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Taxing Times

“Eternal vigilance is the price of liberty.”
Often quoted by
Howard Jarvis

The Official Newsletter of the Howard Jarvis Taxpayers Association ★ Howard Jarvis, Founder ★ Vol. 48, Issue 3 ★ Fall 2022

HIDDEN TAXES PUSH PRICES HIGHER

California lawmakers know that voters are sick of tax increases, but that hasn't stopped them from raising taxes. It has simply made them sneakier about it.

The latest example is a new plastics tax imposed on the manufacturers of single-use plastic packaging and single-use plastic food ware. Governor Gavin Newsom signed Senate Bill 54 into law in June, and now the makers of plastics used widely in consumer products and food service will have to pay a combined \$500 million per year to a new state fund. They will also have to comply with costly new regulations and reporting

requirements. Violations will cost the companies \$50,000 per day in fines.

The cost of doing business always finds its way into consumer prices, but state politicians are trying to conceal the fact that SB 54 will make consumer goods and carryout food more expensive. Plastics producers will be required to pay a share of the industry's \$500 million annual tax, but the law demands that “the fee shall not be passed on to consumers as a separate item on a receipt or invoice.”

Just because you don't see it on the receipt or invoice doesn't mean

you're not paying it.

A new tax on single-use plastic food ware is one more burden on California's hard-hit restaurant industry, already reeling from the pandemic and its aftermath. Restaurant owners who invested to expand their takeout and delivery options will now face higher costs for the materials that make that business possible.

The cost of gasoline is another example of hidden taxes driving up prices. In addition to the sky-high gas tax in California, now 53.9 cents per gallon, an estimated



25 cents per gallon in hidden taxes is added to the price by the state's cap-and-trade program, which was intended to address climate change. The program requires utilities and manufacturers to buy a costly permit for each ton of greenhouse gases they emit in California. Refineries must obtain the permits

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WATCH OUT FOR 'UPLAND' TAXES

Pay close attention to the local measures on your ballot this fall. California's state courts have been carving out a new loophole in Proposition 13, and special interests are trying to drive a truck through it.

According to the state constitution, as amended by Prop.

13 in 1978, local tax increases for a special purpose must be approved by two-thirds of voters. General taxes that can fund any purpose need a simple majority, 50% plus one vote.

That's been the law for decades. Then something odd happened. In 2017, the California Supreme

Court decided a case known as *California Cannabis Coalition v. City of Upland*. In that case, the Court hinted that there might be a legal distinction between tax measures that are proposed by a government body, such as a city council or a school board, and tax measures put on the ballot by a

citizens' initiative.

Although the *Upland* decision related only to the timing of elections, a few local governments around the state quickly pushed the envelope and asserted that tax measures put forward by citizens' initiatives did not have to meet

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Taxing Times



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Year**

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PRESIDENT'S MESSAGE

PROPOSITION 13 PRESERVES MINORITY NEIGHBORHOODS *By Jon Coupal*

Here we go again. Another “study” purporting to reveal how unfair Proposition 13 is. But this time, the tax-hikers are using the progressives’ favorite catch-all justification: inequity and racism. Prop. 13 has been under constant assault for 44 years by people who want to raise property taxes without limitation. Like all their other arguments, this one won’t stick either.

First, let’s review a few of the many complaints leveled against Prop. 13 over the last few decades. An early one was the “nosy neighbor” argument, complaining that some new homebuyers pay more in property taxes than their neighbors. Of course, exactly like their neighbors, new buyers’ taxes are based on the price they paid for the property, and increases are capped after that.

Next there was the false charge that Prop. 13 starves education. The National Center for Education Statistics annually reports the current expenditure per pupil in fall enrollment in public elementary and secondary schools by state. In inflation-adjusted constant 2020–21 dollars, per-pupil spending in California rose from \$5,805 in 1969–70 to \$7,547 in 1979–80, to \$9,331 in 1989–90, to \$14,173 in 2018–19, the most recent year for which statistics are available.

Then there was bitterness that Snow White didn’t pay enough in taxes on her Disneyland castle. Now the theme is social justice and the fight against racism.

The 47-page report from the Opportunity Institute and Pivot Learning, titled “Unjust Legacy,” wrongly asserts that Proposition 13 has contributed to inequities in schools and communities. Contrary to the authors’ contention that Proposition 13 is unfair to minorities, the nation’s highest court concluded just the opposite. In *Nordlinger v. Hahn*, the United States Supreme Court expressly stated that California can “legitimately...decide to structure its tax system to discourage rapid turnover in ownership of homes and businesses, for example, in order to inhibit displacement of lower income families by the forces of gentrification.”

Ironically, at the same time the “Unjust Legacy” report was being released in California, the *Washington Post* carried a story out of Texas with the headline “Modern ‘redlining’ is pushing some Texans out of their homes.” The *Post* relates the sad situation of Rebecca Flores, a 79-year-old woman in San Antonio who wants to keep her home in the family. But “she and many of her mostly Mexican American neighbors say they are being priced out of their homes due to skyrocketing property taxes and a hot housing market that has developers pressuring them to sell in the rapidly gentrifying city.”

