

**" LET CALIFORNIA PROSPER"**

**591 Telegraph Cyn Rd, PMB # 778  
Chula Vista, CA 91910**

09 - 0051  
Amdt. #15

October 15, 2009

Ms. Krystal Paris, Initiative Coordinator  
Attorney General's Office  
1300 "I" Street  
Sacramento, CA 95814

**RECEIVED**  
OCT 16 2009

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Dear Ms. Paris:

Attached hereto is an amended version, which I refer to as "Version 2", of the initiative entitled "Comprehensive Tax Reform Initiative" which was delivered to your office last Friday, October 9, 2009 via US Postal Service Express Mail. I am the proponent.

Of course, this amended version will replace the original version.

I also enclose some materials & data which I believe will be helpful to the Dept. of Finance in performing a fiscal analysis of this initiative.

I respectfully request that you forward these materials to the proper office for consideration and review at their discretion.

Please feel free to call me at (619) 861-4350 if there is any need to discuss any of the foregoing. Thank you.

Very truly yours,

Frank D. Walker

Attachments: Text of Comprehensive Tax Reform Initiative (version 2);  
Memo on Economic Issues, by Frank D. Walker (proponent);  
Letter from expert appraiser Ted Gwartney; and  
Board of Equalization Table4-08.

**COMPREHENSIVE TAX REFORM INITIATIVE**  
(Version 2)

Preamble

Desiring to revitalize California's declining economy and to provide adequate public revenue for state and local needs while also reducing the tax burden on a large majority of Californians, the People hereby enact the following changes to the Constitution of the State of California:

1. The existing provisions of Article XIII are abrogated, and shall be null and void, effective 12:00am on July 1, 2011, except for Section 16 which shall be abrogated effective 12:00am on January 1, 2011.
2. The Sections which follow this Preamble shall become the new provisions of Article XIII effective 12:00am on July 1, 2011, except that Sections 10.5 and 10.7 of these new provisions shall become effective immediately and Section 9.5 shall become effective at 12:00am on January 1, 2011.
3. Article XIII A is abrogated in its entirety, and all of its provisions shall be null and void, effective 12:00am on July 1, 2011.

[ Text of the new provisions of Article XIII follow on pp. 2-15 ]

## ARTICLE XIII -- CALIFORNIA CONSTITUTION

SEC. 1. No tax shall be levied or imposed unless specifically allowed or provided for in this Article.

SEC. 2. (a) Taxes on or measured by income may be imposed on natural persons, except that the first \$150,000 of each person's annual income commencing on January 1, 2012 shall be exempt from such taxes. For the six month period commencing on July 1, 2011 and ending on December 31, 2011, the amount of each person's income which shall be exempt from income tax is \$75,000. The tax rate on personal income subject to taxation shall not exceed eight percent (8%).

(b) Any person shall be entitled to a nonrefundable credit against personal income taxes due in the amount of any taxes levied on or after July 1, 2011 pursuant to Section 5 of this Article on land situated in California which the person claiming the credit, or a business entity in which such person was a partner or shareholder at the time such taxes on land were paid, or a trust in which such person was a beneficiary at the time such taxes were paid, both:

(1) paid in the year for which such credit is claimed, and  
(2) had an ownership, rental or leasehold interest in the land on which the taxes claimed as a credit were levied at the time such taxes were paid.

(c) When a credit pursuant to this Section is claimed by a person based upon the payment of taxes on land which were paid by a business entity in which the claimant was a shareholder or partner at the time of payment, the credit shall be allowed only if the net income or loss of the business entity is attributable by law to shareholders or to partners of that entity, and credit shall be allowed for only that portion of the payment which is proportionate to the share of the business entity's net income to which the claimant is entitled. When a credit pursuant to this Section is claimed by a person based upon the payment of taxes on land which were paid by a trust in which the claimant was a beneficiary at the time of payment, credit shall be allowed only for that portion of the payment which is allocated to claimant by the trustee or co-trustees of the trust on behalf of which the payment of land taxes was made.

