reports to the city administrator, who reports to the mayor.

## The Backstory

Prop. B seeks to address a confluence of two ongoing problems in San Francisco: dirty streets and corruption in the leadership of the Department of Public Works (DPW)<sup>1</sup>. By transferring the street and sanitation responsibilities of DPW to a new Department of Streets and Sanitation and requiring both agencies to report to newly created oversight commissions, the supervisors who placed this on the ballot hope to see a heightened focus on street cleanliness and agency transparency.

The Controller's Office estimates that creating a new department would likely require hiring numerous staff to provide administrative support, resulting in an estimated cost of \$2.5 million to \$6 million each year once the agency is fully

operational.<sup>2</sup>

The measure was placed on the ballot by the Board of Supervisors by a vote of seven to four. As a charter amendment, it requires a simple majority (50% plus one vote) to pass.

## Equity Impacts

As the impact of Prop. B is generally unclear, it is also unclear whether it would have a disproportionate impact on any specific demographic group. To the extent that this measure would help achieve cleaner streets in the city, it would benefit all San Franciscans. However, the areas of the city that arguably suffer most from unsanitary street conditions are SoMa, the Tenderloin and the Mission (the measure co-sponsors have been clear in their focus on these districts). As such, the residents of these neighborhoods, which include a disproportionate number of low-income people, might benefit more than others from cleaner streets.

### Pros

- Prop. B would allow the Board of Supervisors to make adjustments to some aspects of the charter amendment without having to put forward a new ballot measure.

### Cons

- Restructuring a city department, as this measure proposes to do, is no guarantee that the department will improve its inadequate performance.
- While a commission might help provide some transparency and an opportunity for formal public input on the operations of DPW, past experience in San Francisco has shown that public commissions do not prevent corrupt officials from exploiting their positions and do not necessarily result in more streamlined operations.
- By creating a new city department, Prop. B would divert an estimated \$2.5 million to \$6 million annually toward new administrative costs. That money could instead be spent on initiatives to clean the streets or otherwise improve the operations of DPW.
- Prop. B would split the authority over the agencies between the mayor and supervisors via the new commissions, effectively reducing voters' ability to hold the mayor accountable for DPW's performance.
- This measure would place the people who design public buildings and infrastructure in a different agency from those who will maintain the facilities, which runs contrary to industry best practice for creating cost-efficient building operation.

## SPUR's Recommendation

Recent corruption and ongoing problems with dirty streets both highlight the need for reform at DPW. Rooting out corruption and improving efficiency in city departments are goals we share with Prop. B's proponents, and the idea of establishing a commission to provide oversight (as most other city agencies have) is worth considering. But reform — even reform focused on something as pressing as cleaning up San Francisco's streets — doesn't require cleaving a new city department out of an existing one and divvying up accountability for this pressing problem among the mayor, 11 supervisors and the controller. The broader goals of this measure would be better achieved by the mayor and the Board of Supervisors placing a greater focus on management, performance and accountability than by creating a costly new city agency.

Vote NO on Prop B - New Department of Sanitation and Streets



## FOOTNOTES

<sup>1</sup>Evan Sernoffsky and Dominic Fracassa, "Feds Charge SF Public Works Director Mohammed Nuru With Fraud," *San Francisco Chronicle*, January 29, 2020, <https://www.sfchronicle.com/bayarea/article/SF-Public-Works-Director-Moh...>

<sup>2</sup>Office of the Controller, Memo, July 10, 2020,

<https://sfgov.legistar.com/View.ashx?M=F&ID=8665206&GUID=601DEB29-0748-4...>

# Prop C City Commission Membership Requirements

CHARTER AMENDMENT

## Removing Citizenship Requirements for Members of City Bodies

Allows non-citizens to serve on commissions and other city advisory boards.

Vote YES



### What the Measure Would Do

Proposition C would amend the city charter to remove the requirement that appointed members of city commissions and advisory boards be registered to vote in San Francisco. Instead, the charter would require that these members be of legal voting age and be residents of the city. This change would allow all non-citizens to serve on commissions and other city advisory boards.

### The Backstory

San Francisco's government has more than 100 commissions, policy boards and other advisory groups. These bodies can be established in the City Charter, created by legislation or created by the voters. Commissions and boards may provide oversight, have significant decision-making authority or serve a policy advisory role.

Currently, the City Charter requires that members of these commissions and boards be registered to vote in San Francisco; this requirement means they must be of voting age, be United States citizens and be San Francisco residents. Several exceptions to this rule exist around age or residency,<sup>1</sup> but none of these exceptions includes waiving the citizenship requirement.

California is home to more than 11 million immigrant residents, more than any other state. Roughly half of this population are naturalized citizens, while about 23% have some legal status (like a visa or green card) and about 26% are undocumented.<sup>2</sup>

Roughly 34% of San Franciscans are immigrants, and as many as 13% of residents are non-citizens.<sup>3</sup> The immigrant community makes up a sizable portion of workers and contributes significantly in state and local taxes. Undocumented immigrants alone pay an estimated \$3 billion each year in California.<sup>4</sup>

Following the 2016 election and the Trump administration's efforts to limit immigration, reduce non-citizen rights and increase deportation, a parallel movement grew, seeking to protect and to give the right to vote to non-citizens. A number of cities and states including California have protected their residents from federal immigration enforcement and have worked to combat the increase in hate crimes against immigrants and people of color. In 2018, Governor Gavin Newsom signed a package of bills to increase protections for non-citizens, as well as SB 225, which allows non-citizens to serve on state boards and commissions. This measure is similar to a San Francisco ballot

measure in 2002 that would have allowed non-citizens to serve on commissions, which ultimately failed.

A coalition of San Francisco immigrant advocate groups wrote this measure, which was placed on the ballot by a unanimous vote of the Board of Supervisors. As a change to the City Charter, it requires a simple majority (50% plus one vote) to pass.

### Equity Impacts

This measure would allow non-citizens to be appointed to positions of power and influence in city government. Non-citizens, and undocumented non-citizens in particular, are a community that is disproportionately burdened by structural inequality and discrimination. Many non-citizens work in low-paying jobs and face barriers to resources and stigma associated with non-citizenship. In California, undocumented workers make up between 10% and 30% of the workforce in industries like crop production, food services and janitorial services.<sup>5</sup> Non-citizens are ineligible for most public benefits like the federal earned income tax credit, CalFresh (food stamps) and cash support through CalWORKS.

This inequity has been magnified as a result of the COVID-19 pandemic and the economic recession. The state estimates that as many as one in three undocumented workers have been employed in an industry that was immediately impacted by the shutdown orders.<sup>6</sup> Yet non-citizens have been excluded from expanded unemployment and federal stimulus payments. To the extent that this measure results in more non-citizen representation on city boards and commissions, it could lead to city government better serving these communities.

### Pros

- More representation of non-citizens on city commissions and boards could lead to better public policy and decision-making, by more deeply taking into account the perspectives and needs of those communities and providing them with positions of power and influence to advocate for their fair share of public resources.

### Cons

- SPUR could not identify any downsides to this measure.

### SPUR's Recommendation

In the midst of a pandemic and a national reckoning with racial injustice, San Francisco needs government to be reflective of the communities it serves. Increasing representation in civic decision-making leads to better and more legitimate policy, while building trust and reducing stigma. And participating in city commissions and boards is a powerful way for undocumented immigrants to directly impact their communities.

Non-citizen immigrants send their children to San Francisco schools, pay taxes and contribute to their communities. Those who are eager to serve their city should have that opportunity.

Vote YES on Prop C - City Commission Membership Requirements



#### FOOTNOTES

<sup>1</sup> For example, members of the Youth Commission may be under 18.

<sup>2</sup> See: <https://www.ppic.org/publication/immigrants-in-california/>

<sup>3</sup> Based on American Community Survey estimates. See: [https://datausa.io/profile/geo/san-francisco-ca/#:~:text=San%20Francisco%2C%20CA%20is%20home,the%20country%20\(301k%20people\).](https://datausa.io/profile/geo/san-francisco-ca/#:~:text=San%20Francisco%2C%20CA%20is%20home,the%20country%20(301k%20people).)

<sup>4</sup> California Budget and Policy Center, "No Safety Net or Federal COVID-19 Relief: California's Undocumented Workers and Mixed Status Families Are Locked Out of Support," [https://calbudgetcenter.org/wp-content/uploads/2020/04/CA\\_Budget\\_Center\\_...](https://calbudgetcenter.org/wp-content/uploads/2020/04/CA_Budget_Center_...)

<sup>5</sup> [https://calbudgetcenter.org/wp-content/uploads/2020/04/CA\\_Budget\\_Center\\_COVID\\_Undocumented\\_Workers\\_04152020.pdf](https://calbudgetcenter.org/wp-content/uploads/2020/04/CA_Budget_Center_COVID_Undocumented_Workers_04152020.pdf)

<sup>6</sup> *Ibid.*

## Prop D Sheriff Oversight

CHARTER AMENDMENT

## Sheriff Department Oversight Board and Inspector General

Establishes a Sheriff's Department Oversight Board and an Office of Inspector General to investigate misconduct and make recommendations regarding complaints against the San Francisco Sheriff's Department.

Vote YES



### What the Measure Would Do

Proposition D creates two new oversight bodies for the San Francisco County Sheriff's Department. The Office of Inspector General would investigate misconduct within the Sheriff's Department. The Sheriff's Department Oversight Board would advise and make policy recommendations to the sheriff and Board of Supervisors concerning department operations, complaints against employees and contractors, and in-custody deaths. The oversight board would have seven members, four appointed by the Board of Supervisors and three by the mayor. The sheriff would retain the authority to determine any disciplinary actions against deputies and other departmental staff.

The Controller's Office estimates Prop. D would cost approximately \$3 million annually. This is primarily due to the cost of staffing the Office of Inspector General, which is estimated at \$2.8 million per year for 14 full-time staff and associated overhead. The measure does not mandate a set staffing level for the department.

### The Backstory

The Sheriff's Department primarily staffs the county jails, in addition to providing court security and supporting other civic judgement processes. Sheriff's departments across the state serve this function in addition to providing law enforcement services for unincorporated land. The positions are established in the California Constitution and are separate from the policies and law that govern police departments.

Establishing civilian oversight over sheriff's departments has been rare due in part to this constitutional independence; sheriffs are authorized to carry out their own investigations into misconduct. In recent years, however, sheriff oversight has increased around the state due to heightened public awareness of sheriff misconduct. In 2016, Los Angeles County established a sheriff civilian oversight commission, and other counties have created inspector general offices to investigate incidents involving sheriff misconduct. Pending state legislation (AB 1185) would codify counties' ability to establish civilian sheriff oversight with subpoena powers.

In May of 2019, the Sheriff's Department entered into an agreement with the Department of Police Accountability (DPA) to investigate several existing high-profile allegations of misconduct. This agreement was formed shortly after it became public knowledge that the Sheriff's Department mishandled its internal investigation into deputies accused of arranging gladiator-style fights between people incarcerated at San Francisco County Jail. The botched internal investigation resulted in the District Attorney's Office dropping charges against the deputies. Prior to the agreement with DPA, the Sheriff's Department was responsible for investigating complaints against its employees and sworn officers and determining any disciplinary action. Since this agreement was formed, the DPA has only investigated a set of approximately 35 cases, as directed by the sheriff. In August of 2020, the relationship between DPA and Sheriff's Department was modified in an effort to strengthen the provision of oversight. A key addition to the agreement

includes the ability for incarcerated people and the public to file complaints directly with DPA, as opposed to the sheriff assigning cases to DPA.

Due to the administrative burden and cost of establishing a new investigative office, some have suggested continuing to modify and strengthen the Sheriff's Department's agreement with DPA rather than establish the Office of Inspector General. Others argue that the agreement with DPA has not provided the Sheriff's Department with sufficient oversight and that it is not well enough resourced or positioned to provide oversight for both the San Francisco Police Department and the Sheriff's Department.

Prop. D was placed on the ballot by a unanimous vote of the Board of Supervisors and must be on the ballot because it is a charter amendment. The measure requires a simple majority (50 percent plus one vote) to pass.

### Equity impacts

By increasing oversight and accountability for the Sheriff's Department, Prop. D aims to strengthen the rights and protections of incarcerated people. People of color are overrepresented in our criminal justice system and were largely the victims in the 2019 allegations that led to the Sheriff's Department's agreement with the DPA. Increasing oversight of the Sheriff's Department would strengthen protections for a population that experiences prejudice, violence and inhumane treatment in the criminal justice system.

### Pros

- A civilian oversight body is key to preventing misconduct and discriminatory practices and restoring trust in law enforcement and government. This measure would help ensure that sufficient resources are put toward oversight of the Sheriff's Department.
- Prop. D would create a process for incarcerated people and the public to file complaints directly with an investigative office. By establishing a dedicated staff and separate structure, this measure would ensure that oversight of the Sheriff's Department is consistent over time, regardless of who leads the department or other influences.
- Creating a new investigatory body instead of using the DPA could help to ensure sufficient resources are devoted to the oversight of both the Police Department and the Sheriff's Department.
- Increasing oversight over the Sheriff's Department could help the city avoid future lawsuits.

### Cons

- Prop. D introduces a new annual expense in a time of extreme budgetary constraints and could be duplicative. The modified agreement between DPA and the Sheriff's Department addressed a number of the shortcomings of the original partnership.
- Continuing to use DPA for oversight could support consistency in disciplinary action taken for police and sheriff misconduct.

### SPUR's Recommendation

It would be ideal to have one existing oversight body with the resources and processes in place to carry out consistent, high-functioning oversight for both the Police Department and the Sheriff's Department. It is our assessment that DPA is not currently resourced or positioned to provide the investigatory power and oversight that the Sheriff's Department needs. SPUR believes the compelling need for transparency and oversight overrides concerns about cost and efficiency.

Vote YES on Prop D - Sheriff Oversight





## Prop E Police Staffing

CHARTER AMENDMENT

### Police Staffing

Removes San Francisco's minimum police staffing requirements from the City Charter and establishes a framework for the Police Department and Police Commission to use in determining the city's police staffing needs.

Vote YES



## What the Measure Would Do

The City Charter requires that the San Francisco Police Department maintain a minimum of 1,971 full-duty sworn officers and maintain the number of officers dedicated to neighborhood policing and patrol at least at the level it was in the fiscal year 1993–1994. Prop. E would remove both of these staffing requirements. In their place, the charter would require the chief of police to submit a staffing report and recommendation to the Police Commission every two years. The report would include information on the Police Department's overall staffing and workload, the department's public service objectives and legal duties, and other information the chief of police deems relevant to determining proper staffing levels of full-duty sworn officers. The Police Commission would be required to hold a public hearing on the staffing report and adopt a policy at least once every two years to set methodologies for evaluating staffing levels. The Police Commission would ultimately approve staffing levels through the budgetary process.

## The Backstory

In 1994 voters approved Proposition D, which added language to the City Charter requiring the Police Department to maintain 1,971 full-duty officers on the police force at all times. The rationale behind this number is not evident and has drawn scrutiny in recent years. It is also not apparent that this minimum staffing number has been met consistently, or ever, since the charter was amended; rather, it has been consistently cited as a staffing goal.

In 2015, the Board of Supervisors passed an ordinance recommending that the new staffing goal increase from 1,971 full-duty sworn officers to 2,200, due to an increase in the city's population since the 1,971 level was established in 1994. The resolution to tie police staffing to population growth received criticism from the public and policymakers, who asserted that police staffing should not be linked to population but instead to the department's workload and other public safety considerations. The following year, the Board of Supervisors Budget & Legislative Analyst's Office published a report that echoed this criticism and asserted that determining police staffing levels based on a set minimum number of officers is not a best practice, nor is basing them on population size. Instead, staffing levels should be determined through a workload-based assessment. The recommendations from this report, in addition to complaints from city residents that their neighborhood had too much or too little police presence, led to the development of Strategic Police Staffing and Deployment Task Force in 2018. This task force developed a framework for determining police staffing levels that aims to provide the Police Commission with the ability to rationally evaluate police force staffing needs and address public safety needs. This framework serves

as the basis of Prop. E's proposal.

Prop. E was placed on the ballot by a unanimous vote of the Board of Supervisors and must be on the ballot because it is a charter amendment. The measure requires a simple majority (50% plus one vote) to pass.

## Equity Impacts

Removing the staffing minimum from the City Charter and creating a more public and deliberative process would increase the city government's awareness of and responsiveness to San Franciscans' safety needs. An analytical evaluation of staffing would enable decision-makers to gain insights into disproportionate levels of policing and types of crime experienced throughout the city. In response, the city would be able to address discriminatory over-policing practices and deploy officers where they can be most effective at preventing and responding to crime and ensuring public safety. In addition to evaluating the number of officers deployed throughout the city, this process would surface other important findings, such as a deficit of bilingual officers in a neighborhood where English is not the primary language spoken. This type of information would enable the police force to be more responsive and adaptive to safety and community needs throughout San Francisco.

## Pros

- Prop. E would put staffing levels under the purview of the Police Department and the Police Commission, with input from the public. This is a more appropriate place to make department-specific decisions than the City Charter.
- A regular evaluation of police staffing levels could lead to better and more efficient distribution of officers based on need, as well as help to remedy discriminatory practices such as over policing in some neighborhoods.
- This measure would replace an arbitrary staffing number with a flexible, adaptive process that would enable the city to respond to the public safety needs of San Franciscans over time.

## Cons

- Since the police staffing requirements were not previously enforced, it's unclear if removing the minimum would have much impact on police staffing.

## SPUR's Recommendation

A minimum staffing requirement is not a best practice for determining police staffing levels, and police staffing levels should not be mandated by the City Charter. Prop. E is a good governance proposal in that it would remove a decision from the charter that should not be there and empower the Police Commission to determine staffing levels based upon relevant staffing considerations, such as department workload, crime data and community needs.

Vote YES on Prop E - Police Staffing



# Prop F Business Tax Changes

CHARTER AMENDMENT AND ORDINANCE

## Business Tax Overhaul

Makes changes to the city's business tax system and authorizes the release of funding from two prior voter-approved tax measures.

Vote YES



## What the Measure Would Do

San Francisco's business tax system has several features, including a payroll tax and a tax on a business's gross revenues (referred to as "gross receipts"). Proposition F is intended to complete the city's transition from a payroll tax to a gross receipts tax, a decision approved by the voters in 2012 (for more details, see "The Backstory"). To do so, it would make a number of significant changes to the current system.

### Repeal of the Payroll Tax and an Increase in Gross Receipts Tax Rates

Today, because of the city's unfinished transition to a gross receipts structure, most businesses in San Francisco pay both a payroll tax and a gross receipts tax. Prop. F would fully repeal the payroll tax while also increasing gross receipts tax rates by 40% across all industries, effective in January 2021.

The measure would also enact additional new increases to the gross receipts tax rates for a number of industries. Beginning in 2021, tax rates for the information industry would rise to match those of the professional, scientific and technical services industries. Beginning in 2022, a number of other industries would see stepped increases to the tax rates. The proposed gross receipts tax rates for all industries are shown in the table below.

Businesses that operate only an administrative office in San Francisco currently pay a 1.4% payroll tax instead of a gross receipts tax. This measure would increase that tax as well, to 1.47% in tax year 2022, 1.54% in 2023 and 1.61% in 2024 and thereafter.

Prop. F would delay rate increases for the administrative office tax and the gross receipts tax for certain industries if the city experiences continued economic strain.

### Targeted Relief for Certain Industries and Small Businesses

The measure would also provide tax relief to small businesses and certain industries particularly impacted by the economic downturn triggered by the COVID-19 pandemic. Gross receipts tax rates for six industries would be reduced temporarily: retail trade; certain services (including maintenance and laundry businesses); manufacturing; arts, entertainment and recreation; accommodations; and food services. Industries whose tax rates are scheduled to decrease temporarily are denoted with a green highlight in the table below. Prop. F would also increase the threshold under which small businesses are exempt from paying the gross receipts tax. The current threshold is \$1.17 million; this measure would increase it to \$2 million. Prop. F would reduce annual business registration fees for businesses with \$1 million or less in gross receipts by approximately 50% while simultaneously increasing the annual business registration fees for businesses with \$1 million to \$2 million in gross receipts.

### New Tax Feature to Address Prior Approved Ballot Measures

Prop. F would also create a new tax feature allowing the city to unlock revenue from two 2018 ballot measures that are in litigation (both titled Prop. C). The Commercial Rents Tax and the Homelessness Gross Receipts Tax, both passed by the voters in 2018, have been generating revenue — but the money cannot be spent while both measures are being litigated (for more details, see "The Backstory"). This measure would create a new general tax that would be identical to the taxes approved by the voters in each of the

prior Prop. C ballot measures. This "backstop" tax feature would only be triggered if those earlier propositions are overturned in court.<sup>1</sup> In that case, the funds from this general tax would be used to reimburse businesses for the Prop. C taxes they've already paid, in addition to providing new revenue for the voter-approved purposes. The backstop, if triggered, would last for 20 years.

### Charter Amendment

Finally, Prop. F includes a charter amendment related to the tax backstop feature. The prior Prop. Cs were special taxes with revenue dedicated specifically to homelessness services and child care. This charter amendment would also specify that revenue collected from the tax backstop feature should go toward the original purposes of the Prop. C measures.

The Controller's Office estimates that Prop. F would unlock \$963 million in fiscal year 2021–22 and \$407 million in fiscal year 2022–23 from the two prior ballot measures and would create approximately 7,000 jobs over the next several years. The Controller's Office also estimates the measure would raise an additional \$97 million in ongoing revenue. Beyond the near-term impacts, the jobs created as a result of the tax changes would slightly outweigh job losses resulting from increased tax rates on the impacted industries.