The *Post* notes that rising home values, and the rising property taxes that follow, threaten to displace the longtime residents who helped give San Antonio

its distinctive culture and character. “It’s a crisis facing cities across America,” the paper reports, “where housing is in short supply, affordable housing is even scarcer, and investors are sweeping into high-demand markets with big cash offers that are pricing many Americans out of the market altogether.”

Flores, the 79-year-old grandmother, is at her wits’ end. “This is how the fiber of a community is frayed,” she said. “Investors come and take over. It’s just like 1836, people with money came and changed laws, got the land and the power and they threw all the Mexicans out. Here we are in 2022, and they are doing the same thing all over again.”

The so-called “Unjust Legacy” report concludes that scholars and others “should collectively determine what it will take to overcome political and taxpayer resistance to changing Proposition 13.” This is a thoughtless assault on California property owners, who do not pay property tax bills “collectively.” They pay property taxes for the property they own, based on the price they paid, with an annual inflation adjustment that cannot exceed 2%. Without Proposition 13, low- and middle-income California homeowners would be taxed out of their property, forced to sell because they cannot afford to pay an annual tax bill based on the skyrocketing, inflation-driven value of real estate. That meets no one’s definition of equity or justice.

 Howard Jarvis
Taxpayers Association

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In Memoriam – 1938–2019

PRESERVE THE BENEFITS OF PROPOSITION 13

At the Howard Jarvis Taxpayers Association, we have received a number of inquiries from those wishing to help us preserve the benefits of Proposition 13 for their children, grandchildren and heirs. If you would like more information about making an endowment to the Howard Jarvis Taxpayers Association or the Howard Jarvis Taxpayers Foundation, visit www.hjta.org and click on “Take Action,” then click on “Heritage Society,” write to us at 621 S. Westmoreland Ave., Suite 200, Los Angeles, CA 90005, e-mail us at info@hjta.org, or call us at 213-384-9656.

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Heritage Society

We thank and appreciate the following for their generous donations:

The Selck Family,
in the name of Lester John Selck and Jane Selck

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A big “Thank You” to the Members of the *Heritage Society* who help make our work on behalf of taxpayers possible!



THE LEGAL FRONT

A CAREER OF VICTORIES FOR TAXPAYERS

By Timothy A. Bittle, Director of Legal Affairs

This is my last time writing this column. On July 1 I handed off my title as Director of Legal Affairs to my colleague Laura Dougherty and transitioned to a semi-retirement role with Howard Jarvis Taxpayers Association.

Twenty-five years ago, Jon Coupal rescued me from a manual labor job by offering me a position with HJTA. One year earlier, when Republicans held a majority of the State Assembly, I was working as an attorney for the Assembly Natural Resources Committee. When Democrats took control in 1996, however, they fired all



HJTA attorneys Tim Bittle and Laura Dougherty

Director of Legal Affairs, and I worked under Jon. Proposition 218 had just been passed by the voters in 1996, and there was no shortage of litigation bred by resistant local agencies unwilling to submit to the voters' will.

Some time later, Joel Fox retired and HJTA's Board elevated Jon to president. Jon, in turn, promoted me to Director of Legal Affairs. The staff attorney's chair in the office next to mine was filled several times by persons who had the IQ but lacked the dedication needed to effectively serve the taxpayers of California. Until I hired Laura Dougherty. HJTA's Office of Legal Affairs will be in good hands with Laura as the new Director.

As I look back at my 25-year career with HJTA, I take pride in several landmark precedents we won. My first important victory was a case called *Huson v. County of Ventura*. The issue was whether county tax assessors could second-

guess a homebuyer's purchase price and instead enroll a value that the assessor believed better represented fair market value. We argued that when a home is offered for sale on the open market by a seller who is under no pressure to sell, the price he accepts from a

stranger must be deemed the fair market value of that particular property. The Court of Appeal

agreed and struck the Assessor's higher valuation.

In *Ventura Group Ventures, Inc. v. Ventura Port District*, the question was whether Proposition 13 impliedly repealed statutes, still on the books, authorizing local agencies to levy property taxes when necessary to satisfy liabilities imposed on them by superior tiers or branches of government. The plaintiff had obtained a court judgment against the Ventura Port District and was trying to force the District to levy a property tax to pay its debt. We argued that a voter initiative like Prop. 13 cannot be expected to identify and list all of the statutes that will be in conflict with it. The California Supreme Court agreed and ruled that the provisions added to the state constitution by Prop. 13 supersede any contrary statute.

HJTA v. City of La Habra, although it involved only a procedural issue, was one of our most important victories. We sued the City of La Habra for collecting a utility users tax imposed without voter approval in violation of Proposition 62. The City argued that the statute of limitations had expired because the tax had been enacted more than three years earlier. We argued that every new collection of an illegal tax is a new injury, triggering a new statute of limitations. The California Supreme Court agreed and held that a city's continued

Continued on page 11

We argued that every new collection of an illegal tax is a new injury, triggering a new statute of limitations. The California Supreme Court agreed.

