



IDEAS + ACTION FOR A BETTER CITY

a member-supported nonprofit organization

# San José and California November 2020 Voter Guide

## Ballot analysis and recommendations

<p>MEASURE</p> <p><b>Cardroom Tax</b></p> <p>H</p> <p>VOTE YES ✓</p>	<p>MEASURE</p> <p><b>Multi-Issue Charter Amendments</b></p> <p>G</p> <p>VOTE YES ✓</p>	<p>MEASURE</p> <p><b>Santa Clara Valley Water District Parcel Tax</b></p> <p>S</p> <p>VOTE YES ✓</p>	<p>MEASURE</p> <p><b>Open Space Parcel Tax</b></p> <p>T</p> <p>VOTE YES ✓</p>	<p>PROP</p> <p><b>Stem Cell Bond</b></p> <p>14</p> <p>VOTE NO ✗</p>
<p>PROP</p> <p><b>Commercial Property Tax Changes</b></p> <p>15</p> <p>VOTE YES ✓</p>	<p>PROP</p> <p><b>Affirmative Action</b></p> <p>16</p> <p>VOTE YES ✓</p>	<p>PROP</p> <p><b>Voting Rights for People on Parole</b></p> <p>17</p> <p>VOTE YES ✓</p>	<p>PROP</p> <p><b>Primary Voting for 17-Year-Olds</b></p> <p>18</p> <p>VOTE YES ✓</p>	<p>PROP</p> <p><b>Property Tax Transfers</b></p> <p>19</p> <p>VOTE YES ✓</p>
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<p>PROP</p> <p><b>End Cash Bail</b></p> <p>25</p> <p>VOTE YES ✓</p>	<p>MEASURE</p> <p><b>Caltrain Sales Tax</b></p> <p>RR</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.

**For San Jose local measures,** SPUR's San Jose Board of Directors reviewed and debated the merits of select local measures and voted, with a 60 percent vote required for SPUR to make a recommendation.

**For California state propositions, a sub-committee of** the SPUR Executive Board heard arguments from different sides of the issues, debated the merits of state measures and provided recommendations to the SPUR Executive Board. The Executive Board then voted, with a 60 percent vote required for SPUR to make a recommendation.

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*Published on September 23, 2020*

## Measure H

# Cardroom Tax

ORDINANCE

## Cardroom Tax

Raises the monthly gross receipts tax rate on legal gambling establishments, increases the number of allowed card tables and adds a new tax on gross revenues for businesses that provide banking services to cardrooms.

Vote YES



## What the Measure Would Do

Measure H would do three things: 1) authorize the city to increase the total number of card tables by 30 (a 30% increase), split evenly between the city's two cardrooms; 2) increase the city's cardroom tax from 15% to 16.5% of monthly gross receipts; and 3) create a new monthly gross receipts tax on third-party businesses that provide banking services for these cardrooms. The third-party businesses would pay the tax on monthly gross receipts at the rate of:

- 5% for annual gross receipts between \$10,000 and \$25,000,000
- 7.5% for annual gross receipts between \$25,000,001 and \$30,000,000
- 10% for annual gross receipts over \$30,000,000

The proposed tax increase and expansion would take effect on January 1, 2021. City staff expects Measure H to produce about \$15 million annually for San José's General Fund, to be used for broad governmental purposes. However, actual revenues could be significantly lower during the COVID-19 pandemic due to cardroom closures and social distancing protocols.

## Backstory

San José's two authorized cardrooms, Bay 101 and Casino M8trix, are currently permitted 49 card tables each, generating millions for the city through the current 15% cardroom tax on monthly gross revenues, approved by voters in 2010.

In fiscal year 2018–2019, the cardroom tax raised about \$18.9 million. For the fiscal year 2019–2020, however, the COVID-19 shelter-in-place order will likely result in about \$13.5 million in cardroom tax revenue, a 28% drop. The city's 2020-2021 budget estimates \$17.1 million in cardroom tax revenues, but that number could change because of the uncertainty around reopening cardrooms and the impact of social distancing.

State of California gaming regulations and the San José Municipal Code require voter approval for an expansion of gaming in the city. They also bar cardrooms from serving as the bank, or "the house," for their customers. Therefore, cardrooms must use separate businesses known as third-party proposition player services. These third-party businesses do not currently pay taxes on their cardroom revenues to the City of San José.