## Current Gross Receipts Tax Rates and Proposed Increases, by Industry

*Industries whose tax rates would decrease temporarily are highlighted in bold. For industries noted with an asterisk, rate increases might be delayed if the city's total gross receipts don't exceed a certain threshold.*

Business Activity	Current Gross Receipts Tax Rates	Proposed Gross Receipts Tax Rates			
		Tax Year 2021	Tax Year 2022	Tax Year 2023	Tax Year 2024
Wholesale Trade	0.075% to 0.160%	0.105% to 0.224%	0.105% to 0.224%	0.105% to 0.224%	0.105% to 0.224%
<b>Manufacturing</b>	<b>0.125% to 0.475%</b>	<b>0.088% to 0.665%</b>	<b>0.088% to 0.665%</b>	<b>0.131% to 0.665%</b>	<b>0.175% to 0.665%</b>
<b>Food Services</b>	<b>0.125% to 0.475%</b>	<b>0.088% to 0.665%</b>	<b>0.088% to 0.665%</b>	<b>0.131% to 0.665%</b>	<b>0.175% to 0.665%</b>
Transportation and Warehousing	0.125% to 0.475%	0.175% to 0.665%	0.175% to 0.665%	0.175% to 0.665%	0.175% to 0.665%
Clean Technology	0.125% to 0.475%	0.175% to 0.665%	0.175% to 0.665%	0.175% to 0.665%	0.175% to 0.665%
Biotechnology*	0.125% to 0.475%	0.125% to 0.475%	0.181% to 0.689%	0.181% to 0.689%	0.194% to 0.736%

Information*	0.125% to 0.475%	0.560% to 0.784%	0.573% to 0.832%	0.579% to 0.855%	0.585% to 0.879%
<b>Accommodations</b>	<b>0.300% to 0.400%</b>	<b>0.210% to 0.560%</b>	<b>0.210% to 0.560%</b>	<b>0.315% to 0.560%</b>	<b>0.420% to 0.560%</b>
<b>Arts, Entertainment and Recreation</b>	<b>0.300% to 0.400%</b>	<b>0.210% to 0.560%</b>	<b>0.210% to 0.560%</b>	<b>0.315% to 0.560%</b>	<b>0.420% to 0.560%</b>
Utilities*	0.300% to 0.400%	0.420% to 0.560%	0.435% to 0.580%	0.450% to 0.600%	0.465% to 0.620%
Private Education and Health Services*	0.525% to 0.650%	0.735% to 0.910%	0.761% to 0.943%	0.788% to 0.975%	0.814% to 1.008%
Administrative and Supportive Services*	0.525% to 0.650%	0.735% to 0.910%	0.761% to 0.943%	0.788% to 0.975%	0.814% to 1.008%
Miscellaneous Business Activities*	0.525% to 0.650%	0.735% to 0.910%	0.788% to 0.975%	0.814% to 1.008%	0.840% to 1.040%
Construction	0.300% to 0.400%	0.420% to 0.630%	0.420% to 0.630%	0.420% to 0.630%	0.420% to 0.630%
Insurance*	0.400% to 0.560%	0.560% to 0.784%	0.580% to 0.812%	0.600% to 0.840%	0.620% to 0.868%
Financial Services*	0.400% to 0.560%	0.560% to 0.784%	0.600% to 0.840%	0.620% to 0.868%	0.640% to 0.896%
Professional, Scientific and Technical Services*	0.400% to 0.560%	0.560% to 0.784%	0.600% to 0.840%	0.620% to 0.868%	0.640% to 0.896%
Real Estate*	0.285% to 0.300%	0.399% to 0.420%	0.413% to 0.435%	0.428% to 0.450%	0.442% to 0.465%
Rental and Leasing Services*	0.285% to 0.300%	0.399% to 0.420%	0.413% to 0.435%	0.428% to 0.450%	0.442% to 0.465%

Source: San Francisco Controller's Office

## The Backstory

In 2012, voters approved Prop. E, a measure to replace the city's flat payroll tax on businesses with a tax on gross receipts (revenues), which vary by type of business and amount of gross receipts. The change was structured to take effect over a five-year period starting in 2014, during which payroll tax rates would be gradually be reduced while gross receipts tax rates were phased in. However, the gross receipts tax has not grown sufficiently to fully phase out the payroll tax. In 2019, Mayor London Breed and Board President Norman Yee asked the city controller to convene a process for renegotiating the gross receipts tax rates in time to submit a proposal to the voters in November 2020. Negotiations were abandoned when the COVID-19 pandemic broke out in San Francisco, which led the mayor and the Board of Supervisors to propose competing tax measures. In July, a compromise to delay rate increases and provide tax relief to some industries resulted in Prop. F.

The other aspects of Prop. F – the new tax feature and the charter amendment – grew out of a 2017 California Supreme Court ruling. The ruling implied that special tax measures (tax measures that raise revenue for a specific purpose) placed on the ballot by voter initiative need only a simple majority to pass, instead of the usual two-thirds majority if they are placed on the ballot by a city council or a board of supervisors. In 2018, several such voter-initiated tax measures passed in San Francisco, including two gross-receipts tax increases to fund homelessness programs and child care services (the prior Prop. Cs). These measures have been challenged in court, and while their revenues are being collected, the money is currently impounded and cannot be spent. Prop. F would create an identical general tax that would fund homelessness and child care services and would take effect only if the city loses the litigation over the 2018 Prop. Cs.

Prop. F focuses on raising revenue not reducing costs, as is usual for revenue measures. For example, it does nothing to address San Francisco's almost \$10 billion in unfunded public employee pension and retiree healthcare liabilities. Annual city spending on retiree healthcare liabilities alone is equivalent to twice the budget of the Homeless & Supportive Housing department.<sup>2</sup>

Prop. F was placed on the ballot by a unanimous vote of the Board of Supervisors. As a general tax, it requires a simple majority (50% plus one vote) to pass.

## Equity Impacts

San Francisco's gross receipts tax rates are structured progressively: The businesses with the largest revenues pay the greatest amount. The rates also vary by industry and have been designed to levy higher burdens on business types considered to be the most profitable. This measure includes several features that speak to equity concerns. It would unlock over \$1 billion in revenues to address homelessness with new programs and housing as well as provide child care services. Homelessness in particular disproportionately impacts people of color in San Francisco: Black people make up 37% of the city's unhoused population, despite comprising less than 6% of the total population. Prop. F would also provide targeted relief to smaller businesses and to those industries most impacted by the economic recession, including hospitality and retail, which employ disproportionate numbers of workers of color.

## Pros

- Because payroll taxes are levied on the money a business spends paying its workers, they can discourage hiring. In fully retiring the payroll tax, Prop. F would remove any disincentive to hire during the recession.
- This measure would unlock over a billion dollars for homelessness and child care services, resources that are urgently needed during a pandemic.
- Prop. F would appropriately (and temporarily) shift the tax burden to large companies and protect small businesses and industries like hospitality and retail, which face devastating impacts as a result of the prolonged economic shutdown.
- This measure would appropriately delay rate increases and tie future increase to overall economic health in the city.
- Prop. F would raise new revenue at a time when the city is facing historic budget shortfalls.

## Cons

economic strain.

- Despite the delays, this measure would ultimately raise business tax rates for many industries at a time of significant uncertainty and

## SPUR's Recommendation

It is a significant achievement to produce compromise tax reform in the midst of an economic recession, especially when the reform measure would provide targeted relief and manage to raise revenue. Prop. F would also unlock over a billion dollars to fund critically urgent needs around homelessness and child care. While the measure does raise rates on many technology companies, it would provide relief to struggling industries and delay rate increases in a way that's responsive to the health of the economy. While the circumstances are extraordinarily challenging and Prop. F is imperfect, it represents a number of wins for San Francisco at a critical moment.

Vote YES on Prop F - Business Tax Changes



## FOOTNOTES

**1** In September, a California appellate court ruled that citizen-initiated taxes only require a simple majority to pass. While the decision represents a major step toward affirming the legality of the prior Prop. Cs, it may be further appealed.

**2** Govern For California, "San Francisco's Incredible OPEB Spending," 2020, <https://www.governforcalifornia.org/news/2020/5/21/san-franciscos-incredible-opeb-spending>

## Prop G

# Youth Voting in Local Elections

CHARTER AMENDMENT

## Youth Voting in Local Elections

Amends the City Charter's definition of "voter" for the purpose of municipal elections to allow 16- and 17-year-olds to vote.

Vote YES



### What the Measure Would Do

Prop G would amend the city charter to permit 16- and 17-year-olds who are U.S. citizens and residents of San Francisco to vote in municipal elections.

The programs and practices necessary to register 16- and 17-year-olds and keep separate voter rolls (for groups permitted to vote on one part of a ballot but not another) already exist, so the City Controller does not anticipate that the Department of Elections would incur major costs.

This measure is identical to Proposition F from 2016, which was defeated by a 4% margin. It was placed on the ballot by a unanimous vote of the Board of Supervisors and requires a simple majority (50% plus one vote) to pass.

### The Backstory

Typically, the voting age in the United States is 18 for local, state and federal elections, though 18 states and the District of Columbia allow 17-year-olds to vote in primary elections if they will be 18 by the day of the general election.<sup>1</sup> The U.S. Constitution does not prevent states or municipalities from establishing a lower voting age. Currently, four cities in Maryland are the only U.S. cities with a minimum voting age of 16 for all municipal elections. In 2016, Berkeley voters lowered the voting age to 16 for school board races.

Voter engagement has remained chronically low in the United States, particularly among young voters. Since the U.S. Census Bureau began tracking voter-age data in 1964, young adults have had the lowest voter turnout of any age group.<sup>2</sup> Barriers to participation for young voters include the many transitions they face, such as moving out of their families' homes, starting a career or going to college.

Early initiatives to lower the voting age to 16 have shown promise in increasing voter turnout. In many of the jurisdictions that have passed them, the voting rate among teens has been higher than for all other age brackets.<sup>3</sup> Activating the teenage vote may spur broader gains in voter participation as well. In the short term, 16- and 17-year-old voters have been shown to influence the voter turnout of older family and community members.<sup>4</sup> Research also shows that the earlier people start voting, the more likely it is that voting will become a long-term habit.<sup>5</sup>

Research shows that 16- and 17-year-olds have the necessary cognitive development to vote. Voting relies on reason, logic and deliberation, which are fully developed by age 16 and do not improve with age.<sup>6</sup>

The current San Francisco city attorney believes that this measure is legally defensible. The state constitution allows 18-year-olds to vote and also permits charter cities like San Francisco to pass laws in areas of local concern, such as school board elections, that do not mirror state law.

### Equity Impacts

This measure would increase representation for people of color. In San Francisco, 77% of 16- and 17-year-olds are people of color, and lowering the voting age to 16 will help ensure that they are empowered by our democracy and establish a habit of voting. Additionally, it would help ensure that more immigrant families have a voice at the local level. In the San Francisco Unified School District, one in three students has an immigrant parent.<sup>7</sup>

### Pros

- By extending the right to vote to more residents, this measure could help San Francisco government become more representative and better serve its residents.
- Sixteen- and 17-year-olds work, pay taxes and can be viewed as adults in court and legal proceedings; they should also be allowed to vote.<sup>8</sup>
- Young people are experiencing significant negative impacts of the COVID-19 pandemic and our government response. Including 16- and 17-year-olds in our democratic process will provide them with greater agency over the systems and institutions that directly impact their lives.
- Under this measure, 16- and 17-year-olds would stand to gain two years of experience voting on municipal races, which could prompt them to become more engaged with and educated about local issues.
- Legalizing voting at a younger age could improve turnout for younger voters and their families. Voting earlier in life has been shown to lead to stronger lifetime voting habits.

### Cons

- SPUR could not identify any downsides to this measure.

### SPUR's Recommendation

SPUR has advocated for decades to increase participation in the civic decision-making process. We believe responsive, effective government requires a high level of involvement by the city's residents. This measure would open participation in public decisions to more citizens who we believe could make conscientious voting decisions. Additionally, engaging youth in municipal elections could improve the health of our democracy overall by heightening interest in local civic issues and contributing to better youth turnout and lifetime voter engagement.

Young people are deeply aware of the political, social and civic problems in San Francisco and around the Bay Area, and are passionate about being part of the solution. We should allow them to have an impact at the ballot box.

Vote YES on Prop G - Youth Voting in Local Elections



#### FOOTNOTES

<sup>1</sup> NCSL, *Voting Age for Primary Elections*, March 3, 2020, <https://www.ncsl.org/research/elections-and-campaigns/primaries-voting-a...> If California Proposition 18 passes this November, California would be added to this list.

<sup>2</sup> *Young-Adult Voting: An Analysis of Presidential Elections, 1964–2012*. April, 2014.

<sup>3</sup> Vote16USA, *Young Voices at the Ballot Box*, February 2020, <http://vote16usa.org/wp-content/uploads/2020/05/white-paper-5.14.20.pdf>

<sup>4</sup> Michael McDevitt and Spiro Kiouisis, "Experiments in Political Socialization: Kids Voting USA as a Model for Civic Education Reform," August 2006, <https://files.eric.ed.gov/fulltext/ED494074.pdf>

<sup>5</sup> Eric Plutzer, "Becoming a Habitual Voter: Inertia, Resources, and Growth," *American Political Science Review* 96/1, March 2002, pages 41–56.

<sup>6</sup> Laurence Steinberg, Elizabeth Cauffman, Jennifer Woolard, Sandra Graham, Marie Banich, "Are Adolescents Less Mature Than Adults? Minors' Access to Abortion, the Juvenile Death Penalty, and the Alleged APA "Flip-Flop," *American Psychologist Journal*, 64(7), October 2009, pages 583-594, <https://pubmed.ncbi.nlm.nih.gov/19824745/>

<sup>7</sup> Vote16USA, *Young Voices at the Ballot Box*, February 2020, <http://vote16usa.org/wp-content/uploads/2020/05/white-paper-5.14.20.pdf>

<sup>8</sup> Daniel Hart and Robert Atkins, "American Sixteen- and Seventeen-Year-Olds Are Ready to Vote," *Annals of the American Academy of Political and Social Science*, vol. 63, January 2011, pages 201–221.

# Prop H Small Business Initiative

ORDINANCE

## Neighborhood Commercial Districts and City Permitting

Streamlines the permitting and inspection process for new businesses and relaxes zoning requirements in certain districts in San Francisco.

Vote YES



### What the Measure Would Do

Proposition H would amend the Planning Code and the Business and Tax Regulations Code to allow for greater flexibility within commercial districts and to speed review and inspection of new businesses and new uses in existing businesses. This increased flexibility and efficiency would support small businesses impacted by the hardships of COVID-19, allowing them to pivot to new offerings without the prolonged delays that would typically come with seeking new permits. These changes are also designed to make it easier for new businesses to open.

Significantly, the measure would require a streamlined, 30-day review and inspection process for business uses that are already principally permitted in Neighborhood Commercial Districts (NCDs)<sup>1</sup> and Neighborhood Commercial Transit Districts (NCTs).<sup>2</sup> (For the definition of “principally permitted,” see “The Backstory” below.)

Prop. H would make a number of other planning code changes, including:

- Allowing businesses that offer food and drink in NCDs and NCTs to offer workspaces as well
- Permitting temporary “pop-up” retail activities in vacant commercial storefronts
- Allowing certain outdoor activity areas on the ground level
- Permitting temporary uses in certain bars and entertainment venues for up to six years
- Allowing for certain kinds of restaurant service, such as table service, in parklets
- Allowing arts activities and social service or philanthropic facilities to operate as principally permitted uses in most NCDs (meaning that they would not have to seek special permission)

For the first three years, Prop. H would allow the Board of Supervisors to pass certain amendments that expand the scope of code changes (but not narrow it). After three years, the Board would be allowed to make any amendments to the provisions.

### The Backstory

Before the pandemic, retail was already in a state of flux. COVID-19 has accelerated the urgency of determining how to best support active main streets and commercial corridors. With social distancing and shelter-in-place rules, many nonessential businesses are already closing or are likely to close or struggle in the coming months, even those that have been most successful at adapting to current conditions. In March, the California Restaurant Association estimated that without public action, the COVID-19 crisis could cause between 20% and 30% of restaurants to permanently close statewide. San Francisco’s Golden Gate Restaurant Association has suggested that that number could climb as high as 50% in San Francisco.

Earlier this spring, the Mayor’s Office began exploring policies and changes to the city code that would make it easier for small businesses and community-serving organizations to open and operate. The mayor signed an executive order in March 2020 announcing a moratorium on commercial evictions for small and medium-sized businesses. The moratorium will prevent any small to medium-sized business from being evicted due to a loss of income related to economic impacts from the COVID-19 pandemic. The city also launched a number of efforts to support small businesses, such as deferring business taxes and license fees and starting a relief fund for impacted businesses.

But an ongoing challenge for businesses that want to operate in the city is the San Francisco Planning Code, which is notoriously specific and complex. The

code sets forth certain allowed uses in residential, commercial or industrial-zoned districts. In each district, a certain use may be allowed (principally permitted), allowed by permission (conditionally permitted) or not allowed. Businesses looking to open in San Francisco or businesses interested in making changes to their operations often need permits from multiple agencies, such as the Department of Building Inspection or the Department of Public Health. Prop. H would allow businesses greater flexibility to move forward with more efficiency and cost savings.

Because the changes contained in this measure faced an uncertain path to approval through the Board of Supervisors, Mayor London Breed placed Prop. H directly on the ballot. As an ordinance, it requires a simple majority (50% plus one vote) to pass.

### Equity Impacts

The pandemic has magnified deep challenges and racial and gender disparities in the business community. Earlier this year, McKinsey noted that a large concentration of minority-owned small businesses fall within industries that are more susceptible to disruption, making them even more vulnerable to the pandemic.<sup>3</sup> Industries such as food service, personal and laundry services and retail have the highest share of minority-owned small businesses. But despite these challenges, McKinsey’s poll showed that more than 40% of minority-owned small businesses have added new services to support their communities and employees, compared with 27% of all respondents. These businesses recognize that in order to survive they will need to be flexible and nimble, innovating on their original business model. By making it easier for businesses to introduce some new uses in their existing spaces, Prop. H could help support such minority-owned small businesses.

Data from the 2012 U.S. Census Survey of Business Owners indicated that roughly one-third of San Francisco small businesses (employing fewer than 100 people) were owned by minorities or women, and these firms tended to be smaller and employ a smaller number of people than businesses with white owners.<sup>4</sup> Overall, 31% of San Francisco businesses were owned by people of color, and 17.3% were owned by women.

To ensure that Prop. H, if approved, benefits minority-owned small businesses as much as other small businesses, it will be important for city staff to execute a robust community engagement plan that helps small businesses (especially those that are not part of a managed business improvement district) become aware of these offerings and learn how to access them.

### Pros

- The proposed changes included in this measure would address ongoing challenges that small businesses face when working with San Francisco’s permitting and approvals process, potentially clearing the way for new businesses to open their doors or for existing businesses to pivot to new offerings.
- Prop. H would allow for amendments by the Board of Supervisors. This provides flexibility to make future changes or additions to the ordinance in response to new challenges or needs from the business community.
- The new processes would likely shorten the overall length of time for permitting, conditional use applications and public notification requirements, which would reduce time and administrative costs for both the city and businesses.
- If the measure is successfully implemented, any increased business activity in the city’s neighborhood commercial areas might slightly increase the city’s revenue from business taxes in future years.

- By allowing nonprofits as a principally permitted use and streamlining their permitting process, Prop. H could help struggling organizations secure space in San Francisco and avoid displacement.
  - The decision to take these changes to the ballot delays implementation for months when small businesses could benefit from these changes sooner if the Board of Supervisors were to enact them.
  - Most (but not all) of the changes in Prop. H would benefit new businesses rather than existing businesses, which are struggling to stay afloat.
  - The city could incur increased staffing needs due to the requirement to have all permits reviewed and completed within 30 days.
- Cons**
- The proposed changes made in this measure are items that should be decided by a Board of Supervisors hearing, not at the ballot box. The regular legislative process is a better way to alter the planning code than asking the voters to approve a full package of complex planning and zoning changes.

## SPUR's Recommendation

Restaurants and retail are vital contributors to the life of San Francisco neighborhoods, providing jobs, economic activity, goods and services, and community spaces. Prop. H is a critical step to supporting the small business community during this exceptionally challenging time. Retail and other ground-floor uses have been under continuous pressure over the last decade as e-commerce has expanded, consumer behavior has changed and rent has skyrocketed. These trends, coupled with the recent pandemic and shelter-in-place orders, have crippled many of our small businesses.<sup>5</sup>

While we believe the changes put forth in this measure could be enacted by the Board of Supervisors rather than going to the ballot, many of the proposed changes are long overdue. They also support SPUR's vision for an equitable "15-minute city," where neighborhoods and public spaces are designed for safety and belonging, and where residents can easily take care of their regular activities without the use of a car.

**Vote YES on Prop H - Small Business Initiative**



### FOOTNOTES

<sup>1</sup> *Neighborhood Commercial Districts (NCDs) are intended to serve as local neighborhood shopping districts, providing convenience retail goods and services for the immediately surrounding neighborhoods during daytime hours*

<sup>2</sup> *Neighborhood Commercial Transit Districts (NCTs) are located near major transit services. They are mixed-use clusters, generally surrounded by residential districts, with small-scale neighborhood commercial uses on lower floors and housing above them.*

<sup>3</sup> André Dua et al., "COVID-19's Effect on Minority-Owned Small Businesses in the United States," McKinsey & Company, May 27, 2020, <https://www.mckinsey.com/industries/public-and-social-sector/our-insight...>

<sup>4</sup> U.S. Census Bureau, "Survey of Business Owners (2012)," September 15, 2016, <https://www.census.gov/data/developers/data-sets/business-owners.html>

<sup>5</sup> SPUR has offered a number of additional recommendations to support small businesses during the pandemic and after the public health crisis has passed. "Keeping the Doors Open," 2020 [https://www.spur.org/sites/default/files/publications\\_pdfs/spur\\_keeping\\_the\\_doors\\_open.pdf](https://www.spur.org/sites/default/files/publications_pdfs/spur_keeping_the_doors_open.pdf)



# Prop I Transfer Tax Increase

ORDINANCE

## Real Estate Transfer Tax

Increases the city's transfer tax rate on the sale of properties valued at \$10 million or more.

Vote NO



## What the Measure Would Do

Proposition I would double San Francisco's property transfer tax rate on commercial and residential properties valued between \$10 million and \$24.99 million from 2.75% to 5.5%, and on properties valued at \$25 million or more from 3% to 6%.