SEC. 3. Taxes of any kind may be imposed upon the manufacture, sale, purchase, exchange, storage, keeping in inventory possession or use of the following:

- (a) alcohol products;
- (b) tobacco products;
- (c) marijuana products; and
- (d) motor fuel of any kind.

SEC. 4. Taxes may be imposed on the following natural resources or products when such resources or products are severed from land:

- (a) hydrocarbon resources or products, including but not limited to oil and natural gas;
- (b) mineral resources or products; and
- (c ) timber or forestry resources or products.

Any payment of a tax imposed under this Section may be claimed as a nonrefundable credit by the person or business entity who paid that tax against any taxes due under Section 5 of this Article on the land from which the resource subject to tax under this Section was severed. The person or business entity entitled to claim a tax credit under this Section may assign the credit in whole or in part to another person or business entity, but any such credit which is assigned shall only apply to reduce taxes due under Section 5 of this Article to which the credit would apply in the absence of any assignment.

SEC. 5 (a) Except as otherwise provided in this Article, all land having rental value shall be taxed and shall be assessed at its fair market monthly rental value as of the valuation date without regard to the value of any improvements. Improvements are not subject to taxation. In assessing the rental value of a parcel of improved land for purposes of any tax levied under this Section, the rental value of the land shall first be determined and any residual value of the improved parcel as a whole shall be assigned to the improvements. When the rental value of improvements cannot be reasonably distinguished from the rental value of the land which has been improved, such improvements shall be deemed to have merged with the land and shall be taxable in the same manner as the land. Any

relevant information may be used to assess the fair market monthly rental value of land, including any restrictions or limitations imposed by law upon land use.

(b) Taxes provided for under this Section shall be levied monthly. The tax rate shall be 75% of the monthly rental value of land, and the tax levied each month on each parcel of land subject to taxation shall be 75% of the assessed monthly rental value of that parcel. The assessment to be used in calculating the monthly tax to be levied on a parcel of land shall be the most recent assessment of the monthly rental value of that parcel provided that assessment was made in a month which precedes the month in which the tax is to be levied.

(c) The first month in which taxes under this Section shall be levied shall be the month of July, 2011. Commencing with the month of July, 2011, and continuing for each month which follows July in 2011 and for each month of each year which follows 2011, the monthly tax levied on each parcel of land subject to taxation shall be due and payable on the 15<sup>th</sup> day of the following month. If the 15<sup>th</sup> day of the following month falls on Saturday, Sunday or a legal holiday observed by this State, then the tax due under this Section shall be due and payable on the next day thereafter which is not a Saturday, a Sunday or a legal holiday observed by this State.

(d) The monthly rental value of land parcels used primarily for agricultural purposes shall be assessed annually. The monthly rental value of land parcels used primarily for residential purposes, and which contain three units or less of residential housing, shall also be assessed annually. The monthly rental value of all other land subject to taxation under this Section shall be assessed semiannually.

(e) The first valuation date for assessing the monthly rental value of land subject to taxation under this Section shall be June 1, 2011. The monthly rental value of all land subject to annual assessment shall thereafter be assessed again on June 1 of each year which follows 2011. The second valuation date in 2011 for assessing the monthly rental value of all land subject to semiannual assessment under this Section shall be December 1, 2011. The

monthly rental value of all land subject to semiannual assessment shall thereafter be assessed again on June 1 and December 1 of each year which follows 2011.

SEC. 6. The following are exempt from taxation:

- (a) Land owned by the State.
- (b) Land owned by a local government, provided that the land for which exemption is claimed was owned by a local government on November 1, 2010 and was also exempt from taxation as of that same date.
- (c) Land used for libraries and museums that are free and open to the public and land used exclusively for public schools, community colleges, state colleges, and state universities.
- (d) Land used exclusively for educational purposes by a nonprofit institution of higher education.
- (e) Land used exclusively for religious worship.
- (f) Land used or held exclusively for the permanent deposit of human dead or for the care and maintenance of the property or the dead, except when used or held for profit.