On June 27, 2018, the City Council directed staff to develop recommendations for taxing the two cardroom banking services businesses operating in San José. Measure H proposes that they pay a tax on their total monthly gross revenues, expected to result in an estimated \$4 million annually for the city.

### *Past City Council Actions*

In 1992, the San José City Council first approved a cardroom ordinance that contained the provision for a cardroom tax. The council later increased the tax rate schedule and expanded the games authorized. The council then established a monthly tax schedule with taxes ranging from 1% to 13% of gross revenues. In 1994, the council approved another revision to the cardroom ordinance, instituting a flat 13% gross revenues tax for all cardrooms located in the city with annual gross revenues exceeding \$10,000.

### *Past Ballot Measures*

In 2010, San José voters approved [Measure K](#), which increased the cardroom tax from 13% to 15% and increased the maximum number of card tables from 40 to 49 per cardroom. The council voted 6–5 to place the measure on the ballot, and more than 76% of voters approved it. In 2012, [Measure E](#), an initiative ordinance that would have increased the number of card tables from 49 to 69 without increasing taxes, lost at the polls. SPUR did not weigh in on those measures.

### *Opposition*

During the August 4, 2020, City Council discussion of

this item, Mayor Sam Liccardo argued that proximity to gambling institutions is a factor in problem and pathological gambling and cited studies considering the social costs of problem gambling. He said he supports the increase in the cardroom tax but not the expansion of tables, and cast the lone “no” vote to place Measure H on the ballot.

Measure H is the result of negotiations with city staff, and the cardrooms support it.

This measure requires a simple majority (50% plus one vote) to pass.

## Equity Impacts

Recovering from gambling losses and debt is more difficult for lower-income individuals; however, lower-income individuals, households and disadvantaged neighborhoods are also much less able to insulate themselves from the effects of reduced city services due to budget deficits. This measure would increase revenue to bolster city services.

## Pros

- Measure H would raise additional revenue in the midst of a sharp economic downturn and budget shortfalls.
- Allowing for an expansion of card tables would help San José’s cardrooms compete with other venues in the region and continue to generate tax revenues for the city.
- The San José Police Department predicted no increase in crime or additional calls for service as a result of the expansion.

## Cons

- Physical proximity to gaming establishments may increase the prevalence of problem and pathological gambling.
- Problem gambling is associated with negative personal and social outcomes such as economic distress and bankruptcies, which may in turn lead to other problems such as depression, divorce, job loss and crime in order to pay debts.

## SPUR's Recommendation

SPUR acknowledges the concerns around cardrooms and gambling and the potential for addiction and financial hardship that can result, particularly for lower-income households. However, those interested in gambling could engage in online or other unsanctioned options or travel elsewhere in the region. SPUR believes it is better for these activities to be well-regulated and contribute to the fiscal health of the city.

Measure H would increase the volume of an existing legal business activity that the city and voters have authorized, regulated and allowed to expand incrementally for nearly three decades. The revenues generated from this measure will help to shore up the city’s General Fund in a very challenging budget climate without creating a strain on public safety resources.

**Vote YES on SJ Measure H - Cardroom Tax**



## Measure G

# Multi-Issue Charter Amendments

CHARTER AMENDMENT

## Multi-Issue Charter Amendments

Amends the City Charter to expand the independent police auditor's oversight, increase the Planning Commission to 11 members, and allow the City Council to establish timelines for redistricting when census results are late.

Vote YES



## What the Measure Would Do

Measure G would make three separate changes to the San José City Charter. First, it would expand the independent police auditor's oversight to include reviewing officer-involved shootings and use-of-force incidents causing death or great bodily injury. It would also expand oversight to include reviewing department-initiated investigations against officers, and to make other technical amendments to the auditor's authority. Second, it would increase the Planning Commission from 7 to 11 members with the City Council appointing one member from each council district and one at-large member. Finally, it would allow the City Council to establish timelines for redrawing council district boundaries if census results are late.

## The Backstory

The San José City Council voted 11-0 to place this measure on the ballot. The council included three charter amendments in one ballot measure because placing each proposed amendment on the ballot separately would cost nearly \$4 million more. In light of a budget deficit of \$71.6 million, the council chose to combine all three charter amendments.