### Current Transfer Tax Rates and Proposed Changes

Property Sale Price	Current Transfer Tax (and tax rate)	Proposed Transfer Tax (and tax rate)
\$101–\$250,000	\$2.50 per \$500 (0.50%)	--
\$250,001–\$999,999	\$3.40 per \$500 (0.68%)	--
\$1 million–\$4.99 million	\$3.75 per \$500 (0.75%)	--
\$5 million–\$9.99 million	\$11.25 per \$500 (2.25%)	--
\$10 million–\$24.99 million	\$13.75 per \$500 (2.75%)	<b>\$27.50 per \$500 (5.50%)</b>
\$25 million and above	\$15.00 per \$500 (3.00%)	<b>\$30 per \$500 (6.00%)</b>

The Controller's Office estimates that this measure could raise an average of \$196 million in annual revenue. However, the impact of the recession on real estate sales, the volatility of transfer tax revenues in general, and the possibility of tax avoidance behavior due to the increases all create significant uncertainty around revenue. Property owners who sell their properties to the city would be exempt from the tax, and those who sell their properties to nonprofit organizations would pay a reduced tax rate of 0.75%, regardless of value.

This measure is a general tax, and revenues would be deposited into the city's General Fund. However, the measure's author, Supervisor Dean Preston, introduced a resolution to deposit revenue generated by this increase into two new funds: the COVID-19 Rent Resolution and Relief Fund and a Social Housing Program Fund. The rent resolution fund would partially compensate landlords who waive rent payments for their tenants. The social housing fund would be used to finance the purchase and development of municipally owned affordable housing (for more information, see our analysis of Prop. K). Under this resolution, after December 31, 2021, all revenues from the transfer tax increase would be deposited into the Social Housing Program Fund.

Supervisor Preston also intends to use this measure as a tool to encourage landlords to sell their properties to the city or nonprofits. The measure's author has expressed concern about speculative buying during the recession and believes that the combination of high transfer tax rates and the targeted exemptions would prevent land-grab behavior.

## The Backstory

San Francisco charges a tax, equal to a percentage of a property's sale price, on the transfer (sale) of commercial and residential property sold within city boundaries. The tax rate ranges from 0.5% to 2.5% and is typically paid by

the seller. While other California cities charge a flat transfer tax rate, San Francisco is one of a few jurisdictions with a graduated rate based on the value of the property.<sup>1</sup> San Francisco's highest rate (and, in some cases, lowest rate) exceeds that of other cities in the Bay Area and around the state. In 2016, San Francisco voters approved a measure to increase tax rates for properties over \$5 million by 25% and created a new rate for properties valued at over \$25 million.

### Transfer Tax Rates for Large Bay Area Cities

	Combined City and County Transfer Tax Rate (2020)
San Jose	0.86%–1.61%
San Francisco	0.50%–3.00%
Oakland	1.11%–2.61%
Fremont	0.165%
Santa Rosa	0.31%

### Transfer Tax Rates for Large California Cities

	Combined City and County Transfer Tax Rate (2020)
Los Angeles	0.56%
San Diego	0.11%
San Jose	0.86%–1.61%
San Francisco	0.50%–3.00%
Fresno	0.11%
Sacramento	0.385%
Long Beach	0.11%
Oakland	1.11%–2.61%
Bakersfield	0.11%
Anaheim	0.11%

Source: California City Finance, "California City Documentary and Property Transfer Tax Rates," 2019, <http://www.californiacityfinance.com/PropTransfTaxRates.pdf>

Transfer taxes extract value from property only at the point of sale and do not disincentivize job creation, as employment taxes might. Because the value of property is linked to public investments like parks or transit improvements, extracting a percentage of value when a property is sold is an appropriate way for San Francisco to recapture part of its investment. However, transfer tax revenue is a highly variable revenue stream for the city's General Fund; revenues fluctuate depending on the strength of the economy and the number of real estate transactions. Between the fiscal years 2013–14 and 2016–17, transfer tax revenue increased by 36%. The following fiscal year more than erased these gains, as revenue fell by 46%.

This measure was placed directly on the ballot by five supervisors. As a general tax, it requires a simple majority (50% plus one vote) to pass.

## Equity Impacts

California Proposition 13, passed in 1978, limits the amount of property tax that can be charged even when the value of a property grows significantly. In the 40 years since its passage, Prop. 13 has primarily benefited long-time property owners, many of whom have experienced little tax increase despite significant gains in their property values. Renters and would-be home buyers, on the other hand, have not accessed these benefits —two groups with disproportionately large shares of lower-income and non-white people. Meanwhile, racially restrictive zoning and lending practices have excluded people of color from the benefits of homeownership for generations. Overall, California's housing system has helped millions of white people build wealth and excluded communities of color from those benefits. In the absence of a functioning property tax system, transfer taxes extract value only at the point of sale and can be an effective way to offset some of the inequitable impacts of the housing system. In addition, the benefits can be magnified if revenues are directed toward affordable housing production or renter protections.

On the other hand, high transfer tax rates can discourage new housing construction and can worsen affordability in high-cost regions. In San Francisco, as throughout the Bay Area, the undersupply of housing has led to fierce competition for both new and existing units, often resulting in displacement of lower-income residents.<sup>2</sup> Similarly, the high cost of housing construction translates into higher costs for the units themselves, once they are available on the ownership or rental markets, disadvantaging those least able to pay. Achieving housing affordability — and the stability that comes with it — requires a significant increase in the supply of both market rate and affordable housing, and increasing transfer taxes runs counter to this by both increasing the price of the end unit and serving as a constraint on supply. For this reason, some argue that multifamily (and in some cases, commercial) developments should be exempt from transfer taxes.<sup>3</sup> However, this measure wouldn't offer those exemptions.

Another consideration is the intended use of the revenues raised by the transfer tax increase. If revenue is used for a rent relief fund, it would likely benefit Black and Latinx renters who have lost jobs. In California, as in the rest of the country, Black and Latinx people have suffered the highest rates of

unemployment as a result of the pandemic-induced recession,<sup>4</sup> mainly due to job losses in the retail and hospitality industries. In San Francisco, hospitality has been particularly hard-hit: In June, jobs were down 36% from the previous year. However, the intention to direct funds for rent relief is no guarantee that the money would be used for those purposes, particularly given the city's historic budget deficit and other competing needs.

## Pros

- This measure would appropriately focus tax rate increases on the highest-value properties, putting the burden on buyers and sellers with the greatest ability to pay.
- Prop. 1's exemptions could incentivize landlords to sell their properties to the city and nonprofit buyers and could protect residential properties from speculation during the recession.
- Transfer taxes extract value from real estate transactions, which generally do not impede economic activity and job creation.

## Cons

- Prop. 1 would significantly raise tax rates during an economic recession, at a time when those who are engaging in real estate transactions in order to build more housing are least likely to be able to afford additional costs.
- Doubling the rates on high-value properties could slow or stop the construction of new housing, particularly larger multifamily projects that are in the pipeline but haven't yet started construction, making housing more unaffordable.
- This measure is intended to reduce speculative behavior. However, it is unclear whether Prop. 1 would have the intended effect.
- Transfer tax revenue is volatile and dependent on the health of the overall economy. Given the economic shutdown and uncertainty in the real estate market, it is unclear how much additional revenue would likely be raised.
- As a resolution, the companion measure directing new revenue from Prop. 1 to rental relief and social housing is not a guarantee and could be changed by a legislative vote to use the revenue for another purpose.

## SPUR's Recommendation

Transfer taxes can be an effective way to offset some of the inequitable effects of California's property tax system, which has excluded many from the benefits of homeownership. In San Francisco, transfer taxes can extract public value from the city's high-value properties without directly impacting economic activity. However, a healthy housing system also relies on the provision of new homes — and high tax rates can delay or prevent new construction in the midst of a regional housing crisis.

SPUR believes that the intended uses of Prop. 1 revenue are critically urgent ones. Yet in the midst of historic budget deficits, there is no guarantee that Prop. 1 would fund what its supporters intend. San Francisco has some of the highest transfer tax rates in the state, and SPUR is concerned that doubling the rates for high-value properties could lead to unintended consequences for needed housing construction and affordability.

**Vote NO on Prop I - Transfer Tax Increase**



### FOOTNOTES

<sup>1</sup> Under the California Constitution, cities may adopt their own charter and set rules around local governance, including raising additional taxes. San Francisco is one such "charter city" and has both raised transfer taxes and created a graduated rate structure. About a quarter of California cities are charter cities.

<sup>2</sup> PolicyLink, "Oakland's Displacement Crisis: As Told By the Numbers," 2016, <https://www.policylink.org/sites/default/files/PolicyLink%20Oakland's%20Displacement%20Crisis%20by%20the%20numbers.pdf>

<sup>3</sup> Shane Phillips, "A Call for Real Estate Transfer Tax Reform," 2020, <https://www.lewis.ucla.edu/research/transfer-tax-reform>

<sup>4</sup> Employment Development Department, "California Demographic Labor Force," July 2020, [https://www.labormarketinfo.edd.ca.gov/specialreports/CA\\_Employment\\_Summary\\_Table.pdf](https://www.labormarketinfo.edd.ca.gov/specialreports/CA_Employment_Summary_Table.pdf)

<sup>5</sup> Recent SPUR research shows that in the last 20 years, the region has underbuilt housing by 700,000 units. See: Sarah Karlinsky, "What It Will Really Take to Create an Affordable Bay Area," SPUR, 2020, [https://www.spur.org/sites/default/files/publications\\_pdfs/what\\_it\\_will\\_really\\_take\\_to\\_create\\_an\\_affordable\\_bay\\_area.pdf](https://www.spur.org/sites/default/files/publications_pdfs/what_it_will_really_take_to_create_an_affordable_bay_area.pdf)

## Prop J Schools Parcel Tax

ORDINANCE

## Parcel Tax for San Francisco Unified School District

Repeals the 2018 voter-approved \$320 parcel tax for San Francisco Unified School District educator salaries and replaces it with a \$288 parcel tax for the same purpose.

Vote YES



### What the Measure Would Do

Proposition J would repeal a \$320 annual parcel tax approved by the voters in 2018 and replace it with an annual parcel tax of \$288 beginning July 1, 2021, and continuing for 17 years. The 2018 measure is being challenged in court over its required voter threshold (see the Backstory section). Prop. J is intended to repeal the 2018 measure and create a new parcel tax revenue stream that is protected from litigation. The revenue would be transferred to the San Francisco Unified School District (SFUSD), which would use the funds to:

- Maintain the salary increases for teachers and paraeducators (aides) negotiated in 2018 and increase the compensation or benefits of other school district employees
- Increase staffing and funding at high-needs schools
- Increase staffing and funding at community schools<sup>1</sup>
- Provide additional professional development to teachers and paraeducators
- Invest in technology to support educators, students and families
- Fund public charter schools
- Provide oversight to ensure the proceeds from the tax are spent for only the purposes described above

The measure would exempt the principal residences of individuals who are 65 years of age or older before July 1 of the tax year. The amount of the tax would be adjusted annually for inflation and is estimated to raise \$48 million a year. It would expire on June 30, 2038.

Per prior negotiations with the teacher's union, the funds would be used to pay for 7% salary increases for district teachers and paraeducators (see the Backstory section). However, Prop. J does not specify what percentage of funds will go to each of the other expense categories. The measure would require an independent oversight committee to ensure that the tax revenue is used for the purposes outlined in the measure. In addition, the city controller is required to produce an annual report including the amount of monies collected and spent, the status of any project required or authorized to be funded, and any other information deemed relevant by the controller.

### The Backstory

The San Francisco Unified School District serves nearly 54,000 children annually and employs a staff of over 9,500 educators and administrators.<sup>2</sup> Teachers have been hard hit by the housing affordability crisis in San Francisco, and the district has struggled to attract and retain educators in recent years.<sup>3</sup> Despite the high cost of living in San Francisco the average teacher pay in 2018–19 was \$75,872, putting San Francisco at 410 out of 828 California school districts who reported salary data for that year.<sup>4</sup> In 2018, as part of negotiations with the teachers' union, SFUSD agreed to support Prop. G, a parcel tax on the ballot to fund a 7% salary increase for teachers and paraeducators.

The previous year, the California Supreme Court ruled that tax measures placed on the ballot by signatures required only a simple majority to pass, instead of the two-thirds majority required for special taxes in California. Prop. G passed with 61% of the vote, but not a two-thirds majority. Prop. G is currently in litigation over the voter threshold used to approve it, and while the city has been collecting the parcel tax, it is unable to spend the funds until the lawsuit is resolved. As a result, SFUSD has used rainy day reserves and funding appropriated from the City and County general fund to pay for the raises for three years; however, these funds will not be available after this year (fiscal year 2020–21).

In September, a California appellate court ruled that citizen-initiated taxes only require a simple majority to pass. While the decision represents a major step toward affirming the legality of prior ballot measures, including Prop. G, it may be further appealed. Prop J is intended to avoid any further legal uncertainty by repealing Prop G and replacing it with a tax requiring a two-thirds majority.

Prop. J is identical to 2018 Prop G, with two exceptions: 1. The measure is a lower tax (\$288 versus \$320) because polling indicated that voters would be more supportive of a lower amount; and 2. The measure removed an exemption for parcels classified as parking spaces that are contiguous with exempted residential parcels because the designation is uncommon.

Teacher salaries are one of a number of serious financial challenges the district faces. SFUSD expects an \$82 million budget deficit for the 2020–21 school year, which is estimated to grow to \$107 million the following year. The district also has a high unfunded liability for other post-employment benefits (not including pensions) such as health care benefits and life insurance: It's the second highest of any California school district in total and the eighth highest on a per-pupil basis. Similarly, between 2012 and 2017, teacher salaries at SFUSD increased approximately 25% while the cost of providing pensions and other retirement costs skyrocketed by over 100%.<sup>5</sup>

These financial conditions are only exacerbated by the COVID-19 pandemic and the resulting loss or deferment of state funding. At the same time, the district now needs resources to improve distance learning and acquire masks and other supplies to bring students and educators safely back to school. In late July, Mayor London Breed announced an additional \$15 million in General Fund support to help fill in the current gaps.<sup>6</sup> Despite this, SFUSD faces cuts to curriculum development, layoffs and deferred hiring over the next several years.

Prop. J was placed directly on the ballot by Mayor London Breed. As a special tax, it requires a two-thirds majority to pass.

### Equity Impacts

SFUSD serves a racially diverse student body, but the majority of students are from socioeconomically disadvantaged backgrounds.<sup>7</sup> In addition, disparate outcomes for students of color have been a continued challenge. For example, the percentage of students considered proficient in mathematics is far lower for African American (12%), Filipino (42%), Latino (21%) and Pacific Islander (23%) students in comparison to white (70%) and Asian (72%) students.<sup>8</sup> Research shows that investing in teachers and reducing turnover can improve student outcomes, particularly for students of color. Investments in SFUSD educators, like those funded by this tax, could benefit the city's public school students, who are disproportionately low-income and children of color.<sup>9</sup> However, teacher pay increases alone would not be enough to close the district's significant disparity gaps.

The measure addresses socioeconomic equity by specifying increased funding for both high-needs and community schools, however it does not put a process in place to direct funds specifically toward teachers of color or teachers who serve primarily students of color — who would particularly benefit from the additional resources. New York City, for example, operates programs to recruit educators of color and incentivizes teaching in high-needs schools with pay increases.<sup>10</sup>

Another consideration is the means of revenue generation. Parcel taxes are criticized for their regressive impacts, because the tax is levied as a flat amount regardless of property size or value. This measure would tax a commercial landlord the same amount it does a middle-income homeowner.

## Pros

- Prop. J allows SFUSD to continue providing agreed upon pay increases to teachers and paraeducators while the city is in litigation over Prop. G.
- Paying educators more can reduce turnover, increase workplace satisfaction and improve student success.
- The measure includes funding for high-needs and community schools, which are historically and currently underserved.
- This replacement tax is smaller than the original proposal, giving taxpayers modest relief during an economic recession.
- Absent other significant investment, this measure will expire in 17 years and is not a permanent fix.
- While Prop. J would provide needed pay increases, it does not address the other significant structural issues that SFUSD faces, including multi-year budget deficits and growth in pension and healthcare liabilities. Nor does it directly address the racial disparity in student achievement.
- In light of COVID-19 and the additional resources needed to provide distance learning, acquire masks, reduce classroom sizes and make other necessary changes to the educational environment, the proposed uses of these additional funds may not be the most urgent or highest priority.

## Cons

### SPUR's Recommendation

Before the pandemic, teacher salaries in San Francisco were far below those of other cities in the region and untenable for a growing number of educators. In 2018, SPUR supported Prop. G, recognizing the importance of competitive pay in securing and retaining great teachers, reducing turnover and thereby improving student success.

Today, SFUSD faces a host of old and new challenges, including unfunded retiree benefits, the prospect of prolonged distance learning and worsening outcomes for students affected by systemic racism. Teacher salaries may not sound like the best use of public dollars at this moment, but Prop. J allows San Francisco voters to affirm their commitment from 2018 and create a revenue stream for a need that has not gone away.

Vote YES on Prop J - Schools Parcel Tax



### FOOTNOTES

<sup>1</sup> Community schools provide additional social services (like eye exams and food assistance) through community nonprofit providers.

<sup>2</sup> The district has approximately one employee for every six students and a 16:1 student to teacher ratio. In comparison, Los Angeles Unified School District has one employee for every ten students and a 20:1 student to teacher ratio. SFUSD has nearly double the ratio of non-teaching staff as LAUSD.

<sup>3</sup> Mike Ege, "SFUSD Tackles the Teach Shortage," *The Bay City Beacon*, July 24, 2017, [https://www.thebaycitybeacon.com/politics/sfUSD-tackles-the-teacher-shortage/article\\_931a460a-4c6d-11e7-a5e3-87ebd215daab.html](https://www.thebaycitybeacon.com/politics/sfUSD-tackles-the-teacher-shortage/article_931a460a-4c6d-11e7-a5e3-87ebd215daab.html)

<sup>4</sup> Philip Reese, "Are teachers paid enough? See the average pay for every California school district," *The Sacramento Bee*, January 28, 2020, <https://www.sacbee.com/news/databases/article239621598.html>

<sup>5</sup> David Crane, "Pension and Other Retirement Costs are Crowding Out SF School Teachers," *Medium*, August 21, 2017, <https://medium.com/@DavidGCrane/pension-and-other-retirement-costs-are-crowding-out-sf-school-teachers-ed0047d09902>

<sup>6</sup> Office of the Mayor, "Mayor London Breed Announces \$15 Million in New Fund to Support the San Francisco Unified School District," July 29, 2020, <https://sfmayor.org/article/mayor-london-breed-announces-15-million-new-funding-support-san-francisco-unified-school>

<sup>7</sup> 35% of SFUSD students are Asian, 25% are Latino, 15% are white, 7% are African American, 5% are Filipino, 1% are Pacific Islander and less than 1% are American Indian. In addition, 55% of SFUSD students are considered socioeconomically disadvantaged and 28% are English language learners. *San Francisco Unified School District Facts at a Glance 2019*, <https://archive.sfusd.edu/en/assets/sfusd-staff/SFUSD%20Facts%20at%20a%20Glance-2019.School%20Data.pdf>

<sup>8</sup> See note 7

<sup>9</sup> Linda Darling-Hammons, Leib Sutcher, Desiree Carver-Thomas, "Why Addressing Teacher Turnover Matters," *Learning Policy Institute*, November 8, 2017, <https://learningpolicyinstitute.org/blog/why-addressing-teacher-turnover-matters#:~:text=High%20turnover%20undermines%20student%20achievement&text=Research%20shows%20that%20high%20teacher,students%20and%20students%20of%20color>

<sup>10</sup> *New York City Men teach, Our Mission*, <https://nycmenteach.org/our-mission/> (accessed on September 10, 2020).

## Prop K

# City-Owned Affordable Housing

ORDINANCE

## Affordable Housing Authorization

Authorizes the City and County of San Francisco to construct up to 10,000 units of municipally owned affordable housing.

Vote YES



### What the Measure Would Do

This measure would specifically allow the City and County of San Francisco to acquire, build or rehabilitate up to 10,000 units of subsidized affordable housing. Prop. K would also allow the city to enter into contracts with private developers to develop, construct or rehabilitate affordable housing projects on city-owned land.

No revenue source is tied to the housing authorization in this measure. However, the author of Prop. K, Supervisor Dean Preston, has proposed that the city create a Social Housing Program Fund funded by half of the revenue collected from the transfer tax increase ([Prop. I, also on the November ballot](#)); the fund would finance a range of affordable housing units, including city-owned affordable housing authorized by this measure.

### The Backstory

In 1950, California voters approved the creation of Article 34 in the state constitution, which requires that any “low rent” housing development be approved by voters in the municipality in which it was proposed. The article defines low-rent housing as any subsidized affordable rental housing project that is developed, constructed, acquired or financed by local government.

Article 34 is considered a vestige of California’s racist land use and planning history. The law has delayed low-income housing development across the state and weakened efforts to integrate some of the most exclusive suburban communities. A number of attempts have been made in recent years to repeal Article 34 at the state level, without success.

Voters have periodically authorized affordable housing under Article 34. Most recently, voters approved 30,000 units of privately developed affordable housing in 2012. The Mayor’s Office of Housing and Community Development estimates that about 5,000 units of the approved capacity have been constructed. Prop. K is distinct from the 2012 measure in authorizing subsidized housing that would be developed, constructed or acquired by the city and county.

Earlier this year, a group of housing activists began circulating a petition to create a social housing program in San Francisco, arguing that housing is a fundamental necessity and should be taken out of the private market and provided by the public sector. (“Social housing” is a term more commonly used in European countries such as Denmark, Austria and Germany to describe both housing that is financed, owned and managed by the government and housing that is financed by the government but owned and managed by nonprofit entities or by cooperatives of tenants themselves.) The COVID-19 pandemic forced the local housing activists to abandon signature collection, and the proposal was split into several pieces. The

authorization piece has moved forward as Prop. K.

Supervisor Preston introduced legislation to create a Social Housing Pilot Program, which would fund the creation, operation, development, construction or rehabilitation of housing owned by the city that would serve households making less than 80% of area median income.<sup>1</sup>

Supervisor Preston also introduced a resolution to split the revenues from the proposed transfer tax increase (Prop. I), should it pass, into two funds: the COVID-19 Rent Resolution and Relief Fund and a Social Housing Program Fund. The rent resolution fund would partially compensate landlords who waive rent payments for their tenants. The social housing fund would finance the Social Housing Pilot Program fund and a range of affordable housing units.