SEC. 7. The Legislature may exempt from taxation in whole or in part:

- (a) Land used as the primary residence of a person or a person's spouse, including an unmarried surviving spouse, if the person, because of injury incurred in military service, is blind in both eyes, has lost the use of 2 or more limbs, or is totally disabled, or if the person has, as a result of a service-connected injury or disease, died while on active duty in military service.
- (b) Land used exclusively for religious, hospital, or charitable purposes and owned or held in trust by corporations or other entities (1) that are organized and operating for those purposes, (2) that are nonprofit, and (3) no part of whose net earnings inures to the benefit of any private shareholder or individual.
- (c) Land owned by the California School of Mechanical Arts, California Academy of Sciences, or Cogswell Polytechnical College, or held in trust for the Huntington Library and Art Gallery, or their successors.
- (d) Land not used for commercial purposes that is reasonably and necessarily required for parking vehicles of persons

worshipping on land exempt by Section 6(e).

SEC. 8. All land subject to taxation under this Article shall be assessed in the county in which it is situated. For land which is assessed annually, counties shall give notice according to law of all assessments of such land situated within their boundaries within 35 days of each annual valuation date established by Section 5 of this Article. For land which is assessed semiannually, counties shall give notice according to law of all assessments of such land situated within their boundaries within 35 days of each semiannual valuation date established by Section 5 of this Article. All annual and semiannual assessments of the monthly rental value of land shall be matters of public record.

SEC. 9. Each county shall give notice according to law of the amount of monthly tax levied on each parcel of land situated within its boundaries which is subject to taxation under the provisions of this Article. The notice given under this Section shall be given at least 35 days before the first monthly levy of tax based upon an annual or semiannual assessment is due and payable. The notice given under this Section shall also clearly show the date on which each monthly tax levy is due and payable for a period of six months if the parcel of land is assessed semiannually and for a period of twelve months if the parcel of land is assessed annually. The amount of the monthly tax levied on each parcel of land shall be a matter of public record.

SEC. 9.5. (a) An assessment of the rental value of a parcel of land may be appealed by any person who has standing to do so according to law. The appellant or petitioner in the appeal shall have the burden of proof. An assessment which is appealed shall not be changed unless the appellant or petitioner in the appeal proves by clear and convincing evidence that the assessment is materially in error.

(b) The Legislature shall provide for the number and qualifications of members of assessment appeals boards, the manner of selecting, appointing and removing them, and the terms for which they serve. The Legislature shall also fix the compensation for members of assessment appeals boards, furnish offices and clerical and other assistance for those boards, adopt rules of notice and

procedures for those boards as may be required to facilitate their work and to insure uniformity in the processing and decision of assessment appeals.

(c) The Legislature shall adopt rules and procedures for the filing of petitions of appeal. No appeal of an assessment of the rental value of land shall be accepted or considered unless a filing fee equal to 15% of the assessed monthly rental value of the parcel of land which is the subject of the appeal is paid at the time the appeal is submitted. The filing fee shall be reduced to the nearest whole dollar if the filing fee, without such reduction, would involve payment of a sum which includes a fraction of a dollar. The filing fee shall be refunded if the appeal is successful. If the appeal is unsuccessful, the filing fee shall be paid into the general fund of this State.

SEC. 10. (a) Taxes levied on land under the provisions of this Article shall be payable to the Board of Equalization. The Board shall provide instructions to counties concerning the manner in which such taxes shall be paid, and the counties shall include these instructions when giving the notice required under Section 9 of this Article. Each county shall provide the Board with information concerning assessments and monthly taxes due for each parcel of land subject to taxation within its boundaries as directed by the Board.

(b) Counties, and all municipalities and districts within each county, shall receive a portion of the tax revenue received by the State from the levy of taxes on the rental value of land pursuant to Section 5 of this Article. In the 2011-2012 fiscal year, and in each fiscal year which follows that fiscal year, local governments will be entitled to receive from the State no less than the annual average of revenue received by each county, municipality and district during the three year period from July 1, 2008 through June 30, 2011 from ad valorem taxes on real property and personal property, from sales and use taxes, and from any other tax levied or imposed by that county, municipality or district, including any assessment for bonds of any kind, which is barred or eliminated effective July 1, 2011 by the provisions of this Article.