### *Independent Police Auditor*

The independent police auditor currently reviews Police Department investigations of complaints against police officers to determine if the investigation was complete, thorough, objective and fair. The auditor also makes recommendations regarding Police Department policies and procedures based on a review of investigations into complaints against police officers. Lastly, the auditor educates the community about the process and procedures for investigating complaints against police officers.

Measure G would amend the City Charter to expand the auditor's review authority to include officer-involved

shootings and use-of-force incidents causing death or great bodily injury. It would also expand review authority to department-initiated investigations against officers and allow access to related unredacted records, in accordance with a recently signed agreement<sup>1</sup> between the city and the San José Police Officers Association. The measure is timely as the San José Police Department is being sued<sup>2</sup> for officers' use of tear gas and projectiles during the George Floyd protests that took place in the city in late May.

### *Planning Commission*

Over the past year, the City Council and community have discussed enlarging the Planning Commission to create greater racial and geographic diversity of its members. Controversy erupted last year<sup>3</sup> when former City Councilmember Pierluigi Oliverio, who resides in the upscale Willow Glen neighborhood, was appointed to the Planning Commission over two Latino candidates, including one from District 5 in East San José. This gave the Commission four white members from one neighborhood.

This measure would limit planning commissioners to two consecutive four-year terms, prohibit the appointment of more than two commissioners residing in the same council district, and provide for a supermajority vote of the council to override this prohibition.

### *Redistricting*

The San José City Charter requires the city to establish new city council district boundaries every 10 years after the U.S. Census Bureau releases new population figures. These boundaries determine the council district in which each resident resides and ensure equal representation. The Charter requires the city to complete redistricting and enact an ordinance by October 31 in the year following the census.

Due to COVID-19 shelter-in-place orders and public health protocols, field operations for the U.S. Census

2020 were suspended, delaying the new census data needed for redistricting. The proposed charter amendment would authorize the council to adjust the deadline for enacting a redistricting ordinance if census results are not delivered to the states by April 1 of the year following the census.

### *Past Ballot Measures*

The City Council established the Office of the Independent Police Auditor<sup>4</sup> in 1993. In 1996, voters amended the City Charter to establish the IPA as a permanent arm of city government.

This measure requires a simple majority (50% plus one vote) to pass.

## Equity Impacts

The expansion of the independent police auditor's role represents one aspect of reforms sought, in particular, by communities and people of color, and will help provide greater public trust in internal and use-of-force investigations.

The proposed changes to the composition and size of the Planning Commission will improve race and socio-economic equity and promote the inclusion of more diverse perspectives and voices representing more geographic areas and populations in San José.

The drawing of City Council districts ideally ensures fair and equal representation and upholds the principle of "one person, one vote." Therefore, it is critical that accurate census data be used in redistricting. This amendment will help to achieve these goals by allowing for additional time when census results are delayed.

## Pros

- The expansion of the scope and authority of the independent police auditor is particularly important now in the aftermath of George Floyd's death, subsequent protests, and renewed focus on issues of police misconduct and racial justice in the city and across the nation.
- Restructuring and reforming the Planning Commission will advance the inclusion of more diverse perspectives in geographic, racial and socio-economic terms.
- The redistricting change is necessary to handle delays in the delivery of census survey data.

## Cons

- The provisions in the independent auditor amendment still do not address many necessary police reforms.
- Appointing Planning Commissioners to "represent" particular neighborhoods and council districts has caused bodies<sup>5</sup> to become more parochial by creating additional pressure on commissioners to oppose housing development projects in "their" area. Other commissioners may tend to defer to the commissioner representing that part of the city rather than taking a broader and more holistic view of what is best for the city overall.

## SPUR's Recommendation

While SPUR has concerns about placing multiple unrelated provisions in a single ballot measure, we think this was fiscally wise and that the descriptions of the various provisions are sufficiently clear to avoid voter confusion. SPUR believes these charter amendments would achieve greater transparency, oversight, accountability, democratic participation and equitable representation in city government and that they are worthy of support.