This measure was placed on the ballot by a unanimous vote of the Board of Supervisors. As an ordinance, it requires a simple majority (50% plus one vote) to pass.

### Equity Impacts

To the extent that Prop. K could result in the construction of new units of affordable housing, it would directly benefit low-income San Franciscans, who have struggled with the city’s rising rents and displacement pressures. People of color are overrepresented in this group and face intersecting barriers and structural inequality in the housing, education, employment and criminal justice systems, among others.

### Pros

- This measure would authorize new affordable housing units, which are an important and needed part of the city’s housing stock.
- In authorizing the development, operation or acquisition of municipal affordable housing, Prop. K would take a necessary step toward creating a social housing program for San Francisco, should the city decide to pursue it.

### Cons

- San Francisco enjoys a surfeit of authorization to build affordable housing units but faces a number of more significant barriers to the actual construction of this affordable housing. Prop. K would only authorize potential housing and could send a false signal of success without addressing the zoning, permitting and financing challenges that stand in the way.

### SPUR's Recommendation

Given the affordability crisis in the city’s residential housing market, SPUR recommends that San Francisco voters approve this measure to increase the city’s capacity to develop additional affordable units. SPUR also recognizes, however, that San Francisco currently has an abundance of authorization to build subsidized affordable housing units and some of the most sophisticated and high-capacity nonprofit housing developers in the United States. Authorizing public entities to build affordable housing does not solve the challenges of actually building it, and SPUR urges the Board of Supervisors to pair its enthusiasm for more affordable housing with the needed reforms to deliver this housing more quickly and at less cost.

Prop. K raises the possibility of a social housing program at some point in San Francisco’s future. This is a worthy goal; SPUR has called for housing to be treated as necessity of life,<sup>2</sup> as it is in a number of social housing models around the world.<sup>3</sup> However, SPUR encourages the city to carefully consider the capacities, authorities and resources needed for this program to succeed over the long term.

## Vote YES on Prop K - City-Owned Affordable Housing



### FOOTNOTES

<sup>1</sup> For the text of this legislation, see <https://sfgov.legistar.com/View.ashx?M=F&ID=8606754&GUID=99BC3BBE-84CB-4783-87E0-B0F74D2AD627>

<sup>2</sup> SPUR, "One Idea for Economic Recovery: Treat Housing as Infrastructure," 2020, <https://www.spur.org/news/2020-06-16/one-idea-economic-recovery-treat-housing-infrastructure>

<sup>3</sup> SPUR, "From Copenhagen to Tokyo: Learning from International Housing Delivery Models," 2020, [https://www.spur.org/sites/default/files/publications\\_pdfs/aecom\\_spur\\_from\\_copenhagen\\_to\\_tokyo.pdf](https://www.spur.org/sites/default/files/publications_pdfs/aecom_spur_from_copenhagen_to_tokyo.pdf)

# Prop L Disproportionate CEO Pay Tax

ORDINANCE

## Business Tax Based on Comparison of Top Executive's Pay to Employees' Pay

Establishes an additional gross receipts tax on companies whose highest-paid executive make more than 100 times as much as their median San Francisco employee.

No Recommendation 

### What the Measure Would Do

Prop. L would impose an additional tax on the annual gross revenues of companies based on the compensation ratio of their highest paid executives and median San Francisco employee. The tax would apply to any company that does business in San Francisco, whose highest-paid employees make at least \$2.7 million annually and whose executive pay ratio exceeds 100:1 (The ratio would be calculated based on the total compensation (including wages, bonuses, commissions, stock options and other forms of pay) of the company's highest-paid managerial employee and the median compensation of the company's San Francisco-based employees. Beginning in 2022, the tax rates would be as follows:

Executive Pay Ratio	Additional Gross Receipts Tax Rate
Greater than 100:1 but less than or equal to 200:1	0.1%
Greater than 200:1 but less than or equal to 300:1	0.2%
Greater than 300:1 but less than or equal to 400:1	0.3%
Greater than 400:1 but less than or equal to 500:1	0.4%
Greater than 500:1 but less than or equal to 600:1	0.5%
Greater than 600:1	0.6%

Today, the city's gross-receipts tax rates range from .01% to .65%, depending on the type of business and the amount of annual gross receipts. Businesses that operate only an administrative office in San Francisco pay a payroll tax to the city instead of a gross receipts tax. For those businesses, the tax would be assessed based on their total payroll expense attributed to business done in San Francisco. The tax rates would be as follows:

Executive Pay Ratio	Additional Payroll Tax Rate
Greater than 100:1 but less than or equal to 200:1	0.4%
Greater than 200:1 but less than or equal to 300:1	0.8%
Greater than 300:1 but less than or equal to 400:1	1.2%
Greater than 400:1 but less than or equal to 500:1	1.6%
Greater than 500:1 but less than or equal to 600:1	2.0%

Greater than 600:1

2.4%

Nonprofit organizations would be exempted from the tax, as would be businesses who are exempted from the city's gross receipts tax.<sup>1</sup>

Based on known salaries, the tax would most likely apply to retailers, grocers and hotel chains. For example, a business whose CEO made \$13 million annually and whose median employee in San Francisco made \$65,000 annually would owe an additional \$200,000 as a result of this tax. The Controller's Office estimates the measure could raise between \$60 million and \$140 million annually.

The measure is a general tax and revenues would be deposited in the city's General Fund, though Supervisor Matt Haney, the measure's author, has said the money should be used to hire emergency health care workers. The Board of Supervisors could vote to reduce or repeal the tax legislatively, but any increase to the tax would need to be approved by the voters.

The author originally proposed this tax as a funding mechanism for a universal mental health program in San Francisco. It has since been reintroduced as a means to raise general revenue given the city's financial strain precipitated by the COVID-19 pandemic. This measure was placed on the ballot by a unanimous vote of the Board of Supervisors. As a general tax, it requires a simple majority (50% plus one vote) to pass.

### The Backstory

The rise of executive compensation has received increased scrutiny in the last decade as part of a national conversation about inequality in the United States. Recent disclosures of compensation packages to CEOs like Elon Musk (\$2.89 billion in 2019) have come on the heels of research that estimates executive compensation has risen 940% since 1978, while average worker compensation has risen 12%.<sup>2</sup> Executive compensation in the United States outstrips that in other countries by a significant margin. By one measure, the average ratio of U.S. companies' executive compensation to that of their median worker is 354:1; the next highest average ratio, from Switzerland, is 148:1.<sup>3</sup> Many point to the increase in stock-based compensation and stock-based awards as contributing both to the rise in compensation and to the difficulty in accurately tracking CEO pay.

Federal legislation passed after the Great Recession included some reforms intended to curb the rise of disproportionately high executive compensation. As of 2018, all publicly traded companies are required to disclose to the Securities and Exchange Commission their total CEO compensation, as well as the ratio of CEO-to-worker pay. Other federal changes now give shareholders a vote on executive compensation, though that vote is nonbinding. Earlier this year, the California Legislature briefly considered a bill that would tie the state's corporate income tax to executive pay ratios.

Portland, Oregon, is currently the only jurisdiction in the country that levies a tax based on executive compensation ratios. Since 2018, the city has imposed a 10% surtax on companies that pay their CEOs 100 to 250 times more than the median worker. Those with a pay ratio above 250 times pay a 25% surcharge. The city estimates that the tax raised roughly \$3.5 million in its first year.

### Equity Impacts

Worker pay has played an important role in the rise in income inequality in the United States. Across the nation, research has shown that, depending on the type of worker, median wages have either grown only slightly or declined since the 1970s.<sup>4</sup> The Bay Area mirrors these trends: Median wages have declined since 2000, while workers in the highest wage brackets have seen their incomes increase significantly.<sup>5</sup> Previous SPUR research has shown that the region continues to lose middle-wage jobs as it adds employment at the top and the bottom of the wage spectrum.<sup>6</sup> These inequities are also racialized. White workers in the Bay Area earn roughly double that of their Latinx counterparts and 35% more than Black workers, for example. The reality of declining economic prospects for average workers stands in stark contrast to the growth of the economy since the end of the Great Recession and the continued rise in CEO compensation.

If this measure were to change corporate behavior and push businesses to raise wages for their San Francisco employees, it would be a small step toward reducing income inequality. On the other hand, if businesses were to respond by maintaining high CEO compensation but moving low- and middle-wage jobs out of the city, it could lead to a further hollowing-out effect on middle-wage jobs in San Francisco.

## Pros

- Prop. L's tax rates are modestly structured and would not likely drive businesses out of San Francisco.
- The measure is delayed until 2022, softening the impact on businesses in the midst of an economic recession and providing time to adjust.
- Adopting this tax could send a powerful signal to other cities and states and build political momentum for more impactful economic policy reform in the future.

## Cons

- Rather than lower executive compensation, this measure could instead drive it into less visible forms that are more difficult to track and regulate.
- Rather than increase median wages, this measure could encourage businesses to move middle- and low-wage jobs out of San Francisco, or accelerate the automation of those jobs.
- This tax may be difficult to enforce. Businesses interpret compensation in different ways, and this measure relies on private companies to self-report their CEO pay ratios.
- The small number of impacted businesses and the variability in executive compensation mean this tax could be an unreliable revenue source for the city.

## SPUR's Recommendation

Income inequality is a threat to San Francisco and California's future. Wage stagnation, the loss of middle-wage jobs and other factors make economic prosperity and security a fundamentally different prospect for today's workers than it was 50 years ago. Executive compensation has risen to stunning heights seen nowhere else in the world at a time of extreme economic insecurity for many Californians.

San Francisco has established groundbreaking policies on issues ranging from domestic partnership protections to carbon emission reductions, inspiring similar efforts around the country and, in aggregate, achieving broad impact. Prop. L could present such an opportunity — and lay the groundwork for future efforts — at a time when the inequities of our society are starkly evident. However, the proposed tax rates may be too low to change corporate behavior, and if they do, it's unclear if the tax would reduce disproportionate pay. SPUR's board was divided on these points and was not able to reach enough votes to support either a "yes" vote or a "no" vote on this measure.

**No Recommendation on Prop L - Disproportionate CEO Pay Tax**

## FOOTNOTES

<sup>1</sup> Currently, businesses whose total gross receipts are less than \$1.7 million are exempted from the city's gross receipts tax.

<sup>2</sup> Economic Policy Institute, "CEO Compensation Has Grown 940% Since 1978," 2019, <https://www.epi.org/publication/ceo-compensation-2018/#:~:text=Using%20the%20stock%20options%20realized,recovery%20from%202009%20to%202018>.

<sup>3</sup> "CEOs Get Paid Too Much, According to Pretty Much Everyone in the World", 2014, <https://hbr.org/2014/09/ceos-get-paid-too-much-according-to-pretty-much-everyone-in-the-world>

<sup>4</sup> Analyzing wage trends is complicated, and decisions about time period, type of worker or inflation measure can impact results. See this article: <https://www.brookings.edu/blog/up-front/2019/09/10/are-wages-rising-falling-or-stagnating/>

<sup>5</sup> Bay Area Equity Atlas. See: <https://bayareaequityatlas.org/indicators/median-earnings#/?breakdown=1>

<sup>6</sup> SPUR, Economic Prosperity Strategy, 2015, [https://www.spur.org/sites/default/files/publications\\_pdfs/Economic\\_Prosperty\\_Strategy.pdf](https://www.spur.org/sites/default/files/publications_pdfs/Economic_Prosperty_Strategy.pdf)



## Prop 14

# Stem Cell Bond

BOND

## Authorizes Bonds Continuing Stem Cell Research

Authorizes the sale of \$5.5 billion in general obligation bonds to fund research on stem cells.

Vote NO



## What the Measure Would Do

Proposition 14 would authorize the state to sell \$5.5 billion in general obligation bonds to fund stem cell research and develop related medical treatment. The funds would go to the California Institute for Regenerative Medicine (CIRM). Up to 9.5% of the bond revenue would support administrative uses. Prop 14 would dedicate \$1.5 billion for grants focused on Alzheimer's disease, Parkinson's disease and other diseases affecting the brain and nervous system. The remaining funds would be used for grants for other stem cell research programs, clinical trials, initiatives to partner with undergraduate students and other programs.

The measure also changes CIRM operations and governance by increasing the number of independent oversight members from 29 to 35; creating a new advisory board focused on improving patient access to stem cell treatments; and limiting the total number of CIRM full-time staff. Prop 14 further requires that any revenue generated by stem cell-related inventions funded by the bonds would be directed to help pay for patients' medical treatments. Finally, the measure would also require that CIRM provide research facility grants and fellowships to California State University, California Community Colleges and the University of California.

The Legislative Analyst's Office estimates the total cost of the measure, including interest, to be \$7.8 billion. This would amount to an estimated \$260 million per year from the state's General Fund, over a 30-year repayment period. Prop 14 would limit the amount of bonds the state can sell each year, with the goal of spreading bond sales over at least an 11-year period. The measure also requires that interest payments for the first five years be paid by revenue from the bond sales. Beginning in 2026, interest repayments would be made by the General Fund.

## The Backstory

Stem cells are the building blocks of life, multiplying in the embryo into hundreds of different cell types. Considered the most promising type of stem cells for medical treatments, human embryonic stem cells were first isolated in the lab in 1998. The discovery created a new field of scientific study, but ethical concerns led to federal restrictions on funding for research. In 2004, California voters approved Proposition 71, which created a state-funded stem cell research program. The measure established the California Institute for Regenerative Medicine (CIRM) to oversee the program and disburse \$3 billion in bond revenue for research grants. Grants have primarily been used for treatment development and clinical trials. Other grants have funded basic stem cell research and, to a lesser extent, research facilities and fellowships for medical students.

CIRM funding hasn't resulted in any FDA-approved stem cell treatments, despite high expectations. However, treatments have been developed for a range of diseases and conditions. CIRM-funded work at the University of California, Los Angeles successfully cured infants with fatally compromised immune systems. CIRM has also supported developing treatments for fatal blood cancers, for reversing paralysis and treating type 1 diabetes.

Prop 71 required that CIRM grant recipients who sell their resulting inventions share a portion of their revenue with the state. The state began receiving income from these inventions in 2017, which now totals \$350,000. Additionally, CIRM has been criticized in the past for governance and oversight issues.<sup>1</sup>

In 2009 President Obama signed an executive order opening up federal funding for stem cell research. The National Institutes of Health now spends more than \$1 billion on stem cell research annually, including around \$300 million annually solely on human embryonic stem cell research. CIRM has a current partnership with NIH to fund research on sickle cell disease.

The bond funding accounts for almost all of CIRM's revenue, and as of October 2019, all but \$132 million of the bond money had been spent. The agency has put a plan in place should the measure fail: Most staff will be laid off by the end of the year and a reduced budget will be enacted to manage the existing grants.

## Equity Impacts

Some argue that stem cell research to date has primarily generated expensive therapies for very rare diseases. On the other hand, stem cell research holds promise in treating sickle-cell disease, a somewhat common and debilitating disease that primarily affects Black people. Stem cell research in HIV could lead to breakthroughs for the LGBTQ community. And some argue that making these investments in research could lead to major advancements on much more common diseases like diabetes that disproportionately impact people of color. Prop 14 also includes allocations to increase access to clinical trials and to bring down the cost of treatments.

Another consideration is that CIRM funding has primarily gone to well-endowed universities in the Bay Area and that public dollars could be better spent on other health care priorities.

Prop 14 was placed on ballot by signatures collected by the group Californians for Stem Cell Research, Treatments & Cures. As an initiative statute, it requires a simple majority (50% plus one vote) to pass.

## Pros

- Prop. 14 delays the state making repayments on interest for five years, providing some relief in the midst of an economic downturn and decreased state revenues.
- The measure includes requirements to expand clinical trials and research to parts of the state with little access to these treatments historically.

## Cons

- The state is facing historic budget cuts, potentially to core services like education. Stem cell research may not be the best use of public dollars at this time.
- Bond revenues are better suited to major capital investment and not to ongoing programmatic needs, as this measure proposes.
- CIRM has faced repeated criticism over conflicts of interest on its large governing board. Instead of addressing them, this measure would further increase the size of the board.
- This measure intends to lower the cost of stem cell treatments, funded by revenue from the sale of treatments and inventions. Given the small amount of revenue the state has received from inventions in the past, Prop 14 may not adequately fund this important goal.

## SPUR's Recommendation

In 2004, California created a first-of-its-kind medical research agency and in the years since, CIRM has funded important clinical research and solidified the state's place in a global field. This work is still important. However, CIRM was created at a time when no federal funding existed and now the landscape has changed. The federal government awarded \$2.1 billion in funding for stem cell research in 2019. At the same time, California faces significant fiscal challenges and potential cuts to essential services like education and health care, as well as persistent challenges like homelessness and housing affordability. In our current circumstances, the state should prioritize the security and well-being of its residents today, and CIRM should pursue other sources of revenue for this important work.

Vote NO on Prop 14 - Stem Cell Bond



### FOOTNOTES

<sup>1</sup> A 2009 report from the Little Hoover Commission (the state's non-partisan government watchdog) and a 2013 report from the Institute of Medicine called for reforming grant review processes, creating an external advisory board and changing the relationships between the board and staff. At one point, over 90% of grants had gone to institutions linked to members of CIRM's 29-member board.

## Prop 15

# Commercial Property Tax Changes

CONSTITUTIONAL AMENDMENT

## Increases Funding for Public Schools, Community Colleges and Local Government Services by Changing Tax Assessment of Commercial and Industrial Property

Taxes most commercial property worth more than \$3 million dollars at market value and uses the funds raised from this change to support schools and local government.

Vote YES



## What the Measure Would Do

Proposition 15 makes a set of changes to the state property tax system. The current system, passed in 1978 as Proposition 13, caps property taxes at 1% of a property's assessed value and sets that assessed value at the time of purchase, plus a 2% annual inflation adjustment. In practice, Prop. 13 benefits long-term property owners because the value of properties in California rises much faster than inflation. This keeps property taxes low for long-standing owners. For example, Walt Disney Studios in Burbank pays property taxes based on its 1975 assessed land value at of \$5 a square foot, whereas current market value is somewhere between \$150 to \$200 a square foot.<sup>1</sup> Prop. 13 applies both to homes and to commercial and industrial buildings, as well as to business property, such as machinery and equipment.

Prop 15. would make the following changes to California's property tax system:

### 1. Raise taxes on most commercial property.

The measure would continue the current system of capping assessed value at the time of sale for all residential properties, including multifamily housing. However, it would change the system for commercial properties worth more than \$3 million, which includes business property (such as office and retail buildings), industrial property (factories) and improvements to commercial agriculture property.

Under Prop. 15, commercial property worth more than \$3 million would be reassessed no less than every three years at fair market value (i.e., the estimated price if the property were sold in the current year). Vacant parcels that are zoned for residential use would also be subject to reassessment. Agricultural land would be exempt from changes. For mixed-use buildings, only the portion of the building being used for commercial uses would be reassessed.

Properties worth less than \$3 million would not be subject to the ongoing reassessment. However, if the owner of a property worth less than \$3 million owns several properties in California with a total value of more than \$3 million, then all the property would be subject to annual reassessment.

Properties that are occupied by small businesses could apply for a deferral of their reassessment until 2025–2026. These properties must be at least 50% occupied by small businesses (defined as those with 50 or fewer employees and independently owned by a resident of California).

Additionally, the measure would exempt the first \$500,000 of business property (on items such as machines, computers, furniture, etc.) for a business entity. For small businesses, this tax would be eliminated entirely.

A study commissioned by the proponents of the measure indicates that 54 percent of small businesses are home businesses and therefore are unlikely to be impacted by this measure.<sup>2</sup> An additional 30 percent would not be impacted because they are located within a property that doesn't meet the \$3 million requirement for reassessment. These businesses would not be reassessed and would also see their business property taxes eliminated.

### 2. Use proceeds generated by these tax changes to fund schools and local government.

The Legislative Analyst's Office estimates that Prop. 15 would generate an additional \$6.5 billion to \$11.5 billion annually. These proceeds would be used to fund schools and local governments. Typically, California raises more than \$60 billion from property taxes annually.<sup>3</sup>

Roughly 40 percent of the proceeds from Prop. 15 would be set aside in a protected fund for schools.<sup>4</sup> These funds would be allocated based on the Local Control Funding Formula, a formula adopted in 2013 that prioritizes funding for high-need students.<sup>5</sup> Higher-income jurisdictions would be guaranteed a minimum amount of funding, as well. Eleven percent of education funds would go to community colleges and the remaining 89 percent would go to K-12 education.

The new funding from Prop. 15 would be in addition to current funding for schools. The measure prevents the state legislature from reallocating existing school funding to other uses.

The remaining funds (roughly 60 percent of the total<sup>6</sup>) would be returned to cities, counties and special districts. Several hundred million dollars a year would be used to cover the increased expense to County Assessor's Offices from implementing Prop. 15.

## The Backstory

Prop. 13 has constricted funding for local governments in California, and for education in particular. When it passed in 1978, local government revenues dropped by roughly 60 percent.<sup>7</sup> Total local government revenue in California has recovered since then due to new fees, utility taxes and sales taxes, which are more regressive than property taxes. Despite this, local government revenue *per person* remains lower than it was before Prop. 13 because the population has grown.<sup>8</sup>

School funding was particularly hit by the passage of Prop 13, with per student spending falling by 10%.<sup>9</sup> While funding for schools has risen since Prop. 13 passed, funding for schools in California is now very volatile because it relies on income tax. California schools are better funded during boom years, but during recessions they suffer more severely than schools in comparably sized states. Studies have shown that the level of school funding is below what's required to provide a high-quality education for California's diverse student body in a state with such a high cost of living.<sup>10</sup> At the same time, California's public-school finances are also beset by ballooning unfunded pension and post-retiree health care costs.

Prop. 15 was placed on the ballot by signature collection. The three largest supporters are the California Teachers Union, SEIU and the Chan Zuckerberg Initiative.