(c) For monthly taxes levied under Section 5 of this Article which are paid in advance either on a quarterly, a semiannual or an annual basis, the Board may allow a discount to compensate for the time value of money. In computing this discount, the Board shall use



an interest rate that shall be provided to the Board for this purpose on a quarterly basis by the Director of the Department of Finance. The Board may request that an interest rate for this purpose be provided by the Director at a different interval of time other than quarterly.

SEC. 10.5. The Board of Equalization shall measure county assessments of the rental value of land annually and shall bring those levels into conformity with the requirement of Section 5 of this Article that land shall be assessed at its fair market monthly rental value without regard to the value of any improvements. The Board may adjust county assessment rolls in whole or in part and may require counties to provide information to the Board concerning assessments of land within their respective boundaries as necessary in order to carry out the Board's responsibilities under this Section.

To promote equalization of assessments in this State and to better assure conformity with the requirements of this Article relating to assessments and payment of taxes, the Board may establish uniform standards, procedures and practices relating to assessment of the rental value of land and the manner of reporting of assessment and tax information to the Board which shall be followed by the counties. The Board may also provide training or educational sessions for county assessment officials or staff members relating to such standards, procedures and practices, and the manner of reporting of assessment and tax information, which the Board may require county assessment officials or staff to attend as directed by the Board.

The legislature may provide by law for fines or penalties to be imposed upon counties which fail to comply with the standards, procedures, practices, and the manner of reporting assessment and tax information established by the Board pursuant to this Section.

SEC. 10.7. For the purpose of obtaining information relevant to assessing the monthly rental value of land, the Board of Equalization shall implement and manage a system of reporting information concerning the rental or lease of real property.

Effective January 1, 2011, except as otherwise provided in this Section, any owner of real property subject to taxation who rents or leases that property, in whole or in part, to a tenant or tenants shall be required to report information relating to the terms of

that lease or rental as directed by the Board. The Board may establish exceptions to this reporting requirement if the tenant to whom the property is rented or leased is a relative or family member of the property owner or in other circumstances as determined by the Board.

The information required by this Section shall be reported within 15 days of the first day of the rental or lease period if the rental or lease period commences on or after January 1, 2011. The required information shall be reported by February 15, 2011 for any lease or rental agreement in effect on January 1, 2011 which commenced prior to that date.

The following information shall be reported for each parcel of real property which is rented or leased either in whole or in part: the county in which it is situated, the assessor parcel number assigned to the parcel, the name and mailing address of the primary tenant, the street address of the parcel, sufficient information to identify the specific premises rented or leased if the parcel has multiple tenants or if only a portion of the parcel has been rented or leased, the date of commencement for the rental or lease, the amount of the gross monthly rent or lease payment required under the rental or lease agreement, and any other information which the Board determines is relevant to the rental value of the real property.

No fee shall be charged in connection with the reporting of any information required by this Section. The Board shall determine the format of reports required by this Section and the manner in which reports containing the required information shall be submitted. The information reported shall be made available for public review with the exception of the name and mailing address of any tenant identified in such reports.

Reports required by this Section shall be made under penalty of perjury. The tenant or tenants in each lease or rental of real property for which a report required under this Section is submitted shall be entitled to receive a copy of the report and the person submitting the report shall affirm under penalty of perjury that a copy of the report has been provided to the tenant or tenants entitled to receive a copy.

The legislature shall establish civil penalties for failure to comply with the reporting requirements of this Section.

No action for unlawful detainer filed after January 1, 2011 shall proceed or be adjudicated, except as otherwise provided in this

Section, unless the plaintiff files an affidavit under penalty of perjury certifying that a report required under this Section relating to the rental or lease of real property which is the subject of the unlawful detainer action was filed before the action for unlawful detainer commenced. The affidavit shall state the date on which the required report was submitted, the assessor parcel number of the real property for which the report was filed, the street address of the parcel, the name and address of any tenant or tenants identified in the report and the amount of the gross monthly rent or lease payment set forth in the report.

If an action for unlawful detainer relates to the rental or lease of real property for which a report under this Section is not required, then the action may proceed and may be adjudicated if plaintiff files an affidavit in the action stating that no report under this Section was required. The affidavit must set forth the facts upon which this assertion is based.