**Vote YES on SJ Measure G - Multi-Issue Charter Amendments**



- <sup>1</sup>. *Side Letter Agreement Between the City of San José and the Police Officers' Association, Independent Police Auditor Expansion of Duties and Responsibilities*, <https://www.sanjoseca.gov/home/showdocument?id=59458>
- <sup>2</sup>. <https://www.sanjoseinside.com/news/lawsuit-sjpd-enabled-brutality-against-protesters-by-failing-to-adequately-train-officers/>
- <sup>3</sup>. Ramona Giwargis, "East San José Leaders Decry San José Planning Commission Appointment," *San José Spotlight*, April 10, 2019 <https://sanjosespotlight.com/east-san-jose-leaders-decry-san-jose-planni...>
- <sup>4</sup>. <https://www.sanjoseca.gov/your-government/appointees/independent-police-auditor/establishment-of-the-office>
- <sup>5</sup>. <https://www.upjohn.org/research-highlights/switching-local-government-ward-system-may-depress-new-housing-construction>

## Measure S

# Santa Clara Valley Water District Parcel Tax

PARCEL TAX

## Replaces a Santa Clara Valley Water District parcel tax with a similar parcel tax that has no sunset provision

Replaces a Santa Clara Valley Water District parcel tax approved by voters in 2012 that was scheduled to sunset in 2028 with a similar parcel tax that has no sunset provision.

Vote YES



## What the Measure Would Do

Measure S would raise approximately \$45.5 million each year for Santa Clara Valley Water District's (Valley Water's) Safe, Clean Water and Natural Flood Protection Program by charging property owners about three-fifths of a cent per square foot of parcel.<sup>1</sup> Residents of single-family homes, and multi-family homes with no more than four units, on parcels no larger than a quarter-acre, would pay \$67.67 a year. This amount would be adjusted annually to account for inflation. Measure S, if approved, would repeal and replace the prior parcel tax of the same name.

The Safe, Clean Water and Natural Flood Protection Program would fund six priority areas over the first thirty years: public health and safety (\$738 million), flood protection (\$347 million), wildlife habitat (\$248 million), improved water quality in waterways (\$154 million), natural disaster resilience (\$62 million), and reliable water supply (\$37 million). The biggest projects funded by the renewal would be vegetation control and sediment removal in streams, maintenance of planting projects and invasive plant removal, and the Anderson Dam seismic retrofit.

## The Backstory

Valley Water faces serious challenges to its built and natural water infrastructure. In February 2017, water overtopped Anderson Dam and caused flooding in the neighborhoods downstream. The flood caused \$100 million in damage and forced 14,000 people to evacuate their homes.<sup>2</sup>

Climate models project that the "weather whiplash" of the past decade, such as the historic drought of 2012-2016 followed by the record rain and snowfall of 2017, will only grow more severe as the planet warms,<sup>3</sup> exacerbating the problem of inadequate water

infrastructure.

Measure S is similar to 2012 Measure B, which it replaces, except that it eliminates the sunset date. Proponents argue that an indefinite-term parcel tax would allow Valley Water to issue bonds to borrow against the parcel tax so they can quickly raise large amounts of capital to undertake major projects. However, eliminating a sunset provision reduces independent oversight for the program. Valley Water argues that appointing an independent monitoring committee addresses the need for oversight. But the committee makes recommendations to the Valley Water Board of Directors, and the board appoints the committee members.

Valley Water, a special district that provides wholesale water supply, groundwater management, flood protection and stream stewardship to Santa Clara County, placed Measure S on the ballot. The tax would be imposed on five of the district's seven flood control zones, which is most of its land area. Valley Water collects slightly less than 10% of its annual budget from the parcel tax.<sup>4</sup> The measure requires a two-thirds majority to pass.

## Equity Impacts

Parcel taxes are considered regressive in that they impose a disproportionate burden on low-income homeowners. Measure S attempts to mitigate this problem by making the parcel tax proportionate to square footage, on the rationale that larger properties are more valuable and tend to have higher-income owners. Measure S also provides an exemption for low-income senior households. These measures are imperfect ways to make a parcel tax less regressive, but given the restrictions on property taxes imposed by California Proposition 13, they are the best tools available.



Parcel taxes are paid by property owners, not directly by renters. In Santa Clara County, as in California as a whole, about 70% of families below the poverty line are renters.<sup>5</sup> Thus, parcel taxes are directly paid by only about a third of very low-income families.