## Equity Impacts

Reforming Prop. 13 has the potential to create billions of dollars in state funding for local governments and for schools. Currently California ranks somewhere between 22nd and 46th in per pupil spending in the United States, depending on what calculation is used.<sup>11</sup> Roughly 50% of all California public school students are Hispanic, and almost 60% are eligible for free and reduced-price lunch.<sup>12</sup> California ranks first in the nation for percentage of English language learners, with roughly 21 percent of students in that group. Although California's pupil-to-teacher ratio is one of the highest in the country, it ranks in the bottom fifth for educational performance.<sup>13</sup> Additional funding from Prop. 15 would help support the large percentage of California students who are people of color, from low-income households or English language

learners. Moreover, the funding would be allocated according to the Local Funding Control Formula, which prioritizes funding for school districts with higher percentages of low-income students and English language learners.

## Pros

- California's ability to raise essential funds for public education, infrastructure and local services has been hobbled for four decades by the passage of Prop. 13. This measure takes an important step in addressing the fiscal challenges created by Prop. 13 and would provide significant revenue to schools and local governments.
- The current system benefits long-standing commercial property owners over the owners of new and growing businesses. There is no policy rationale for essentially subsidizing long-standing owners in the form of artificially low taxes while making new owners pay taxes on higher assessed values. Prop. 15 would level the playing field between older and newer businesses.
- Prop. 15 taxes vacant commercial land at market value, which could create an incentive for owners to develop the land with a mixture of

uses, including housing.

## Cons

- Prop. 15 could exacerbate the problem of commercial development being more lucrative for cities than housing, one of the factors in California's chronic housing shortage. Because it would increase revenue from commercial property taxes, Prop. 15 could further incentivize local governments to zone for commercial development over housing. Some form of regional tax sharing should be considered in order to blunt this negative impact.
- This measure does not tackle the need for holistic tax reform at the state level. California's tax system is so complex and cumbersome that a wholesale overhaul should be considered.
- This measure would be challenging to implement, particularly in the first several years. Prop. 15 requires that commercial properties be reassessed, which would significantly increase workload for county assessor's offices. How that work would be funded is unclear.

## SPUR's Recommendation

SPUR opposed Prop. 13 in 1978 due to concerns about its impact on state and local funding,<sup>14</sup> and we have written many times about the numerous problems created by its passage. Prop. 13 causes local governments to turn to more regressive taxes and fees, and taxes on new housing development to fund local public infrastructure and services. Prop. 13 places a disproportionate tax burden on new would-be homeowners and businesses, benefitting the well-established. Prop. 13 incentivizes cities to develop new retail and commercial space that can generate sales taxes, at the expense of developing new housing. Prop 13 negatively impacts almost every issue that SPUR has worked on over the past several decades. There's much more work to be done, but this measure would be an important step toward fixing California's troubled property tax system.

**Vote YES on Prop 15 - Commercial Property Tax Changes**



## FOOTNOTES

<sup>1</sup> Murray, Bobbi, "Prop 15's Big-Spending Opposition: Cash of the Titans" <https://www.laprogressive.com/prop-15-big-spending-opposition/>, accessed on October 1<sup>st</sup>, 2020.

<sup>2</sup> Yes on 15 - Schools & Communities First, *Impact of Proposition 15 on Small Business*, August 2020, [http://static11.sqspcdn.com/static/f/675504/28332410/1596564705983/SCF\\_Small\\_Business\\_Report\\_20200804.pdf](http://static11.sqspcdn.com/static/f/675504/28332410/1596564705983/SCF_Small_Business_Report_20200804.pdf)

<sup>3</sup> Urban Institute, *California's K-12 Education Needs*, July 2020, <https://www.siliconvalleycf.org/sites/default/files/documents/scf/scf-ca...>

<sup>4</sup> Legislative Analyst's Office, *2020 Proposition 15 description*, <https://lao.ca.gov/ballot/2020/Prop15-110320.pdf>

<sup>5</sup> High-needs students include low-income students, English language learners, homeless students and foster children. EdSource, *Local Control Formula Funding Guide*, updated February 2016, <https://edsources.org/2016/local-control-funding-formula-guide-lcff/89272>

<sup>6</sup> Ibid.

<sup>7</sup> Legislative Analyst's Office, **Common Claims About Proposition 13, September 19, 2016**, [https://lao.ca.gov/publications/report/3497#What\\_Happened\\_to\\_Local\\_Government\\_Revenues\\_After\\_Proposition.A013.3F](https://lao.ca.gov/publications/report/3497#What_Happened_to_Local_Government_Revenues_After_Proposition.A013.3F)

<sup>8</sup> Ibid.

<sup>9</sup> KQED, "How Proposition 13 Transformed Neighborhood Public Schools Throughout California," October 25, 2018, <https://www.kqed.org/news/11701044/how-proposition-13-transformed-neighborhood-public-schools-throughout-california>

<sup>10</sup> Ed100, "Does California Skimp on Education?" <https://ed100.org/lessons/californiaskimps>

<sup>11</sup> EdSource, "How does California rank in per-pupil spending? It all depends," February 28, 2017, <https://edsources.org/2017/how-does-california-rank-in-per-pupil-spending-it-all-depends/577405>

<sup>12</sup> Urban Institute, *California's K-12 Education Needs*, July 2020, <https://www.siliconvalleycf.org/sites/default/files/documents/scf/scf-ca-education-brief-final.pdf>, page 7.

<sup>13</sup> Legislative Analyst's Office, *2020 Proposition 15 description*, <https://lao.ca.gov/ballot/2020/Prop15-110320.pdf>

<sup>14</sup> SPUR, "Interview With John Jacobs," May 1999, <https://www.spur.org/publications/urbanist-article/1999-05-01/interview-...>

## Prop 16 Affirmative Action

CONSTITUTIONAL AMENDMENT

## Allows diversity as a factor in public employment, education and contracting decisions

Allows public institutions to consider race, gender or ethnicity in decisions around education, employment and contracting.

Vote YES



### What the Measure Would Do

Prop 16 would repeal Proposition 209, which prohibits state and local entities from considering race, gender, ethnicity or national origin in decision-making around employment, education and contracting. Prop. 16 effectively reinstates affirmative action for California, which was eliminated in 1996 with the passage of Prop. 209.

### The Backstory

Affirmative action policies first emerged in the United States in the 1960s and prohibited federal government agencies from discriminating in the hiring and treatment of employees based on race; they were later expanded to include gender. Similar policies exist around the world, including quota systems for underrepresented groups in elected offices or targeted recruitment of minority groups in certain industries. From the 1960s to the mid 1990s, California created a number of programs intended to increase opportunity for those who had suffered unequal treatment. Some public universities considered race and ethnicity when deciding admissions or offered programs to support certain students' academic achievement, and the state created programs to increase the participation of women- or minority-owned businesses in public contracting. The United States Supreme Court has upheld the constitutionality of affirmative action policies in several cases but has restricted their extent, for example by prohibiting the use of racial-based quotas or race-based point systems.<sup>1</sup>

In 1996, California voters approved the California Civil Rights Initiative (Prop. 209), which amended the constitution to prohibit state governmental institutions from considering race, sex or ethnicity when making decisions about hiring, contracting and education. For the purposes of Prop. 209, "state governmental institutions" include any city, county, public university system, community college district, school district, special district or other local government. Today California is one of eight states that do not have affirmative action-related laws on the books.

Enrollment rates for students of color decreased by roughly 10% across the University of California system in the year immediately following Prop. 209's passage, and at higher rates at UC Berkeley and UCLA. A 2013 study showed the resultant long-term negative impacts on metrics like employment outcomes for these groups.<sup>2</sup> A more recent study tracked every student who applied to the UC system from 1994 through 2002, including their major and degrees, graduation rates and income. The results not only confirmed the decreases in enrollment rates and decreased earnings, but laid out a series of other cascading impacts on a generation of students of color.<sup>3</sup>

Aside from education, a 2015 study found that the elimination of race-conscious contracting programs has resulted in the loss of roughly \$1 billion per year in contracts for minority- and women-owned businesses in California.<sup>4</sup>

A number of attempts have been made to repeal Prop. 209 in the years since, without success. Following the murder of George Floyd, national protests and widespread demands for racial justice, this measure (which was originally introduced last year) passed in both houses with more than two-thirds support to qualify for the ballot. In June, the University of California Board of Regents publicly called for a repeal of Prop. 209 and support for this year's Prop. 16. As a constitutional amendment, this measure requires a simple majority (50% plus one vote) to pass.

### Equity Impacts

By allowing the return of affirmative action policies, Prop. 16 could have a significant impact on the public education and employment opportunities for Black, Native American, Latino and other people of color, as well as for women.

Affirmative action and its impact on equality and social justice has been the subject of intense debate in the United States. Proponents argue that considering race as one of a set of metrics in decision-making can account for systemic discrimination and lack of opportunity for women and people of color, particularly Black and Latino people. Opponents argue that affirmative action is its own kind of injustice, creating preferential treatment for some regardless of merit and at the expense of other groups.

In some cases, affirmative action policies have been shown to be effective, particularly regarding higher education. One study of 700 Black students who were preferentially admitted to colleges in part due to their race found that 32% attained doctorate degrees or professional degrees, a similar rate to that of their white counterparts.<sup>5</sup> Data from states like Michigan, which removed affirmative action policies in public colleges and universities in 2006, have shown a decrease in enrollment of students of color.

On the other hand, critics point out that increasing educational opportunities hasn't eliminated the pay gaps between Black and white workers and certainly not the disparity in intergenerational wealth.<sup>6</sup> They advocate for interventions much earlier in a child's education and in other areas with lifelong impact, including housing and healthcare.

### Pros

- In opening up opportunities in higher education for marginalized students, Prop. 16 would help to spread the benefits of higher education that accrue over lifetimes and generations, including higher wages and wealth.
- Prop. 209 eliminated publicly funded professional development and educational programs designed to help women and people of color succeed. Beyond creating opportunities, this measure would allow more supportive programs to be created.
- Prop. 16 could increase the diversity of public employees, which could lead to more representative and higher quality government service.
- In the absence of affirmative action policies, many public institutions have used less effective proxy metrics (like targeting low-income students) to advance their diversity goals. Prop. 16 would help institutions to more effectively increase diversity among their students, workforce and contractors.
- Prop. 16 could set an example for affirmative action policies in other areas that have seen decades of racial discrimination, like publicly financed housing.

### Cons

- This measure allows race and other identities to be considered but doesn't require it. Prop. 16 alone cannot ensure improved outcomes for students, public employees or contractors of color.

## SPUR's Recommendation

California cannot dismantle racism without considering race. Allowing public institutions to consider race in hiring and other decisions is both a common-sense change and a symbolic gesture worthy of this historical moment. It acknowledges that a society that produced slavery, Jim Crow, racial covenants, sundown towns and other less visible but equally pernicious inequities can also produce policies to advance racial justice. Though this measure alone won't solve the many structural inequities that people of color and women face today, it makes an important step forward in increasing opportunities in education, employment and contracting.

Vote YES on Prop 16 - Affirmative Action



### FOOTNOTES

<sup>1</sup> See *the case of Regents of the University of California v. Bakke, related to a race-based quota system*, Library of Congress, <https://cdn.loc.gov/service/ll/usrep/usrep438/usrep438265/usrep438265.pdf>

<sup>2</sup> Zachary Bleemer, "The Impact of Proposition 209 and Access-Oriented UC Admissions Policies on Underrepresented UC Applications, Enrollment, and Long-Run Student Outcomes," 2020, [https://www.ucop.edu/institutional-research-academic-planning/\\_files/uc-affirmative-action.pdf](https://www.ucop.edu/institutional-research-academic-planning/_files/uc-affirmative-action.pdf)

<sup>3</sup> Kevin Carey, "A Detailed Look at the Downside of California's Ban on Affirmative Action," *The New York Times*, 2020, <https://www.nytimes.com/2020/08/21/upshot/00up-affirmative-action-california-study.html>

<sup>4</sup> Justice Society, "The Impacts of Proposition 209 on California's MWBEs," 2015, <https://equaljusticesociety.org/wp-content/uploads/2019/10/ejs-impact-prop-209-mwbes.pdf>

<sup>5</sup> See Bowen and Bok, "The Shape of the River," 1998.

<sup>6</sup> See: <https://www.nytimes.com/2017/09/20/opinion/college-racial-income-gap.html> and <https://www.brookings.edu/blog/up-front/2020/02/27/examining-the-black-white-wealth-gap/>

## Prop 17

# Voting Rights for People on Parole

CONSTITUTIONAL AMENDMENT

## Restores voting rights upon completion of prison terms

Grants people on parole in California the right to vote.

Vote YES



## What the Measure Would Do

The California Constitution denies the right to vote to people serving a prison sentence and to people on parole. Proposition 17 would remove the restriction for people on parole, restoring voting rights upon completion of their prison term. If the measure passes, the right to vote would be restored to approximately 50,000 Californians.

## The Backstory

Voting rights for incarcerated and previously incarcerated people differ widely across the United States. In Vermont and Maine, for example, those serving a prison term never lose the right to vote; they are able to register and cast a vote while in prison. On the other end of the spectrum are 10 states in which some people convicted of felonies can permanently lose their right to vote.<sup>1</sup> In 21 states, including California, individuals lose their right to vote while in prison and while participating in supervision programs such as parole and/or probation. If Prop. 17 passes, California would become one of 18 states that restores voting rights upon release from prison.

Over the past half-century, California has slowly reinstated the right to vote for formerly incarcerated people. In 1974, California passed Proposition 10, which restored voting rights to people once they'd completed their prison term and parole. Prior to this amendment, the California Constitution denied voting rights indefinitely for some people convicted of high crimes and infamous crimes. The passage of the Criminal Justice Realignment Act in California in 2011, as well as subsequent legislation and court cases, solidified the right to vote for people who are in county jail, on probation or on post-release community supervision — however, disenfranchisement for people on parole remained intact.<sup>2</sup> The murky distinctions around who does and does not have the right to vote results in “de facto disenfranchisement,” where eligible voters are unsure if they have the right to vote.

In California, a person finishes their prison sentence the day they are released from prison; parole is not an extension of a prison sentence, and in concept, it is not intended to be punitive. Individuals on parole receive some supervision for a set amount of time (typically two to five years) post-release. One of the central goals of the parole program is to reduce recidivism by providing rehabilitative services, such as employment and housing assistance. Efforts to restore voting rights to people on parole often highlight the disconnect between the purpose of parole and the punitive nature of denying the right to vote. Advocates point out that barring people on parole from voting limits

their ability to reintegrate and reinvest in their community; in fact, recent studies have found that voting is correlated with lower rates of recidivism.<sup>3</sup>

Prop. 17 was approved by two-thirds of the membership of each house in the state legislature and must be placed on the ballot because it amends the state constitution. As a constitutional amendment, it requires a simple majority (50% plus one vote) to pass.

## Equity Impacts

Voter disenfranchisement is a form of systematic oppression that has existed in the United States since its founding. Denying voting rights to people on parole is one such manifestation, disproportionately blocking people of color from participating in our democracy and thereby limiting their political power. In 2016, Black people made up 26% of parolees in California but only constituted 6% of California's adult population. For Latinos, the impact of incarceration and disenfranchisement has also been disproportionate.<sup>4</sup>

In the United States, one out of 13 Black men of voting age is denied the right to vote due to a felony conviction. In states with more restrictive laws around voting, the rate is 1 in 5. Restoring the right to vote to people on parole would be a step toward equity by re-enfranchising approximately 50,000 Californians, about 75% of whom are people of color.<sup>5</sup>

## Pros

- Granting people on parole the right to vote would make our democracy fairer and more inclusive, helping to ensure that our leaders represent a wider share of the state's people.
- Studies have shown that voting is linked to lower rates of recidivism: When people are treated as valued members of a community and allowed to be civically engaged, they are less likely to re-engage in criminal activity.<sup>6</sup>
- People on parole work and live in California's communities and are in the process of full reintegration into society. They should have the right to vote on the issues that impact them.

## Cons

- SPUR could not identify any downsides for Prop. 17.

## SPUR's Recommendation

There is no more basic right in a democracy than the right to vote. Voter disenfranchisement is antithetical to the political structures of our nation and to the values of equality and justice we espouse. Barring people on parole from the right to vote is a clear example of the disconnect between our declared values and our actions, especially since people of color are disproportionately disenfranchised. Additionally, we believe that a responsive and effective government requires a high level of citizen involvement and that involvement in civic life helps reduce recidivism. Prop. 17 would open participation in public decisions to approximately 50,000 citizens who have every right to participate in their democracy.

Vote YES on Prop 17 - Voting Rights for People on Parole



## FOOTNOTES

<sup>1</sup> Internationally, there is no other democracy in which people convicted of felonies can become disenfranchised for life, and numerous countries permit people to vote while in prison.

<sup>2</sup> Probation is a period of supervision for an offender, ordered by the court instead of a prison sentence. "Post-release community supervision" is the new term for parole for those who served time in a county jail. Parole is a supervised program for inmates re-entering the community after being released from prison.

<sup>3</sup> Erika Wood, "Restoring the Right to Vote," Brennan Center for Justice, 2009, [https://www.brennancenter.org/sites/default/files/2019-08/Report\\_Restoring-the-Right-to-Vote.pdf](https://www.brennancenter.org/sites/default/files/2019-08/Report_Restoring-the-Right-to-Vote.pdf)

<sup>4</sup> Public Policy Institute of California, "California's Changing Parole Population," <https://www.ppic.org/publication/californias-changing-parole-population/#:~:text=The%20number%20of%20parolees%20who,%E2%80%94948.6%25%20of%20the%20population>.

<sup>5</sup> Ibid.

<sup>6</sup> Christopher Uggen and Jeff Manza, *Voting and Subsequent Crime and Arrest: Evidence from a Community Sample*, July 11, 2003, <http://users.cla.umn.edu/~uggen/Preview.pdf>



## Prop 18

# Primary Voting for 17-Year-Olds

CONSTITUTIONAL AMENDMENT

## Expand Voting to 17-Year-Olds

Allows 17-year-olds who will be 18 at the time of the next general election and are United States citizens and residents of California to vote in any primary or special elections.

Vote YES



## What the Measure Would Do

The California Constitution authorizes any person who is a United States citizen, a resident of California and at least 18 years of age to vote. This measure would permit 17-year-olds who are United States citizens and residents of California to vote in any primary or special election if they will be 18 years old at the time of the next general election.

If California voters approve this measure, the state expects to incur one-time costs associated with updating voter registration systems and estimates that counties will pay between several hundreds of thousands of dollars and \$1 million dollars every two years as a result of sending voting materials to eligible registered 17-year-olds.<sup>1</sup>

## The Backstory

Voting in local, state and federal elections in most of the United States is restricted to those 18 years or older; however, 18 states and the District of Columbia allow 17-year-olds to vote in primary elections if they will be 18 by the day of the general election.<sup>2</sup> If Prop 18 passes in November, California will be added to this list.

Voter engagement has remained chronically low in the United States, particularly among young voters. Since the U.S. Census Bureau began tracking voter-age data in 1964, young adults have had the lowest voter turnout of any age group.<sup>3</sup> This can be partially attributed to barriers to participation that impact young voters, including the many transitions they face, such as moving out of their families' homes, starting a career or going to college.

Research shows that lowering the voting age spurs short-term and long-term gains in civic engagement. When young voters enter the electorate, they impact the voter turnout of older family and community members.<sup>4</sup> Additionally, studies illustrate that the earlier people start voting, the more likely it is that voting will become a long-term habit.<sup>5</sup>

In addition to spurring gains in voter turnout, this measure will make the general election ballot more representative of the electorate by allowing the full electorate to participate in the preceding primary election.

This measure was approved by two-thirds of the membership of each house of the California State Legislature and must be placed on the ballot because it amends the state constitution. It requires a simple majority (50% plus one vote) to pass.

## Equity Impacts

This measure would impact a narrow subset of 17-year-old Californians. Prop 18 could inspire a habit of voting among young people of color, but the impacts of this are unknown.

## Pros

- Legalizing voting at a younger age could improve turnout for younger voters and their families.
- Voting earlier in life has been shown to lead to stronger voting engagement throughout a person's lifetime.
- Research has shown that 17-year-olds are sufficiently developed in their analytical, independent, and empathetic cognitive abilities to make thoughtful voting decisions.<sup>6</sup>
- Young people are experiencing significant negative impacts of the COVID-19 pandemic and the government's response. Including 17-year-olds in the democratic process will provide them with greater agency over the systems and institutions that directly impact their lives.
- By allowing this subset of the population to vote in California's primary elections, the general election ballots will be more representative of the full electorate.

## Cons

- SPUR could not identify any downsides to this measure.

## SPUR's Recommendation

SPUR has advocated for decades to increase participation in the civic decision-making process. We believe responsive, effective government requires a high level of involvement by a state's residents. This measure would open participation in public decisions to more citizens who we believe could make conscientious voting decisions. Additionally, engaging youth in the democratic process could improve the health of our democracy overall by heightening interest in local civic issues and contributing to better youth turnout and lifetime voter engagement.

Vote YES on Prop 18 - Primary Voting for 17-Year-Olds



## FOOTNOTES

<sup>1</sup> <https://lao.ca.gov/BallotAnalysis/Proposition?number=18&year=2020>

<sup>2</sup> <https://www.ncsl.org/research/elections-and-campaigns/primaries-voting-age.aspx>

<sup>3</sup> *Young-Adult Voting: An Analysis of Presidential Elections, 1964–2012*. April, 2014.

<sup>4</sup> Michael McDevitt and Spiro Kiouisis, "Experiments in Political Socialization: Kids Voting USA as a Model for Civic Education Reform," August 2006.

<sup>5</sup> Eric Plutzer, "Becoming a Habitual Voter: Inertia, Resources, and Growth," *American Political Science Review* 96/1 (March 2002): 41–56.

<sup>6</sup> Laurence Steinberg, Elizabeth Cauffman, Jennifer Woolard, Sandra Graham, Marie Banich, "Are Adolescents Less Mature Than Adults?: Minors' Access to Abortion, the Juvenile Death Penalty, and the Alleged APA "flip-flop," *American Psychologist Journal*, 64(7), October 2009, pages 583-594, <https://pubmed.ncbi.nlm.nih.gov/19824745/>

# Prop 19

## Property Tax Transfers

CONSTITUTIONAL AMENDMENT

## The Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disaster Act

Allows seniors, disabled people and disaster victims to transfer existing property tax assessments to a new home.