SEC. 11. A person who is 60 years of age or older on January 1, 2011, or who reaches the age of 60 after January 1, 2011, may defer a portion of the taxes levied and due under Section 5 of this Article on a parcel of land which he or she owned as of June 1, 2010 and on which he or she maintains his or her principal residence, so long as that parcel of land is used primarily for residential purposes and contains three or fewer residential units. If a parcel of land is owned by a revocable trust in which the person seeking the deferral of taxes is a trustor, grantor or settlor and all other requirements of this Section for deferral of taxes are met, then the deferral may be granted. A lifetime estate shall be considered an ownership interest in land for purposes of this Section.

The portion of taxes due under Section 5 which may be deferred in each fiscal year in the period from July 1, 2011 through June 30, 2020 on a parcel of land under this Section is the amount of tax computed on an annual basis which is in excess of the ad valorem property taxes which were levied on that parcel, including taxes levied on improvements, from July 1, 2010 through June 30, 2011. That portion of taxes due under Section 5 each fiscal year which is equal to the amount of ad valorem property taxes levied on the subject parcel of real property during the period from July 1, 2010 through June 30, 2011 may not be deferred.

Taxes deferred under this Section shall accrue interest from the time of deferral until the time of payment. The rate of interest on the balance of taxes deferred under this Section shall be a variable rate which the Director of the Department of Finance shall annually set for each fiscal year on or before July 1 of each year from 2011 through and including 2019.

Any taxes deferred under this Section, together with any accrued interest, shall be a lien on the parcel of land, and on any improvements to that land, upon which the deferred taxes were levied. This lien shall have priority over any other lien. All taxes deferred under this Section, together with any accrued interest, shall be due and payable on July 1, 2020. The Legislature may provide by law for an extension of this date for payment under such terms as the Legislature determines to be equitable.

For each year in which deferral of taxes is requested pursuant to this Section, the person requesting deferral of taxes on a parcel of land shall sign a statement under penalty of perjury certifying that he or she maintains his or her principal residence on that parcel and that he or she is 60 years of age or older. The Legislature shall provide by law for penalties for anyone who requests and obtains a deferral of taxes pursuant to this Section for which they are not eligible. Any taxes deferred under this Section, together with accrued interest, shall become immediately due and payable upon a determination that the eligibility requirements for deferral were not met.

SEC. 12. A portion of taxes due under Section 5 of this Article may be deferred on land which is used primarily for agricultural purposes except that taxes levied on any land which is sold or purchased on or after December 1, 2010 is not eligible for a deferral of taxes under this Section. The portion of taxes due which may be deferred in each fiscal year in the period from July 1, 2011 through June 30, 2014 on a parcel of agricultural land under this Section is the amount of tax computed on an annual basis which is in excess of the ad valorem property taxes which were levied on that parcel of real property, including taxes levied on improvements, from July 1, 2010 through June 30, 2011. That portion of taxes due under Section 5 each fiscal year which is equal to the amount of ad valorem property taxes levied on the subject parcel of real property during the period from July 1, 2010 through June 30, 2011 may not be deferred.

Taxes deferred under this Section shall accrue interest from the time of deferral until the time of payment. The rate of interest on the balance of taxes deferred under this Section shall be a variable rate which the Director of the Department of Finance shall annually set for each fiscal year on or before July 1 of each year from 2011 through and including 2013.

Any taxes deferred under this Section, together with any accrued interest, shall be a lien on the parcel of land, and on any improvements to that land, upon which the deferred taxes were levied. This lien shall have priority over any other lien. All taxes deferred under this Section, together with any accrued interest, shall be due and payable on July 1, 2014. The Legislature may provide by law for an extension of this date for payment under such terms as the Legislature determines to be equitable.

Any taxes deferred under this Section, together with accrued interest, shall become immediately due and payable upon a determination that the eligibility requirements for deferral were not met.

SEC. 13. A portion of taxes due under Section 5 of this Article may be deferred on a parcel of land used primarily for residential purposes which contains three or fewer residential units except that taxes levied on any land which is sold or purchased on or after December 1, 2011 is not eligible for a deferral of taxes under this Section.