Improved flood protection would benefit low-income communities of color that live in the highest-risk flood zones in Santa Clara County, such as along lower Coyote Creek and in the Alviso neighborhood.

A substantial portion of the program is also set aside for homeless encampment cleanups, which benefit quality of life in surrounding low-income neighborhoods but are disruptive to the people living in the camps. Valley Water has made an effort to partner with organizations, community representatives and unhoused people to mitigate the negative impacts of cleanups on camp residents to the extent possible.

## Pros

- The funding will improve drinking water infrastructure resilience and restore natural habitat in Santa Clara County.
- Upgrades to Anderson Dam and reducing flood vulnerability along Coyote Creek are essential for safety of neighboring communities, many of which are low-income communities of color.
- With no sunset provision on the measure, the district can create long-term plans for safe water and flood control.

## Cons

- Parcel taxes are regressive, although this one makes an effort to be as progressive as possible given legal limitations.
- The lack of a sunset provision means there's no trigger for re-evaluation of the program by voters. A long sunset period, such as 30 years, would allow the district to issue bonds while retaining greater voter oversight.

## SPUR's Recommendation

The projects funded by the Safe, Clean Water and Natural Flood Protection Program are critical to safeguard built and natural infrastructure in Santa Clara County. Climate change is stressing the county's aging flood control infrastructure, drinking water supplies and natural habitats. Building a resilient water infrastructure for the county will require greater local investment in the agencies that clean and restore waterways and protect communities from floods. From a good government perspective, SPUR would have preferred for Valley Water to seek a long extension rather than an indefinite one. But this preference is outweighed by the benefits of the Safe, Clean Water and Natural Flood Protection Program.

**Vote YES on SJ Measure S - Santa Clara Valley Water District Parcel Tax**



## FOOTNOTES

<sup>1</sup> For a full program description and text of Measure S, see Santa Clara Valley Water District (2020) <https://www.sccgov.org/sites/rov/Info/Nov2020/Documents/List%20of%20Loca...> The Safe, Clean Water and Natural Flood Protection Program.

[https://safecleanwater.org/wp-content/uploads/2020/07/SCW-Renewal-2020\\_CombinedReportFinal\\_073020.pdf](https://safecleanwater.org/wp-content/uploads/2020/07/SCW-Renewal-2020_CombinedReportFinal_073020.pdf)

<sup>2</sup> Emily DeRuy. (2018). Coyote Creek victims sue a year after disastrous flood. The Mercury News. <https://www.mercurynews.com/2018/02/17/a-year-after-devastating-coyote-creek-floods-some-victims-still-struggling/>.

<sup>3</sup> Swain, D. L., Langenbrunner, B., Neelin, J. D., & Hall, A. D. (2017). Increasing climate whiplash in 21st century California. AGUFM, 2017, A41K-02.

<sup>4</sup> Santa Clara Valley Water District. (2020). Financial Overview (pp. 3-8). [https://www.valleywater.org/sites/default/files/2019-07/3\\_Financial\\_Overview.pdf](https://www.valleywater.org/sites/default/files/2019-07/3_Financial_Overview.pdf).

<sup>5</sup> American Community Survey 1-Year Estimates. "Table C17019: Poverty Status in the Past 12 Months of Families by Tenure." US Census Bureau, 2019. <https://data.census.gov/cedsci/table?q=tenure%20poverty&t=Housing&tid=ACSDT1Y2019.C17019&hidePreview=true>.

## Measure T

# Open Space Parcel Tax

PARCEL TAX

## Santa Clara Valley Open Space Authority Parcel Tax Renewal

Renews a \$24-per-parcel tax, originally passed by voters as Measure Q in 2014, which provides funding for the Santa Clara Valley Open Space Authority to protect and preserve natural open spaces and agricultural land.