Vote YES



### What the Measure Would Do

Proposition 19 aims to accomplish three goals:

- Allowing certain categories of homeowners — seniors, people with disabilities and disaster victims — to take their low property tax assessments with them if they move within California
- Limiting the transfer of property tax assessments to children or grandchildren
- Generating revenue to fight fires

Since 1978, Proposition 13 has kept the amount of tax that longstanding property owners pay artificially low relative to the current value of the property and has allowed these reduced tax bills to be transferred to children or grandchildren who inherit the property — significantly hampering the state's ability to raise money for critical needs. At the same time, the property tax system has not worked to all homeowners' advantage: Those with limited means, including those who have lost their homes in natural disasters, face difficulty relocating within the state because their property tax assessments will likely rise dramatically once they purchase a new home.

First, Prop. 19 would make it easier for some owners to transfer their property tax assessment anywhere in the state (current law only allows these transfers within a county). Eligible owners include those over 55, those who are severely disabled and those who are victims of wildfires or other natural disasters.

If the market value of the new property that the owner purchases is greater than the market value of the old property, then the difference would be added on to the taxable assessed value of the old property. If the value of the new property is less, then the assessment for the old property would just be transferred to the new property. Prop. 19 would allow a property owner to transfer their low property tax up to three times.

Second, Prop. 19 would limit the transfer of low property tax assessments from deceased owners to their children or grandchildren (if all of their children have already died), which current law allows. The measure would close the "Lebowski Loophole" (named after an actor in *The Big Lebowski* who pays very low property tax on a Malibu property his parents purchased in the 1950s).<sup>1</sup> Under this measure, only heirs who use the home as a primary residence would be able to transfer a property tax assessment. And if the home's market value exceeds the assessed value by more than \$1 million, the heirs would only inherit the reduced property tax basis on the first \$1 million.

Third, Prop. 19 would take the revenues created by more fully taxing intergenerational property transfers and use them to fund fire reduction measures. The measure would establish a California Fire Response Fund, with 20% of funds allocated to the state Department of Forestry and Fire Protection and 80% to local special districts for fire suppression. This would likely benefit more rural areas, which have had to professionalize their volunteer fire services in the wake of the recent wildfires.

If there is a strong spike in revenue generated by Prop. 19 (more than a 10% increase in revenue year over year), then the excess funds could be appropriated by the state legislature for other purposes besides fire suppression.

The measure would also create a state County Revenue Protection Fund. If counties receive less revenue as a result of this measure, then the state would make up the difference through a distribution of these funds.

The Legislative Analyst's Office (LAO) estimates that Prop. 19 would generate

tens of millions of dollars in local tax revenue by the increase in taxes collected on inherited properties that do not serve as a primary residence. Over time, this revenue could grow to several hundred million dollars a year.<sup>2</sup>

### The Backstory

In 1978, Prop. 13 capped property taxes at 1% of assessed value at the time of purchase and mandated that the annual inflation adjustment for property value be no more than 2%. Since property values in California have skyrocketed since the late 1970s at a rate far higher than 2% per year, Prop. 13 continues to result in artificially low tax rates throughout California.

One consequence of low property taxes is that it creates a disincentive for longtime owners to move or sell, even though their existing homes may be larger than they need as their grown children move out. The California Association of Realtors sponsored Prop. 19 after putting a similar measure on the ballot in 2018. That measure, Prop. 5, focused specifically on giving older and disabled property owners the ability to transfer their property taxes to new homes. However, since Prop. 5 would have resulted in reduced revenues for the state, counties, cities and schools, it was widely opposed and failed at the ballot by 20 points.

Prop. 19 sweetens the pot for local and state government by promising to close the Lebowski Loophole. It would also create funding to combat wildfires, thereby earning the endorsement of the state's largest firefighting union.<sup>3</sup>

This measure was placed on the ballot by the California State Legislature, replacing a measure that was placed on the ballot by signature collection. It requires a simple majority (50% plus one vote) to pass.

### Equity Impacts

This measure could benefit low-income communities and communities of color by providing additional revenue to state and local government. It would also flatten wealth inequality by requiring additional taxes when high-value homes are transferred from one generation to the next. The current system largely benefits wealthier households, which are more likely to own property and pass it on to children and grandchildren. It also disproportionately helps white people, given the racial gap in homeownership between Black and white households.<sup>4</sup> While this measure would not do anything to remedy inequities in rates of homeownership, it would remove the subsidy children and grandchildren of wealthier homeowners, who are disproportionately white.

However, Prop. 19 could also put financial pressure on some low-income but high-wealth families seeking to transfer property to future generations in highly gentrified areas. A family home that was purchased in the 1970s in a low-income neighborhood by a low-income household would likely have a very low assessed value. But if that neighborhood has undergone significant gentrification, then the current value could be significantly higher than the original value, potentially beyond the million-dollar threshold, which would trigger an additional tax assessment that might be beyond the next generation's ability to pay.

### Pros

- Prop. 19 would eliminate a loophole that has allowed the children and grandchildren of original property owners to avoid paying market-value taxes on a property that is not their primary residence. It would also require those heirs to pay increased property taxes on a home worth more than a million dollars above the assessed valuation even if the

home is their primary residence. This promotes fairness in the tax system.

- The measure might encourage some empty nesters to sell their large family homes in favor of smaller homes, thereby freeing up homes for larger families and potentially easing housing pressures in some areas of the state.
- Wildfires are an ongoing, catastrophic problem in California. This measure would provide more funding to address a critical issue at a time when it's most needed.

## Cons

- This measure would not address the underlying problems with California's property tax system. Prop. 13 benefits longstanding homeowners and punishes newcomers. A more equitable tax system would require all owners to pay their fair share while ensuring that low-income households, including low-income seniors, could afford to stay in their homes. This measure would not get us closer to those reforms.

## SPUR's Recommendation

While Prop. 19 does feel like a grab bag of policies designed to support different interest groups (real estate agents who want to increase the number of real estate transactions, firefighters who want more funding to combat wildfires), on balance it would achieve important policy goals. The elimination of the property tax loophole for heirs would increase the fairness of California's tax system and generate funding for combatting wildfires, an important public service. SPUR supports this measure.

Vote YES on Prop 19 - Property Tax Transfers



### FOOTNOTES

<sup>1</sup> Liam Dillon and Ben Poston, "California Homeowners Get to Pass Low Property Taxes to Their Kids: It's Proved Highly Profitable to an Elite Group," *Los Angeles Times*, August 17, 2018, <https://www.latimes.com/politics/la-pol-ca-california-property-taxes-elites-201808-htmlstory.html>

<sup>2</sup> Legislative Analyst's Office, "Proposition 19," <https://lao.ca.gov/ballot/2020/Prop19-110320.pdf>

<sup>3</sup> Editorial Board, "Prop. 19 Perpetuates California Property Tax Inequity," *San Jose Mercury News*, August 1, 2020, <https://www.mercurynews.com/2020/08/01/editorial-prop-19-perpetuates-california-property-tax-inequity/>

<sup>4</sup> "Reducing the Racial Homeownership Gap," *The Urban Institute*, <https://www.urban.org/policy-centers/housing-finance-policy-center/projects/reducing-racial-homeownership-gap>

## Prop 20 Rollback of Crime Leniency Laws

INITIATIVE STATUTE

## Restricts Parole for Non-Violent Offenders, Authorizes Felony Sentences for Certain Offenses Treated as Misdemeanors

Makes a number of changes to the state's criminal justice laws on sentencing, punishments and parole.

Vote NO



### What the Measure Would Do

Proposition 20 would make several key changes to state law around the criminal justice system, partially undoing prior reforms.

First, Prop 20 would change laws around, and increase penalties for, theft-related crime. It would allow prosecutors to charge, and judges to sentence, certain theft and fraud-related crimes as either a misdemeanor or a felony, known as “wobbler” crimes. This would reverse changes made under Prop 47 and result in longer, stricter sentences for many non-violent offenses. Prop 20 would also create two new types of crime in the state code: serial crime and organized retail crime. Both involve repeated petty theft and would be chargeable as wobbler crimes.

Second, Prop 20 would make a number of changes to the parole review process for non-violent crimes established under Prop 57, and would exclude some people from the possibility of parole altogether. For those who could be considered for parole, Prop 20 mandates a process in which the prosecutors and crime victims can participate in the parole review board hearing. It also requires that people who are denied release wait two additional years (rather than one) before being reconsidered for parole.

Third, Prop 20 makes changes to the parole and Post-Release Community Supervision programs, which provide supervision of people following their release from prison. Under Prop 20, if an offender violates the terms of their supervision for a third time, local probation departments must petition to revoke the post-release supervision, which could result in stricter supervision conditions or imprisonment.

Finally, Prop 20 requires state and local law enforcement agencies to collect DNA samples from adults convicted of certain misdemeanors, like shoplifting and forging checks. Today, samples are collected from adults and youth convicted of felonies as well as those required to register as sex offenders or arsonists.

The Legislative Analyst's Office estimates the fiscal impact of Prop 20 to be in the tens of millions of dollars annually, resulting from increases in county jail and prison populations, increases in state and local court-related costs, and increases in law enforcement costs related to collecting and processing DNA samples.<sup>1</sup>

### The Backstory

In the 1990s and early to mid-2000s, California's prison population increased significantly as a result of tougher-on-crime laws like Three Strikes (1994), mandatory minimum sentences and juveniles prosecuted as adults. The prison population peaked at more than 165,000 inmates in 2006, in a system built to hold only 85,000. These harsh sentencing laws disproportionately impacted people of color, particularly Black Californians. In 2010, Black people made up 6% of California's population but 27% of the state's jails and prisons.<sup>2</sup>

In 2011, the U.S. Supreme Court ruled that the conditions in California's overcrowded prisons violated the Eighth Amendment's ban on cruel and unusual punishment and ordered the state to reduce its prison population by more than 30,000 inmates. The Supreme Court ruling brought heightened awareness to the inhumane conditions in California prisons, particularly for people experiencing mental illness and other health maladies.

AB 109 was passed several months later to reduce state prison populations by moving non-violent offenders to county jails. Over the next several years, California voters passed Propositions 47 and 57 to further reduce prison

populations and address racial disparities in the criminal justice system. These reforms have worked: in 2011, there were 431 inmates per 100,000 residents, and by 2019 the number was down to 317.<sup>3</sup> Meanwhile, overall crime rates are at or near historic lows. California's rates of property crime and violent crime have dropped significantly over the past several decades.<sup>4</sup>

Despite these trends, Proposition 20 aims to address what some in law enforcement see as public safety problems created by AB 109 and Propositions 47 and 57. Some point to recent increases in larceny, which involves theft without the use of force such as shoplifting. Current legislation (AB 1065, Jones-Sawyer) seeks to reverse these increases in larceny.

Prop 20 was placed on the ballot by voter signatures, funded in large part by police and sheriff's unions in Southern California. As an initiative statute, it requires a simple majority (50% plus one vote) to pass.

### Equity Impacts

Prop 20 would roll back significant reforms to the California criminal justice system and would lead to increased rates of incarceration. This measure would be particularly harmful to Black, Indigenous and Latino Californians who experience profound bias throughout the criminal justice system, from neighborhood over-policing to discriminatory sentencing. People of color remain disproportionately overrepresented in California's jails and prisons, though Proposition 47 has, in fact, reduced racial disparities across key criminal justice outcomes, such as arrest and booking rates.<sup>5</sup>

Research also shows that incarceration exacerbates economic hardship and racial disparities. Formerly incarcerated individuals face structural barriers to employment opportunities, and within this group, Black women experience the highest levels of unemployment, while white men experience the lowest.<sup>6</sup> By holding more people in prison for longer, this measure would increase the economic hardship experienced by incarcerated people, those who support them and their communities. This economic burden would likely disproportionately fall on over-policed communities and people of color.

### Pros

- SPUR could not identify any pros for this measure.

### Cons

- State prisons remain overcrowded, in part because many prior laws were not applied retroactively. Prop 20 would likely lead to an increase in incarceration and a return to overcrowded and inhumane conditions for inmates.
- By restricting parole for non-violent offenders, this measure will further punish people who may deserve a shot at rehabilitation and reintegration into society.
- Prop 20 would increase punishments for a variety of crimes, leading to more incarceration. Prison sentences have severe economic consequences for individuals and families. Felony convictions place barriers to employment, probation or parole supervision costs vulnerable families a meaningful amount of money, and time spent imprisoned has economic ripple effects that culminate in loss of wealth and income.
- This measure will increase costs at a time of extreme budgetary crisis. This measure also directly opposes efforts to realign resources to rehabilitative and social services outside the criminal justice system, such as housing and mental health services.

## SPUR's Recommendation

Proposition 20 would reverse years of criminal justice reform that has reduced California's prison population while not increasing crime. Rolling back these reforms when California's prisons are still overcrowded, people of color remain over-represented in those prisons and crime is at historic lows would be an unjust and indefensible policy decision. Additionally, this measure would put a significant and disproportionate economic burden onto people involved in the legal system and their communities.

**Vote NO on Prop 20 - Rollback of Crime Leniency Laws**



### FOOTNOTES

<sup>1</sup> Legislative Analyst's Office November 3, 2020 Ballot Analysis, Proposition 20, <https://lao.ca.gov/ballot/2020/Prop20-110320.pdf>

<sup>2</sup> Leah Sakala, "Breaking Down Mass Incarceration in the 2010 Census: State-by-State Incarceration Rates by Race/Ethnicity," Prison Policy Initiative, May 28, 2014, <https://www.prisonpolicy.org/reports/rates.html>

<sup>3</sup> Monthly Total Population Reports, California Department of

Corrections and Rehabilitation, <https://www.cdcr.ca.gov/research/monthly-total-population-report-archive-2019/>

<sup>4</sup> Scott Graves, "Criminal Justice Reform is Working in California," California Budget & Policy Center, August 2020, <https://calbudgetcenter.org/resources/criminal-justice-reform-is-working-in-california/>

<sup>5</sup> Magnus Lofstrom, Brandon Martin, Steven Raphael, "Proposition 47's Impact on Racial Disparity in Criminal Justice Outcomes," Public Policy Institute of California, June 2020, <https://www.ppic.org/wp-content/uploads/proposition-47s-impact-on-racial...>

<sup>6</sup> Lucius Couloute and Daniel Kopf "Out of Prison & Out of Work: Unemployment Among Formerly Incarcerated People," July 2018, <https://www.prisonpolicy.org/reports/outofwork.html>

## Prop 21 Rent Control

INITIATIVE STATUTE

## Expands local governments' authority to enact rent control on residential property

Removes certain state restrictions on what buildings can be rent controlled and whether cities can control the rents charged to new tenants.

Vote NO



### What the Measure Would Do

California Proposition 21 would substantially amend the 1995 Costa-Hawkins Rental Housing Act, a state law that currently restricts local rent control laws. Cities use rent control to regulate the rents, or the increases in rent, that landlords can charge. According to the Turner Center for Housing Innovation, 15 of California's 482 jurisdictions currently have some form of rent control, which covers 25 percent of the state's rental units.

Prop. 21 would make a few significant changes to what local governments are allowed to manage in their rent control laws. It would:

- Increase the number of units that could be subject to local rent control laws. The measure would allow cities to impose rent control on all units built more than 15 years ago, rather than all those built before February 1995 (or a pre-existing exemption cutoff date, if a city has one). For example, under Prop. 21, a building that received its certificate of occupancy in 2010 would be exempt from local rent control until 2025. The measure would also allow cities to impose rent control on single-family homes and condominiums owned by corporations or by individuals who own three or more units. Single-family homes and condominium units owned by a "natural person" who owns no more than two residential units would remain exempt.
- Allows local rent control laws to limit how much a landlord can charge a new tenant. If a city decides to set limits, it must allow a landlord to increase the new rent by up to 15% (over the first three years) from the previous tenant's rent, in addition to any locally allowed increases.

In order to comply with previous state court rulings, Prop. 21 contains language that says cities and counties could not limit a landlord's right to a fair rate of return on property. What this would mean in practice is not clear.

The Legislative Analyst's Office estimates the state and local fiscal impact of this measure to be a loss in the high tens of millions of dollars per year, though it depends on the number of cities that decide to implement more stringent rent control regulations.<sup>1</sup> The impact would primarily result from reduced property taxes due to lowered property values.

This measure could be amended by the state legislature with a two-thirds vote if the amendments further the purposes of Prop 21. Reinstating any portion of Costa-Hawkins would require going back to the voters for a majority vote.

### The Backstory

The Costa-Hawkins Rental Housing Act was passed by the California State Legislature in 1995 in response to strong rent control ordinances that several cities (Berkeley, East Palo Alto, West Hollywood, Santa Monica and Cotati) passed in the 1980s. Municipalities can still pass local rent control laws under Costa-Hawkins; the 1995 law was intended to protect the production of housing by exempting new construction from rent control and to protect landlords' right to set rents when renting to a new tenant.

The Costa-Hawkins Act limits local rent control laws in the following ways:

- Exempts from rent control all housing units built after February 1, 1995, as well as all single-family homes and all condominiums.
- For cities that had rent control ordinances when Costa-Hawkins passed, retains their existing exemption dates instead of 1995.
- Prohibits cities from controlling rent levels upon turnover of a unit (known as "vacancy control"). When a tenant moves out of a rent-controlled unit, the city must allow the landlord to re-rent it at market rate.

Tenant activists have wanted to repeal the Costa-Hawkins Act since it passed. There have been many attempts through the state legislature to amend or repeal the law over the years. The most recent effort — 2018's Prop. 10, which would have repealed Costa-Hawkins — failed, garnering 40.6% of the vote.

In 2019, as part of the Bay Area's CASA Compact, a set of policy recommendations to address the housing crisis, Assemblymember David Chiu successfully passed AB 1482, emergency rent cap legislation that limits annual rent increases statewide (with some exceptions) through 2030.

This year's Prop. 21, which amends rather than repeals Costa-Hawkins, was placed on the ballot by some of Prop. 10's proponents, including the AIDS Healthcare Foundation, which paid for signature-gathering and has funded 99.8% of the campaign to date.

As an initiative statute, this measure needs a simple majority (50% plus one vote) to pass.

### Equity Impacts

The equity impacts of rent control are complicated and unclear, since the benefits are not specifically targeted toward people of color or low-income households.

More than 60% of white California households and 58% of Asian California households own their homes, while only 33% of Black California households are homeowners.<sup>2</sup> Some studies have shown that people of color disproportionately live in rent-controlled housing.<sup>3</sup> The expansion of rent control could disproportionately benefit Black households, as they are a disproportionate share of renters.

However, the allocation of rent-controlled units to people of color is not at all guaranteed, given wealth and income inequality. Rent-controlled apartments are offered on the competitive market, and landlords are able to select residents with higher incomes and stronger credit, which may be a disadvantage to Black households and people of color.

Lastly, while rent control definitely benefits a household living in a rent-controlled unit, its negative impacts on new housing production, increases in rent for non-rent-controlled apartments and the loss of existing rental opportunities (caused by landlords converting rental apartments to condos or redeveloping properties) disproportionately hurts those with the least ability to compete in the broader housing market, as we have seen with outmigration of people of color from cities like San Francisco and Oakland in recent years.

### Pros

- California's affordable housing shortage is a pressing crisis and deserves immediate action. In cities that decide to impose or expand rent control ordinances, Prop. 21 would allow more units to be rent-controlled, which could have immediate benefits for those tenants whose rents are rising with the market every year.
- Costa-Hawkins set an arbitrary and static threshold date for exemption from rent control. This means cities with rent control will likely see a reduction in rent-controlled units over time. Allowing cities to set rolling exemption dates could bring additional housing units under rent control after a carefully considered time past their construction.
- Allowing cities to apply rent control to single-family homes could protect a significant number of households in California, as they make up 37% of the rental housing stock.

## Cons

- Allowing cities to apply rent control to newer buildings and limit the rent landlords could charge new tenants would likely lead to a significant reduction in the construction of new rental homes, as more rental housing projects would become unprofitable to build. Research from the Turner Center indicates that the 15-year rolling timeline is too short and would likely reduce housing production statewide.<sup>4</sup>
- Allowing vacancy control, even with limitations, would probably increase the number of rental units that are converted to condos. A 2017 study found that rent control caused San Francisco's overall rents (including units not covered by rent control) to rise, because many landlords, when faced with the financial limitations of rent control, chose to convert rental units to condos or other owner-occupied housing. Collectively, these individual choices removed 15 percent of the rental stock from the San Francisco market between 1994 and 2012.<sup>5</sup> This reduction in the rental housing stock drove up competition, increasing rents overall.
- The "natural person" owner requirement means that single-family homes and condominiums owned by family trusts would not be exempt from local rent control laws.
- Rent control is an imperfect tool for stabilizing communities because it is not specifically targeted to help people of color, low-income households or other disadvantaged populations; the people who benefit most are those who have been in their rental units the longest, not necessarily those who need the most help. Some studies show benefits actually accruing more to whiter, wealthier households in some cases.<sup>6</sup> Restricting rents that new tenants pay (vacancy control) would also not necessarily support low-income households, as many new tenants would not be low-income. Supporting low- and moderate-income affordable housing programs, especially those with right-of-return preferences for previous tenants, better targets people of color and lower income individuals.
- If adopted by cities, the potential cost of vacancy control to landlords would be arbitrary and uneven. A unit that a new tenant occupied in 2020, for example, would forever after be rented out at a vastly higher rent than an identical unit where a tenant moved in in 1980.
- This measure does not need to be on the ballot. Amendments to Costa-Hawkins can and should be made through the legislative process, where the details can be better negotiated and policy changes can be made more easily in the future.
- The measure language that says cities and counties cannot limit a landlord's right to a fair rate of return on property is ambiguous and would most likely lead to litigation and uncertainty.

## SPUR's Recommendation

California continues to deal with a housing affordability crisis that has plagued the state for many years. A shortage of housing has led to increased homelessness, displacement of low- and moderate-income people and a reduced quality of life for people who commute long distances or live in overcrowded living situations.