The portion of taxes due under Section 5 which may be deferred in each fiscal year in the period from July 1, 2011 through June 30, 2014 on a parcel of land under this Section is 50% of the amount of tax computed on an annual basis which is in excess of the ad valorem property taxes which were levied on that parcel, including taxes levied on improvements, from July 1, 2010 through June 30, 2011.

Taxes deferred under this Section shall accrue interest from the time of deferral until the time of payment. The rate of interest on the balance of taxes deferred under this Section shall be a variable rate which the Director of the Department of Finance shall annually set for each fiscal year on or before July 1 of each year from 2011 through and including 2013

Any taxes deferred under this Section together with any accrued interest shall be a lien on the parcel of land, and on any

improvements to that land, upon which the deferred taxes were levied. This lien shall have priority over any other lien. All taxes deferred under this Section, together with any accrued interest, shall be due and payable on July 1, 2014. The Legislature may provide by law for an extension of this date for payment under such terms as the Legislature determines to be equitable.

Sect. 14. The Legislature may provide by law for the manner in which a disabled person of low or moderate income may postpone payment of taxes levied and due under Section 5 of this Article on land owned and occupied by him or her which is used as his or her principal place of residence.

Sect. 15. Every tax on the rental value of land, including all penalties and interest related to such a tax, is a lien against the land assessed which shall have priority over all other liens against that land. Every tax on the rental value of land, including all penalties and interest related to such a tax, is also a lien against any improvements on the land assessed which shall have priority over all other liens against those improvements. The lien date for a tax on the rental value of land shall be the first day of the month in which that tax is levied.

Sect. 16. For taxes levied under Section 5 of this Article which have not been paid within one year of the date on which they were due, and which have not been deferred under the provisions of this Article, the Board of Equalization shall give notice according to law of the amount that is due and payable, including any penalties and accrued interest. The notice given by the Board shall state that, if the amount set forth in the notice is not paid within 90 days of the date of the notice, the assessed land upon which the taxes were levied may be sold in the manner provided by the Legislature for the payment of the tax. If the amount of taxes, penalties and accrued interest set forth in the notice under this Section is not paid within 90 days of the date of the notice, then the assessed land upon which the taxes were levied, including any improvements, shall be sold in the manner provided by the Legislature for the payment of the tax. The Legislature may provide by law for an extension of time in which to pay the amount stated in the notice under this Section before the assessed land, and any improvements thereon, is sold under such circumstances and

under such terms as the Legislature determines to be equitable.

Sec. 17. To promote the conservation, preservation and continued existence of open space lands, the Legislature may define open space land and shall provide that when this land is enforceably restricted in a manner specified by the Legislature, to recreation, enjoyment of scenic beauty, use or conservation of natural resources, or production of food or fiber, it shall be valued for purposes of taxation under Section 5 of this Article only on a basis that is consistent with its restrictions and uses.

To promote the preservation of real property of historical significance, the Legislature may define such property and shall provide that when it is enforceably restricted, in a manner specified by the Legislature, it shall be valued for purposes of taxation under Section 5 of this Article only on a basis that is consistent with its restrictions and uses.

Sect. 18. Every tax shall be conclusively presumed to have been paid after 30 years from the time it became a lien unless the property subject to the lien has been sold in the manner provided by the Legislature for the payment of the tax.

Sect. 19. The provisions of this Article do not release a utility company from payments agreed on or required by law for a special privilege or franchise granted by a government body.

Sect. 20. The power to tax may not be surrendered or suspended by grant or contract.

SEC. 21. No legal or equitable process shall issue in any proceeding in any court against this State or any officer thereof to prevent or enjoin the collection of any tax. After payment of a tax claimed to be illegal, an action may be maintained to recover the tax paid, with interest, in such manner as may be provided by the Legislature.

SEC. 22. The failure in any year to claim, in a manner required by the laws in effect at the time the claim is required to be made, an exemption or classification which reduces a tax on the rental value of land shall be deemed a waiver of the exemption or classification for that year.

SEC. 23. The Legislature shall pass all laws necessary to carry out the provisions of this Article.

[ end ]