Vote YES



## What the Measure Would Do

Measure T would continue an existing tax of \$24 per parcel for property within the jurisdiction of the Santa Clara Valley Open Space Authority. The original parcel tax, passed as Measure Q in 2014, expires in 2029. This measure would remove that sunset date and continue the parcel tax until voters decide to change or repeal it. The Authority projects that the tax will continue to raise roughly \$8 million annually. The Authority developed an expenditure plan that commits these funds only to:

- Protect open space and agricultural land
- Protect land around rivers and creeks to prevent pollution and improve water supply
- Open, improve and maintain parks, open space and trails
- Assist cities, schools and nonprofits in providing access to parks and open space in urban areas through its Urban Grants program

## The Backstory

In 2014, voters approved Measure Q, a \$24-per-parcel tax that provides approximately two-thirds of the Open Space Authority's ongoing revenue. The Authority has used Measure Q funding to double the number of acres under its management (including land in North Coyote Valley crucial to maintaining a greenbelt between San José and Morgan Hill), open new trails, and provide grants to improve access to parks and recreation for many nonprofits and city agencies in urban parts of the county. The Open Space Authority has also used Measure Q funds to attract additional investment. According to the Authority, every \$1 of Measure Q funds spent attracted \$3 in public and private funding for land purchases, habitat restoration and public access projects.

With expansion, however, came increased costs for management and operations. The Authority Board of Directors wishes to remove the sunset date to ensure

that the parcel tax remains a dedicated funding stream for maintaining and expanding services in the newly acquired areas.

As a tax placed on the ballot by the Authority's board, rather than by voters, this measure requires a two-thirds majority vote to pass.

## Equity Impacts

As a flat tax, this parcel tax is, generally speaking, regressive. The owners of parcels with large commercial office buildings or apartment buildings will pay the same amount of tax as owners of single-family homes or vacant lots. Parcel taxes can be designed more progressively by structuring the assessment based on square footage of buildings on the parcel — or some other similar mechanism — rather than as a flat rate.

In regard to how the revenue will be spent, the Open Space Authority has a track record of targeting some of the revenue progressively. In the past five years, the Authority has directed more than \$2.8 million from the parcel tax to more than 30 different urban projects and programs in San José, Milpitas, Santa Clara, Morgan Hill and Campbell. Up to 25% of the funding would continue to go toward improving access to parks and open space inside the county's cities, rather than just at the urban edges. The Open Space Authority has also identified six neighborhoods as "Deep Engagement Communities"<sup>1</sup> that "experience greater environmental burdens and barriers to access of nature" and gives those neighborhoods priority in its grants, education programs and community engagement.

## Pros

- Measure T provides stable long-term funding for an agency that has demonstrated a strong track record of successfully preserving open space and

- agricultural land and directing grants to increase access to parks in Santa Clara County's cities.
- This measure would allow the Open Space Authority to plan far into the future knowing that it would have sufficient funds to maintain and operate the land it manages.

- This measure would eliminate the sunset clause from Measure Q, reducing the opportunity for accountability that comes when agencies have to make the case to the voters that dedicated funding for specific purposes should be renewed.
- The parcel tax is structured as a flat tax, which is generally regressive.

## Cons

### SPUR's Recommendation

The Open Space Authority has made strong strides using the funding that voters authorized in 2014. In just five years, it has strengthened the greenbelt south of San José, encouraging infill development in urbanized areas rather than continued outward sprawl. And it has protected agricultural land and open space that support the local food economy and provide numerous environmental benefits. The Authority has also spent more than \$2 million on environmental education and improving access to parks inside cities.

From a good government perspective, SPUR would have preferred for the Authority to seek a long extension rather than an indefinite one. A parcel tax with tiered rates that better reflected the value of the property would be a more equitable way to raise revenue than the flat tax. But, on balance, the Authority has demonstrated it is a good steward of its parcel tax funding and with this measure can continue to provide benefits for Santa Clara County residents for decades into the future.

**Vote YES on SJ Measure T - Open Space Parcel Tax**



#### FOOTNOTES

<sup>1</sup><https://scvosa.maps.arcgis.com/apps/StoryMapBasic/index.html?appid=73bf06dc723f441bab7c93c7fead486e>

## 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 CA 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://edsource.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://edsource.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 CA 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 CA 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.clu.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.

- SPUR could not identify any downsides to this measure.

## Cons

### 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 CA 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 Kioulos, "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, 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 CA 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-htmstory.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 CA 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 CA Prop 21 - Rent Control**



## FOOTNOTES

- <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 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 CA 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 CA 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 CA 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 BA 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.