Rent control provides significant benefits to residents who live in rent-controlled units.<sup>4</sup> Many current tenants in California would not be able to remain in their homes — or even in their cities — if their rents went up to market-rate levels. In addition, by allowing households in rent-controlled units to remain in place, rent control provides greater community stability. We have seen firsthand how rent control has provided protections for many in San Francisco's overheated housing market.

But the details of rent control policy matter. There is great risk in under-regulating rent control and depressing California's already-inadequate production of rental housing. In a report issued this year, SPUR estimated that the Bay Area should have built 700,000 new homes over the past decade and needs to build over 2.3 million housing units over the coming 50 years to bend the curve on housing affordability. Local rent control laws could inadvertently (or intentionally) result in less housing production than the state needs to house the people who want to live here.

There are aspects of this measure that we appreciate. We support the idea of making single-family homes subject to local rent control laws when they are owned by corporate entities or owners with multiple units. Single-family homes are a large portion of the state's housing stock and a growing portion of the rental housing stock, so there is a significant opportunity to expand protections by making some single-family homes subject to rent control.

While we are on record supporting the idea of a "rolling" date for housing to become subject to rent control (in localities that have rent control ordinances), we remain concerned about the 15-year term included in this measure. Such a short term would significantly reduce the profitability of rental housing, and thus likely significantly reduce the building of new rental homes. In 2018, the Turner Center released a policy brief suggesting that a term of 40 years would not significantly harm the market for investment in new housing development. A compromise effort could aim for 25 years, the age of housing currently affected by Costa-Hawkins, so as not to lose existing rent-controlled units.

Ultimately, our concerns about the details of this measure and their impacts on the new production of housing outweigh the potential benefits that we see. The state plays a key role in setting guardrails for local rent control policy, and these details are important. We urge the California State Legislature to work toward compromise legislation that can be negotiated through the legislative process.

**Vote NO on Prop 21 - Rent Control**



- <sup>1</sup> California Legislative Analyst's Office, November 3, 2020 Ballot, Proposition 21, <https://lao.ca.gov/BallotAnalysis/Proposition?number=21&year=2020> (accessed September 25, 2020).
  - <sup>2</sup> Matt Levin, "Black Californians' housing crisis, by the numbers," CalMatters, June 19, 2020. Accessed at <https://calmatters.org/housing/2020/06/black-californians-housing-crisis-by-the-numbers/>.
  - <sup>3</sup> David Sims, "Rent Control Rationing and Community Composition: Evidence from Massachusetts," *The B.E. Journal of Economic Analysis & Policy*, 11(1). Accessed at <https://doi.org/10.2202/1935-1682.2613>.
- Rebecca Diamond, Tim McQuade and Franklin Qian. "The Effects of Rent Control Expansion on Tenants, Landlords, and Inequality: Evidence from San Francisco," Stanford University, 2019. Accessed at [https://web.stanford.edu/~tmcquade/Rent\\_Control.pdf](https://web.stanford.edu/~tmcquade/Rent_Control.pdf)
- <sup>4</sup> Turner Center for Housing Innovation "Finding Common Ground on Rent Control: A Turner Center Policy Brief," 2018. Accessed at <http://turnercenter.berkeley.edu/finding-common-ground-rent-control>
  - <sup>5</sup> Rebecca Diamond, Tim McQuade and Franklin Qian. "The Effects of Rent Control Expansion on Tenants, Landlords, and Inequality: Evidence from San Francisco," Stanford University, 2017. Accessed at <https://www.gsb.stanford.edu/faculty-research/working-papers/effects-rent-control-expansion-tenants-landlords-inequality-evidence>
  - <sup>6</sup> Richard Ault and Richard Saba. "The economic effects of long-term rent control: The case of New York City," *The Journal of Real Estate Finance and Economics* volume 3, 25–41 (1990). Accessed at <https://doi.org/10.1007/BF00153704>
  - <sup>7</sup> SPUR, What It Will Really Take to Create an Affordable Bay Area, 2020, <https://www.spur.org/publications/white-paper/2020-03-09/what-it-will-really-take-create-affordable-bay-area>



## Prop 22

# App-Based Driver Classification

INITIATIVE STATUTE

## Changes Employment Classification Rules for App-Based Transportation and Delivery Drivers

Defines some ride-hailing and delivery drivers as independent contractors rather than employees and establishes minimum benefits and labor protections for those drivers.

Vote NO



## What the Measure Would Do

Proposition 22 would classify app-based drivers<sup>1</sup> as independent contractors rather than employees, carving them out from California's 2019 employment law, known as Assembly Bill 5. The measure would also establish a new set of benefits and labor protections for these contractors. The benefits include:

- **A wage floor:** Drivers would earn at least 120% of the state or local minimum wage
- **Payment for injury on the job:** Drivers would have their medical costs covered if they are injured while driving or waiting to drive and would have a portion of their lost income replaced
- **Stipend for health insurance:** For drivers who work more than 15 hours per week, they would receive a contribution to purchase a Covered California health plan, increasing based on the hours that they work
- **Rest requirements:** Drivers could not work more than 12 hours in a 24-hour period for a single company
- **Non-discrimination protection and other requirements:** Companies would be required to develop sexual harassment policies, conduct recurring criminal background checks and mandate additional safety training

Critical to the calculation of driver benefits is the concept of "engaged time," which the measure defines as the amount of time a driver spends between accepting a ride-hailing or delivery request and completing that request.<sup>2</sup> Finally, the measure limits local jurisdictions' ability to establish other rules for app-based drivers. As an initiative statute, the measure could be amended legislatively by a supermajority vote of both houses and the governor's signature.

## The Backstory

Federal and state law establishes certain requirements and protections for workers based on how they're legally classified. For example, workers classified as employees are entitled to state-mandated minimum hourly wage compensation, paid sick time, and rest and meal times while working. Employers are required to provide insurance for injuries sustained while working and to contribute to unemployment insurance. Workers classified as independent contractors, on the other hand, have the flexibility to work when they chose for whom they chose and set their own pay. Employers are not obligated to pay overtime, unemployment insurance, sick time or other benefits to these workers. Employment classification has become an increasingly important and contentious subject of labor law in recent years, as non-traditional, on-demand and freelance work has proliferated.

In 2018, the California Supreme Court established a new test for classifying workers as employees or independent contractors. The *Dynamex* case created a standard that requires businesses to classify workers as employees unless they satisfy all three of the following requirements to be classified as independent contractors:

1. Works independently from a business's control
2. Performs work that falls outside the company's normal business operations
3. Operates as an independent business with other clients

Last year, the California legislature codified this "ABC" test into law as Assembly Bill 5, effectively narrowing the definition of which workers can be classified as independent contractors under state law. AB 5 applied the employment classification to a number of industries that had historically employed workers as independent contractors, like truck drivers, janitors,

health aides, campaign workers and ride-hailing and delivery drivers. However, the legislature acknowledged that being classified as employees as a result of the ABC test was not optimal for many workers. As a result, AB 5 allowed workers in a number of industries to remain as independent contractors, such as real estate agents, physicians, builders, licensed manicurists, some tutors and freelance writers. The Legislative Analyst Office estimated the changes resulting from AB5 could affect roughly 1 million California workers.<sup>3</sup>

AB 5 went into effect in January of this year and remains a controversial law. Critics argue that in the effort to more strictly regulate ride-hailing and delivery companies, the law has hurt many other kinds of independent workers, from truck drivers to freelance photographers to translators. As a result, recent legislation exempted an additional 30 professions from being classified as employees under AB5, including performers teaching master classes, registered professional foresters and newspaper copy editors.

For ride-hailing companies like Uber and Lyft and delivery companies like Doordash and Postmates, AB 5 became the new front for conflicts over driver classification that have been playing out in the courts for several years. These companies have long asserted that their drivers should be considered independent contractors and that the drivers prefer the flexibility that comes with this classification. As contractors, drivers are able to choose their hours, cash out pay immediately, switch between companies based on who is offering the highest compensation (even working for competing companies in the same work week), and leave work at any time for any period. The contracting business model has created several hundred thousand part-time jobs across the state for Californians in need of supplemental income. Eighty percent of drivers work part time, and the vast majority report that driving is not their main source of income.<sup>4</sup>

From a customer's perspective, the contracting business model allows these companies provide service in all corners of the state and keep prices low for the customer. It is estimated that classifying drivers as employees would increase customer costs by 20% to 30%.

On the other hand, these companies have not been subject to minimum wage requirements and have not offered many of the benefits and protections they would have had to if their workers were classified as employees. Many drivers and labor advocates have argued that these practices hurt workers who want benefits, better pay and union representation. In addition, these companies have avoided millions of dollars in payments towards safety net programs like Social Security, unemployment insurance and overtime.

Ride-hailing and delivery companies initially lobbied against AB 5 before proposing compromise options that would have maintained the independent contractor classification but provided greater protections to drivers and allowed them to unionize. But those proposals did not gain traction with either the California Labor Federation, who represents the state's 1200 unions and sponsored AB5, or the legislature. When AB 5 passed without changes for ride-hailing and delivery drivers, Uber and Lyft began gathering signatures to place Prop. 22 on the ballot.

There is much speculation about how ride-hailing and delivery companies would respond should Prop. 22 fail.<sup>5</sup> In an effort to control costs, the companies could shift a number of their practices: They might lay off hundreds of thousands of their part time workers; they might set shifts, reducing drivers' ability to work when they want; or they might restrict services to high-demand areas at busy times. Or the companies might pursue a different model entirely and license their platform and technology to fleets operated by other firms. (Uber originally used this "franchise" approach in New York with traditional black car taxi cab companies.) Ride-hailing and

delivery companies could also abandon California to focus on other markets, as they've alluded to in recent months.

Ride-hailing businesses have changed their practices in response to tighter restrictions in other states. In 2018, when New York City enacted a minimum pay rate for ride-hailing companies, Lyft responded by prohibiting drivers from logging on in low-demand neighborhoods. In 2016 after voters affirmed stricter requirements around driver fingerprinting, Uber and Lyft ceased operations in Austin.<sup>6</sup>

Prop 22 was put on the ballot by voter signatures, funded by five ride-hailing and delivery companies: Uber, Lyft, Postmates, Doordash and Instacart. As an initiative statute, it requires a simple majority (50% plus one vote) to pass.

## Equity Impacts

An estimated 1 million workers drive for ride-hailing companies Uber and Lyft and delivery companies like Postmates and Doordash. Demographic information about these drivers is not widely available to the public. Data that has been released indicates that ride-hailing drivers are racially diverse and range in age from younger adults to retirees.<sup>7</sup> The Legislative Analyst Office estimates that drivers make between \$11 and \$16 per hour, accounting for driving expenses and time spent waiting for rides.

While most drivers report that flexibility is central to the appeal of driving, that flexibility comes at a cost. App-based drivers have unreliable wages, little protection and no benefits as independent contractors. The COVID-19 pandemic has highlighted the precarity of this position. Should Prop 22 pass, these companies would create basic worker protections that are not as comprehensive as those outlined in AB 5. However, should Prop 22 fail, these companies may make significant changes to their employment practices that would likely reduce or fully eliminate the flexibility of this work and could eliminate hundreds of thousands of these jobs altogether. Another consideration is the service that these companies provide to customers who cannot afford a car, and the service they provide in neighborhoods that have seen little investment in public transportation.

## Pros

- Prop. 22 would reduce the risk of companies eliminating hundreds of thousands of ride-hailing and delivery driver jobs in the midst of an economic recession.
- In an effort to reflect the current realities of the gig economy, this measure effectively creates a new class of worker: an independent contractor entitled to additional benefits and protections. While it does not do as much as AB 5 to protect and provide benefits to those drivers who want to drive full time, it would create more protections — and retain flexibility — for those drivers who want consistent yet flexible work as a supplement to their income.
- Ride-hailing companies provide essential transportation for many people who cannot afford cars and for neighborhoods that don't have adequate public transit. There is a real possibility that ride-hailing companies would cease operation in these neighborhoods should Prop. 22 fail.

## Cons

- Prop. 22 provides fewer comprehensive benefits and worker protections to ride-hailing and delivery drivers than they would receive in their current classification under AB 5.
- Prop. 22 would exempt app-based ride-hailing and delivery companies from paying millions toward public safety net programs like unemployment insurance and paid sick leave.
- Passing a measure at the ballot is a risky practice because it makes it very difficult to correct later, and Prop. 22 as written has some real drawbacks. This measure would be especially difficult to amend legislatively as it requires a supermajority in both the Senate and Assembly, plus the Governor's signature.
- Pre-empting legislation by industry-funded ballot measures sets a dangerous precedent for policy-making in California.

## SPUR's Recommendation

Worker protections and benefits are critical to household financial security and are the cornerstone of a fair and functioning economy in California. On one hand, this measure doesn't go far enough for some drivers, offering fewer benefits and protections than they would receive as traditional employees. And Prop. 22 would exempt major companies from the responsibility of investment in unemployment benefits, Social Security and other social safety net programs. On the other hand, Prop. 22 would allow drivers to retain the workplace flexibility that has attracted many to these platforms in the first place. And it reduces the risk of companies eliminating or reducing hundreds of thousands of ride-hailing and delivery driver jobs in the middle of an economic crisis.

In reality, neither current law nor this measure fully serves the totality of the ride-hailing and delivery workforce: some of whom are supplementing other work, some of whom are seeking income in between employment and some of whom are wholly reliant on full-time driving. We appreciate that this measure attempts to chart a middle path. SPUR believes that employment classification poses a legitimate threat to the viability of flexible ride-hailing and delivery models,<sup>8</sup> and that the fallout could be devastating at this moment to the hundreds of thousands of drivers who rely on this work. However, it is a measure that codifies industry-written rules that are difficult to change. The legislature should be the venue to make necessary changes to California labor law, as it has been for other industries.

**Vote NO on Prop 22 - App-Based Driver Classification**



## FOOTNOTES

<sup>1</sup> The measure defines app-based drivers as workers who either provide on-demand delivery services or pre-arranged transportation services in a personal vehicle through a business's online application or platform.

<sup>2</sup> Engaged time does not include time waiting for a ride-hailing or delivery request, time after a request has been cancelled by a customer or time after a request is abandoned by the driver.

<sup>3</sup> Legislative Analyst Office, "Staffing to Address New Independent Contractor Test," 2020, [https://lao.ca.gov/Publications/Report/4151?utm\\_source=laowww&utm\\_medium=email&utm\\_campaign=4151](https://lao.ca.gov/Publications/Report/4151?utm_source=laowww&utm_medium=email&utm_campaign=4151)

<sup>4</sup> Lyft, "Economic Impact Report, 2020," <https://www.lyftimpact.com/stats/states/california>

<sup>5</sup> Separate from this ballot measure, Uber and Lyft have been challenging the employment classification in the courts. In May of this year, the state Attorney General as well as city attorneys from San Francisco, Los Angeles and San Diego, sued Uber and Lyft for failure to reclassify their workers after AB 5 went into effect. The San Francisco Superior Court sided with the state in early August, ruling that Uber and Lyft drivers are employees, though the lawsuit has been appealed. California is one of several fronts of this employee classification conflict: Uber is currently appealing a similar decision in the U.K. and in Massachusetts.

<sup>6</sup> In their wake, several new ride-hailing companies formed, including a nonprofit that adjusted prices to give drivers a bigger cut of the fare. When state of Texas intervened and the ride-hailing companies returned to Austin, many of the other services were unable to compete and went out of business.

<sup>7</sup> Entrepreneur, "Who Exactly are Uber Drivers?", January 22, 2015, <https://www.entrepreneur.com/article/242096>

<sup>8</sup> SPUR's recent research emphasizes the importance of flexible mobility options to augment fixed-route public transit. SPUR, *The Future of Transportation*, August 2020, <https://www.spur.org/publications/spur-report/2020-08-11/future-transportation>

## Prop 23

# Private Dialysis Clinics

INITIATIVE STATUTE

## Protect the Lives of Dialysis Patients Act

Establishes staffing and other requirements for chronic dialysis clinics.

Vote NO



## What the Measure Would Do

Proposition 23 would establish a set of regulations for the staffing and operations of chronic dialysis clinics in the state. Specifically, the measure would require that clinics:

- Staff a minimum of one licensed physician at a clinic while patients are being treated. A clinic could apply to the California Department of Public Health (CDPH) for an exception if there is a shortage of physicians, and use a nurse practitioner or physician's assistant instead for up to one year.
- Submit reports on dialysis-related infections to the state health department every three months. CDPH would determine which information to should be reported and would be required to post the information on its website.
- Provide a written notice to and obtain consent from the state health department before closing a chronic dialysis clinic.
- Not discriminate against patients in providing care, nor refuse care, based on the source of payment.

The state health department would implement Prop 23 and could issue fines up to \$100,000 for violations. The measure also directs the department to increase its licensing fees to cover administrative costs.

The Legislative Analyst's Office estimates this measure would result in increased costs for private dialysis clinics by several hundred thousand dollars annually, mostly due to the staffing requirement.

## The Backstory

Dialysis is a treatment that removes waste and chemicals from the bloodstream, administered to people whose kidneys no longer function properly. In California, about 80,000 patients receive dialysis treatments each month. Although treatment is available at hospitals and even in private homes, most patients are treated at roughly 600 private clinics across the state.

Most private clinics are owned and operated by two companies, DaVita and Fresenius Medical Care, and are licensed by the state. CDPH regulates them according to federal guidelines, which require that each clinic have a board-certified physician on staff to ensure quality of care, train staff and implement clinic policies. Federal regulations do not require that physicians spend any specific amount of time at the clinic. Clinics must also report information on dialysis-related infections to federal agencies.

Patients pay for dialysis treatments through Medicare, Medi-Cal and individual or group (employer or union) health insurance. The Legislative Analyst's Office estimates that payments for dialysis amount to roughly \$3 billion annually in California.

This measure is the latest in a series of conflicts between Service Employees International Union-United Healthcare Workers West (SEIU-UHW), a labor union, and DaVita and Fresenius Medical Care. SEIU-UHW represents 97,000 healthcare workers across California and for years has been trying to unionize DaVita and Fresenius Medical Care workers. SEIU-UHW has also led legislative efforts to cap profits and otherwise regulate the industry, including Assembly Bill 290, which restricted private dialysis companies' reimbursements for treatment. In 2018, a campaign led by SEIU-UHW West placed Proposition 8 on the ballot, which would have required that dialysis clinics refund patients or their insurers for any profits above 115% of the cost of direct patient care. The Prop 8 campaign was the most expensive that year. SEIU spent close to \$19 million and the opponents (DaVita, Fresenius and U.S. Renal Care) spent \$111 million. The measure ultimately failed. Prop 23 proposes regulations focused instead on patient care.

SEIU-UHW collected signatures to place this measure on the ballot. It requires a simple majority (50% plus one vote) to pass.

## Equity Impacts

If this measure were to lead to improved patient care, it would impact the elderly, who are more likely to develop kidney disease as they age and make up the majority of dialysis patients. It would also impact Black people, who make up close to a third of all dialysis patients. Kidney disease is prevalent in the Black community, largely because of the higher rates of type II diabetes and high blood pressure, which are major health risk factors.

However, should higher operating costs at these clinics force some dialysis clinics to close, these patients would have reduced access to critical treatments.

## Pros

- SPUR did not identify any pros to this measure.

## Cons

- This measure does not belong on the ballot. Patient advocates, labor advocates and clinic operators could negotiate these changes through the normal legislative process.
- Any future amendments to these regulations (with a few exceptions) would need to come back to the voters.
- Should dialysis clinics be forced to close as a result of increased operating costs, vulnerable patients could lose access to life-saving treatments.

## SPUR's Recommendation

This measure attempts to regulate a highly profitable industry. However, SPUR has long objected to special interests legislating at the ballot. Parts of Prop. 23 are duplicative, and it's not clear that the added regulations are necessary; instead, they would likely increase cost of care to the detriment of patients. The Legislature has shown a willingness to take up private dialysis industry regulation and is the appropriate place to do so.

Vote NO on Prop 23 - Private Dialysis Clinics



## Prop 24

# Consumer Data Privacy

INITIATIVE STATUTE

## Amends consumer privacy laws

Establishes new consumer data privacy rights, amends current data privacy law and creates a new state enforcement agency.

No Recommendation

## What the Measure Would Do

Proposition 24 would make a number of changes to the state's current consumer data privacy law with the aim of creating new privacy rights and further protecting consumers.

Today, the California Consumer Privacy Act, passed in 2018, provides a number of data privacy rights, including requiring businesses to disclose if they sell a consumer's personal data<sup>1</sup> and allowing consumers the right to opt out of having their data sold. Prop. 24 would expand consumer data privacy rights to cover the sharing of personal data. The measure defines "sharing" as transferring personal information for the purposes of advertising to a user across multiple platforms or services.

This measure would also define certain personal data, such as Social Security numbers, union membership and sexual orientation, as "sensitive" and further restrict its use. For example, consumers could direct businesses to use sensitive personal data only to provide a requested service.

Under Prop. 24, businesses would have to:

- Allow consumers to opt out of sharing their personal data
- Correct inaccurate personal data if requested
- Obtain permission from consumers aged 13 to 15 before collecting their personal data
- Obtain permission from a parent or guardian before collecting personal data from consumers who are younger than 13

The measure would also make some changes to which businesses must comply with the law. For example, businesses that buy, sell or share personal data of fewer than 100,000 people or households annually would no longer need to comply (the current limit is 50,000).

Prop. 24 would eliminate the 30-day grace period that currently exists for businesses to amend practices if they're found to be in violation of data privacy law. And it would establish new penalties for violations of minors' data privacy rights.

Finally, Prop. 24 would create the California Privacy Protection Agency, a new state agency to oversee and enforce consumer data privacy law. The agency would be charged with developing regulations, investigating violations and assessing penalties. The state Department of Justice currently enforces consumer data privacy law and would still be empowered to prosecute crimes and file lawsuits under this measure. Prop. 24 would allocate \$5 million in fiscal year 2020–2021 and then \$10 million annually from the state General Fund to support the agency.

Changes would go into effect in January 2023. Prop 24 would allow for amendments to the initiative by a simple majority of the state legislature but only if those changes furthered the measure's intent to protect consumer privacy.

## The Backstory

Major credit card breaches, Twitter account hacks and geo-located advertising have elevated concerns about consumers' data privacy in recent years. The collection, sharing or sale of consumer information includes both these well-known examples and a variety of other practices. For example, some businesses that provide free services collect user information and sell it to other companies for targeted advertising. Some businesses promise not to sell personal data (such as name, address and recent purchases), but nonetheless they share it with a network of third parties, including financial product providers, marketers or legal entities. The legality of many business

practices around collecting data online has been debated for years while government policy has struggled to keep up with expanding data collection and use.

In 2016, the European Union adopted General Data Protection Regulations (GDPR), considered to be the strongest set of regulations around the collection and sale of personal data. GDPR requires businesses to disclose what information they collect and allows consumers to access their personal data, control its use and have it deleted.

Emulating GDPR, the California Legislature passed the California Consumer Privacy Act (CCPA) in 2018 — the strongest data privacy law that exists in the United States today. It was negotiated in part by the author of Prop. 24, who had collected signatures for a more stringent ballot measure (the measure was ultimately withdrawn after the compromise legislation was passed). The CCPA establishes:

- Consumers' right to know if their personal data is sold: Businesses must tell consumers what personal data is collected and how they will use it.
- Consumers' right to opt out of having personal data sold or to tell businesses to delete their personal data.
- Consumers' right to nondiscriminatory service if they exercise their privacy rights: In general, businesses cannot charge excessive prices or provide different service to those who ask for disclosures or for a deletion of their data or who otherwise exercise their privacy rights.

The California Department of Justice is charged with creating regulations to guide businesses and with enforcing those regulations, which officially began in July 2020, but proponents of Prop. 24 argue that the agency lacks sufficient capacity for enforcement. They are also concerned about legislative efforts to weaken the law, as businesses have attempted to do several times since the passage of the CCPA. Proponents developed this measure both to strengthen the current law and protect it from legislative attacks.

This measure was put on the ballot by signatures. As an initiative statute, it requires a simple majority (50% plus one vote) to pass.

## Equity Impacts

California data privacy law and this measure are intended to protect all consumers. However, current law is written according to an opt-out framework, which requires the consumer to ask to see what personal data has been collected, elect to have data deleted and, in some cases, pay more to exercise their privacy rights. Prop. 24 does nothing to dismantle this framework, which some privacy advocates argue is inequitable and privileges educated, often white consumers over others. On the other hand, Prop. 24 establishes a new right to limit the use of consumers' sensitive personal data, which includes racial and ethnic information.

## Pros

- Consumer privacy can still be violated by the sharing of data, even if that data isn't ultimately sold. This measure would establish further protection in that area.
- This measure includes additional penalties for violating the data privacy of children and youth, who can be a particular target of these questionable business practices.
- Creating an agency, budget and staff dedicated to data privacy would likely lead to better regulations and enforcement.
- Prop. 24 is intentionally written to create parity between California law and GDPR, which could simplify compliance for businesses that work globally.

## Cons

- This measure does not need to be on the ballot. New laws and amendments could have been arbitrated through the normal legislative process, allowing open deliberation from businesses, privacy advocates, legislators and the public.
- Current data privacy law forces the consumer to opt out of the use or sale of their personal information in order to be protected, which can be confusing and onerous. This measure is a missed opportunity to expand consumer protection by requiring companies to request the information they wish to use.

## SPUR's Recommendation

SPUR objects to the use of ballot measures to circumvent the legislature's deliberative and collaborative policy-making process, particularly when current law has only been in effect since January of this year and we don't yet have a full sense of its impacts. Prop. 24 is a complex policy that should be negotiated among legislators, advocates and businesses. On the other hand, Prop. 24 proposes a number of changes that would further consumer data privacy for vulnerable groups and break further ground for Californians' data privacy. SPUR's board was divided on these points and has no recommendation on this measure.

No Recommendation on Prop 24 - Consumer Data Privacy

## FOOTNOTES

<sup>1</sup> In general, personal data is information that can be linked, directly or indirectly, to a living person. It can include names and location data, as well as less obvious identifiers like IP addresses and "cookie" information.

## Prop 25 End Cash Bail

REFERENDUM

## Referendum on a 2018 law that replaced money bail system with a system based on public safety risk

Upholds Senate Bill 10 to transform the state's pretrial system, including ending the use of cash bail. A yes vote upholds SB 10; a no vote repeals SB 10.

Vote YES



### What the Measure Would Do

Proposition 25 is a referendum to determine whether or not 2018's Senate Bill 10 should go into effect. (Implementation has been on hold due to this referendum.) SB 10 would significantly alter the state's pretrial system, notably replacing the use of cash bail with a risk assessment system for determining the conditions under which defendants await their trials.

Under the current cash bail system, a judge determines an amount that a defendant must pay the court in order to be released from jail before their trial, and the money is returned after the trial is completed, no matter the trial outcome. Bail amounts are standardized countywide, and judges have some discretion to raise or lower the amount. If a person can't afford bail, they can either turn to a bail bond provider, which will pay their bail at a fee (typically 10% to 15% of the bail amount), or they must await their trial in jail.<sup>1</sup>

Under SB 10, money would no longer be a barrier to pretrial release. Instead, risk assessment tools would categorize defendants as low, medium or high in their risk for failure to appear in court and their risk to public safety. Judges would make a determination to release or hold a defendant based upon this assessment. Risk assessment tools arrive at a score by taking in a variety of data points, such as the defendant's criminal history, job status and zip code. SB 10 does not specify which data points would be used in California's risk assessments and assigns the state's Judicial Council the responsibility to determine what factors will produce accurate and reliable results.

In addition to replacing money bail with a risk assessment system, SB 10 would significantly alter how the pretrial system operates. SB 10 requires the superior courts and the county's chief probation officer to establish a program to manage the new pretrial system, including administering risk assessments, making recommendations for a defendant's conditions of release, and providing pretrial services and supervision, such as case management, drug testing and transportation to and from court. Some counties, such as San Francisco and Santa Clara, currently provide pretrial services through independent, nonprofit agencies. SB 10 provides an exception for Santa Clara County to continue operating pretrial services under an independent agency but does not provide exceptions for any other county. Under SB 10, the scope of law enforcement in the pretrial phase would be much greater than it is under the current system.

The net fiscal impacts of SB 10 are largely unknown. The costs associated with establishing new processes for pretrial services, including the administration of risk assessments, are estimated to be in the mid-hundreds of millions of dollars annually between costs to the state and to local jurisdictions.<sup>2</sup> The potential long-term cost savings associated with decreases in county jail populations and other local and state tax revenue implications are being evaluated.

### The Backstory

Ending the use of cash bail in the pretrial system has been a priority for criminal justice reform advocates in the United States for decades. Advocates argue that by setting a price for release, the cash bail system criminalizes those who cannot afford bail and forces others into extreme financial hardship, while letting wealthier defendants avoid those hardships. It also puts a costly and undue strain on jails: Over 60% of the California county jail population consists of pretrial detainees, many of whom are only in jail because they could not afford their bail. The cash bail system and the bail bond industry are largely unique to the United States; few other countries rely as heavily, or at all, on cash bail, and a nearly unregulated bail bond industry is only legal in the United States and the Philippines.

Throughout the majority of its life in the 2018 legislative session, SB 10 was supported by a broad coalition of criminal justice reform groups that aimed to supplant the cash bail system with an equitable pretrial system. However, late in negotiations, SB 10 was amended in significant and controversial ways, including increasing judicial discretion to incarcerate people before their trial. These amendments pushed many advocates to oppose SB 10 and, ultimately, to align with the bail bond industry in pushing for its repeal under Proposition 25. While these criminal justice reform groups continue to oppose the use of cash bail, they believe rejecting SB 10 will open up the possibility for better pretrial reform in California.

Backlash against SB 10 also stems from concerns regarding the use of risk assessment tools in pretrial evaluation. Research on these tools has shown that they *should* produce accurate determinations of risk. Studies on the tools in practice, however, have shown the assessments to be racially biased and inaccurate: In one examination of risk assessment scores administered to approximately 7,000 defendants in Broward County, Florida, the algorithm was twice as likely to falsely flag Black defendants as future criminals as compared to white defendants.<sup>3</sup> This same study illustrated that risk assessments can produce largely inaccurate predictions: Only 20% of the people predicted to commit violent crimes actually went on to do so. The troubling results of this study and of many others are in part due to the nature of risk assessment tools and in part due to other factors such as the way they are designed, implemented and used by judges.

Since SB 10 does not specify what factors California's risk assessment system would use, some argue that it can be designed to reduce or eliminate the racial biases and inaccuracies that have been reflected in tools used elsewhere. Others believe that the nature of an algorithmic system is inherently flawed and should not be the primary component of pretrial evaluation, as it is under SB 10. Ultimately, the impact that SB 10 will have on key outcomes in California such as pretrial detention rates, crime and racial disparities is unknown.

In the background of this debate is a California Supreme Court case, *In re Kenneth Humphrey (Humphrey)*, that questions the constitutionality of the cash bail system. If Proposition 25 passes, then the use of cash bail will end in the state regardless of the decision on *Humphrey*. But if Proposition 25 fails, it is still possible that the California Supreme Court will rule that cash bail is unconstitutional, ending money bail in California. It is likely that the court will not make a determination on the case until after the election.

Proposition 25 is a referendum placed on the ballot through voter signatures and funded primarily by the bail bond industry. As a referendum, it must be on the ballot and requires a simple majority (50% plus one vote) to pass.

### Equity Impacts

The equity impacts of this measure are widely disputed due to the inequitable nature and results of both the cash bail system and algorithmic risk assessments.

The cash bail system forces many people to await their trial in jail solely because they cannot afford bail.<sup>4</sup> Being held in jail pretrial can result in the loss of child custody, a job or a home. Additionally, studies have shown that individuals who remain in jail pretrial are convicted at higher rates, receive longer sentences and are more likely to be arrested than comparable defendants who were released on bail.<sup>5</sup>

The devastating impacts of this system are disproportionately experienced by people of color. In California, our criminal justice system detains and arrests Black and Latino Californians at disproportionate rates. Consequently, Black

and Latino Californians are more likely to be faced with the burden of posting bail, paying a nonrefundable fee to a bail bond provider or awaiting their trial in jail. Nationally, Black and Latino defendants are also more likely to have bail set at higher amounts than white defendants.<sup>6</sup>

Unfortunately, alternatives to cash bail may not do much to address these inequities. Algorithmic risk assessment systems have been shown to produce racially biased determinations of risk and to result in more people of color being held pretrial as compared to white defendants. The nature of these tools is arguably flawed because the data that feeds into them, such as criminal history and job status, is inseparable from the biases of the criminal justice system and our society at large. The algorithmic assessments provide an appearance of objectivity that may not be deserved. Other case studies have shown that risk assessments produce racially biased outcomes not because of the tools themselves, but as a result of differences in how they are administered and interpreted. When risk assessment tools were used in Kentucky in 2011, judges in predominantly white counties released more people pretrial than judges from more racially mixed areas.<sup>7</sup>

## Pros

- Upholding SB 10 would put an end to the use of cash bail in California, which criminalizes poor defendants. Detaining people pretrial because they can't afford bail is unjust and a significant waste of taxpayer money.

- Upholding SB 10 would eliminate the bail bond industry, which profits substantially off low- and middle-income families caught in an unjust system.
- Upholding SB 10 would open the door to amending the law in the legislature, which may be a more pragmatic approach: If voters reject SB 10, it's possible that the legislature would not act on the issue of cash bail in the future.

## Cons

- SB 10 gives judges significant discretion to detain defendants. This could result in higher pretrial incarceration rates, particularly in more conservative-leaning counties, compared to the rates under the cash bail system.
- Studies suggest that algorithmic risk assessment tools produce racially biased results and can produce largely inaccurate assessments.
- By assigning probation agencies with pretrial responsibilities, including the management of risk assessments, SB 10 increases the funding and scope of law enforcement at a time when there is a significant movement to realign resources away from law enforcement. This new structure would upend decades of successful pretrial reform efforts in San Francisco, where pretrial services are administered through a neutral, independent agency.
- It's possible that repealing SB 10 could create new legislative opportunities to rethink pretrial reform and create a more just system.

## SPUR's Recommendation

Prop. 25 does not provide a straightforward choice for voters. On the one hand, if it passes and SB 10 is upheld, California risks creating a new system that produces even higher pretrial incarceration rates and greater racial disparities than under the current cash bail system. On the other hand, if SB 10 is overturned and cash bail remains in place, it may be extremely difficult to achieve bail reform in the future.

Ultimately, SPUR believes that upholding SB 10, and amending it in the legislature as needed, is the more pragmatic approach to creating an equitable pretrial system. If SB 10 is repealed, the cash bail system would remain in place, and there is no guarantee that meaningful legislative reform would be achieved in the near future. Instead of repealing SB 10, we should build upon and improve the changes it makes.

**Vote YES on Prop 25 - End Cash Bail**



## FOOTNOTES

<sup>1</sup> As a result of the COVID-19 pandemic and risks associated with overcrowded jails, the California Judicial Council set an emergency bail schedule of \$0 from April 13 to June 20, effectively pausing the bail system in order to reduce jail populations. Superior courts currently have the discretion to preserve the \$0 bail policy or alter the bail amounts to what they deem appropriate based on an evaluation of the county's coronavirus risk. There is no information yet on the impacts of pausing the use of cash bail, and other complicating factors resulting from the pandemic might convolute the crime data from this time period.

<sup>2</sup> <https://elections.cdn.sos.ca.gov/statewide-elections/2020-general/prop-25-title-summary.pdf>

<sup>3</sup> <https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing>

<sup>4</sup> California's median bail amount is approximately \$50,000, which is five times higher than the national median.

<sup>5</sup> <http://sfpretrial.org/wp-content/uploads/2019/02/Innocent-Until-Proven-Guilty-Preserve-SF-Pretrial-2.pdf>

<sup>6</sup> [https://www.prisonpolicy.org/blog/2019/10/09/pretrial\\_race/](https://www.prisonpolicy.org/blog/2019/10/09/pretrial_race/)

<sup>7</sup> [https://www.minnesotalawreview.org/wp-content/uploads/2019/01/13Stevenson\\_MLR.pdf](https://www.minnesotalawreview.org/wp-content/uploads/2019/01/13Stevenson_MLR.pdf)



## Measure RR Caltrain Sales Tax

ORDINANCE

## Creates a 0.125% sales tax dedicated to Caltrain operations and capital improvements

Creates a one-eighth percent sales tax in San Francisco, San Mateo and Santa Clara counties to fund Caltrain operations and capital improvements.

Vote YES



### What the Measure Would Do

Measure RR would increase the sales tax in San Francisco, Santa Clara and San Mateo counties (“member counties”<sup>1</sup>) by one-eighth of a percentage point and dedicate the revenue to Caltrain. This would create the first dedicated funding for Caltrain, which currently relies on annual discretionary appropriations from its member counties. The measure would generate an estimated \$108 million per year for operations and capital improvements.<sup>2</sup> These funds would eventually be dedicated to implementing Caltrain’s Long-Range Service Vision, which enumerates the train frequency levels, types of service and associated infrastructure that Caltrain aims to deliver by 2040.<sup>3</sup> However, first the funds from this measure would be used to sustain Caltrain operations during the period of lower ridership that has resulted from the pandemic.

If Measure RR passes, the member counties would cease their annual contributions to Caltrain’s operating budget and state-of-good-repair capital contributions, thereby increasing the ability of the member counties to fund local transit or other needs.<sup>4</sup>

### The Backstory

Senate Bill 797 in 2017 authorized the Peninsula Corridor Joint Powers Board (“Caltrain Board” for short) to submit a three-county ballot measure for a one-eighth percentage point increase in sales tax. The law required the measure to be approved by a two-thirds majority in each of seven different entities: boards of supervisors in each of the three counties, the transit agency for each county and the Caltrain Board.

The ballot measure approval process became complex and was delayed when elected officials in San Francisco and Santa Clara counties sought to initiate Caltrain governance and institutional changes aimed at increasing the board’s independence from the San Mateo County Transit District (SamTrans).<sup>5</sup> Currently, Caltrain is staffed by SamTrans and shares the same general manager, auditor and general counsel. This gives disproportionate influence to San Mateo County, causing frequent tension between the member counties and making it more challenging to elevate regional priorities. But in a compromise agreed to in August 2020, the Caltrain Board agreed to interim measures that offer some independence from SamTrans until a satisfactory governance model is approved by all three counties.<sup>6</sup>

Voter approval of Measure RR requires a collective two-thirds majority vote across all three counties. Only the total percentage matters, not the percentage in each county.

### Equity Impacts

As a sales tax, albeit a small percentage, Measure RR would add some additional burden for low-income people, who are disproportionately impacted by sales taxes. (Recent SPUR research has established that low-income people in the Bay Area pay three times more in sales tax, as a share of income, than high-income residents do.) On the other hand, investing in

Caltrain could benefit historically underserved communities. In September, the Caltrain Board took action to make Caltrain a more equitable service by passing its Equity, Connectivity, Recovery and Growth Policy Framework.<sup>7</sup> The policy proposes more equitable service planning through increased off-peak service, improved station access, more equitable fares and a strategy to better understand the needs of customers.

If Measure RR passes, local transit services in the member counties would likely benefit because counties would keep the funds they have historically contributed to Caltrain. Transit operators would have the option of applying this additional revenue to serve low-income communities.

### Pros

- Caltrain is a key part of the region’s rapid transit network, reducing congestion and greenhouse gas emissions while increasing access to jobs and services. Measure RR would allow Caltrain to continue operations at or near current levels. Without the increased funding from this measure, Caltrain might need to severely reduce or shut down operations until the pandemic ends and strong demand for service returns.
- Currently, the lack of dedicated funding for Caltrain is a major obstacle to reliable operations planning and rational governance.<sup>8</sup> In the past, differing priorities among the three counties have made it difficult to fund regional improvements.
- The funding from Measure RR would support the implementation of the Caltrain Service Vision<sup>9</sup> and Caltrain Business Plan,<sup>10</sup> a strong foundation for growing Caltrain ridership, improving efficiency, updating infrastructure and charting a course for better governance. These critical steps are needed for sustainable growth, transit efficiency and reduced automobile dependence in the core of the region.
- Caltrain’s polling shows that 70% of frequent Caltrain riders plan to use Caltrain again once the pandemic is over, at least as often as they did before COVID-19. This points to the need to continue investing in the transit system.
- Caltrain staff estimate that projects and operations associated with the measure would create 16,000 jobs over the next several years.

### Cons

- Sales taxes are regressive, and the impact of Measure RR would fall disproportionately on lower-income households in Santa Clara, San Mateo and San Francisco counties. And Caltrain’s relatively wealthy ridership<sup>12</sup> makes a regressive tax even less desirable as a funding mechanism.
- Although surveys suggest a strong return of Caltrain ridership post-pandemic, the future is unclear given the extraordinary growth in remote work, particularly among the types of knowledge workers that form a large share of Caltrain riders. This uncertainty makes it more difficult to know which transit investments should be highest-priority.

## SPUR's Recommendation

Without this additional funding, Caltrain faces significant risk of shutting down or reducing operations to such a limited service that it will be difficult to return to the agency’s promising pre-pandemic trajectory. Caltrain is a key part of the region’s rapid transit network and one of its best-performing agencies — and major investments such as the downtown rail extension in San Francisco, high-speed rail and the potential new transbay transit crossing are all linked to Caltrain’s ongoing success. SPUR has supported the agency’s visionary but realistic planning over the past several years, and Measure RR would make the implementation of this work possible. It would also free up local revenue for the three contributing counties at a time when funding is

badly needed.

Sales taxes are regressive funding tools that SPUR typically does not support. However, Caltrain's recent equity initiatives and its work toward a more regional governance structure create a promise for increasingly vital service that better serves all riders in the future – reasons enough to justify a small increase in the tax burden.

Vote YES on Measure RR - Caltrain Sales Tax



#### FOOTNOTES

- <sup>1</sup> Santa Clara, San Francisco, and San Mateo counties are the three counties where Caltrain operates, all of which are represented on the Peninsula Corridor Joint Powers Board.
- <sup>2</sup> Caltrain estimates that the tax would generate \$26.5 million from San Francisco County, \$25 million from San Mateo County and \$56.5 million from Santa Clara County.
- <sup>3</sup> Caltrain, "Caltrain 2040 Service Vision," [https://caltrain2040.org/wp-content/uploads/Caltrain\\_ServiceVisionFactSheet\\_V12-1.pdf](https://caltrain2040.org/wp-content/uploads/Caltrain_ServiceVisionFactSheet_V12-1.pdf)
- <sup>4</sup> These contributions were roughly \$55 million in the past fiscal year, according to Caltrain data: \$15.6 million for San Francisco County, \$16.6 million for San Mateo County and \$22.2 million for Santa Clara County.
- <sup>5</sup> SamTrans is the administrative body for the principal public transit and transportation programs in San Mateo County.
- <sup>6</sup> The Caltrain Board of Directors agreed to hire a general counsel and auditor who are independent from SamTrans. The Caltrain Board will also require a supermajority to approve allocation of sales tax revenue beyond the first \$40 million per year until a satisfactory governance model is approved by all three counties. The board also committed to developing a plan to reimburse SamTrans for its past investments in purchasing the Caltrain right-of-way
- <sup>7</sup> Caltrain, "Equity Policy Framework," August 6, 2020, <https://www.caltrain.com/Assets/government+affairs/pdf/Caltrain+ECRG+Policy+V2.pdf>
- <sup>8</sup> Egon Terplan, Saving Caltrain for the Long Term, SPUR, April 6, 2011, <https://www.spur.org/publications/white-paper/2011-04-06/saving-caltrain...>
- <sup>9</sup> See note 3.
- <sup>10</sup> See <https://caltrain2040.org/>
- <sup>11</sup> The proposed funding may be insufficient to fully implement the Caltrain Service Vision given the impacts of the pandemic. It is too early to understand the long-term adjustments to the service vision that will be needed based on the pandemic.
- <sup>12</sup> The median income of Caltrain riders is estimated at \$130,000 per year.

Mailing Address: SPUR Urban Center, 654 Mission Street, San Francisco, CA 94105-4015 | (415) 781-8726 | [info@spur.org](mailto:info@spur.org)