We argued that the fee was not an actual cost of providing service, and thus prohibited under Proposition 218. The Court of Appeal agreed and invalidated the fee.

Republican committee employees. Unable to find work in the Capitol community, I took a job building dormitory housing at Travis Air Force Base. When Jon called, it was a godsend.

In those days, Joel Fox was the president of HJTA. Jon was the

A NOTE FROM LAURA DOUGHERTY, HJTA'S NEW DIRECTOR OF LEGAL AFFAIRS

I am touched by Tim's words and honored to be the next trustee of legal action for California taxpayers. Like Tim, I also worked various jobs to support my family in my distant past, including bank-telling, insurance secretary work, substitute teaching, and mothering itself. Then, after

graduating from the University of the Pacific's McGeorge School of Law with Honors and a two-year-old daughter, I had the privilege to work for property-rights guru Ronald Zumbun as his last new hire. He hadn't advertised the position, but my unsolicited application got me the job.

Ron taught me many things, but most importantly he taught me never to back down from a case when you know it's the right fight. I attended oral arguments with him in state and federal courts, and I was directly responsible for federal and state appellate briefs. His cases kept

government accountable, and I was hooked.

Since joining HJTA in 2016, I have been fascinated by the seemingly endless stream of cases threatening taxpayer rights. I've seen agencies try to block ratepayers' access to the courts. In

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IN MEMORIAM

DAVID R. DOERR

Longtime tax policy analyst Dave Doerr, considered by many to be California's foremost tax expert, passed away on June 15 at his home in Carmichael.

Literally the man who wrote the book on California taxes, Doerr was the author of *California's Tax Machine: A History of Taxing and Spending in the Golden State*. "Nobody else in California — or anywhere — has Doerr's depth of first-hand knowledge of California tax law," wrote Associated Press reviewer Doug Willis.

Doerr was the chief consultant for the Assembly Revenue and Taxation Committee for 23 years,

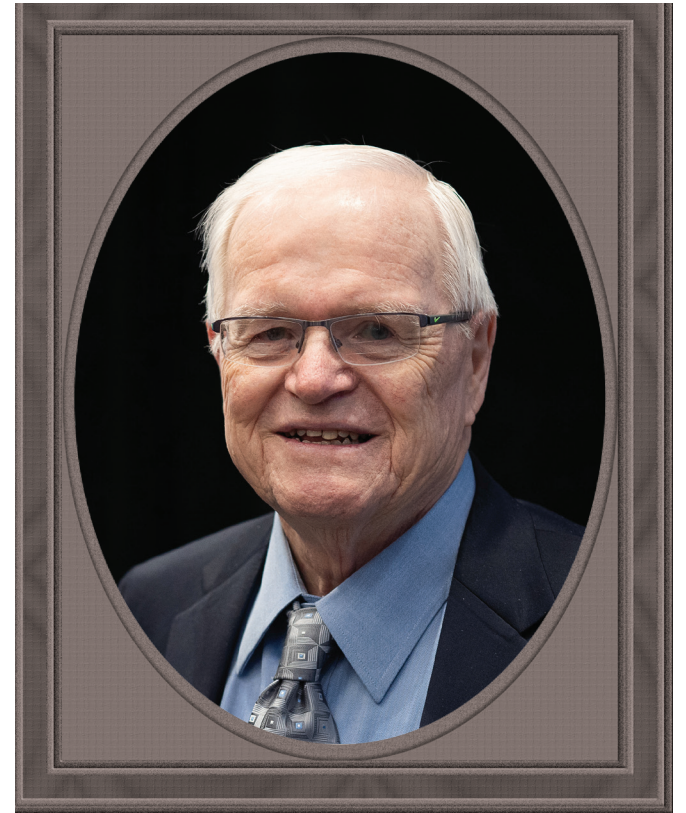
leaving in 1987 to become the chief tax consultant for the California Taxpayers Association, also known as CalTax. He was a veteran, having served two years in the Army before beginning his career with the Legislature. An avid writer, he edited a unit newspaper while in the service and later founded the *Caltaxletter*, continuing to contribute material for the popular newsletter even in semi-retirement.

Doerr played a crucial role in the implementation of Proposition 13, chairing the task force that developed the laws to put Prop. 13 into effect after voters overwhelmingly approved it in 1978.

A San Jose native, Doerr earned a bachelor's degree and a master's degree from San Jose State University and completed additional graduate-level work at the University of California.

Doerr was preceded in death by his wife, Elaine, and is survived by two children, six grandchildren and three great-grandchildren.

"Dave Doerr was one of a kind,"



said HJTA president Jon Coupal. "We will miss his advice, his humor and, most of all, his friendship." □

AN UPDATE ON OUR INITIATIVES

HJTA Members and supporters have done a phenomenal job of collecting signatures to get two urgently needed initiatives on the ballot. While we had hoped to qualify both for the November 2022 ballot, the earliest the measures can be on the ballot is November 2024.

In this election cycle, constitutional amendments needed 997,139 valid signatures of registered voters, collected within a 180-day period, to qualify for the ballot. The precise number of signatures required is based on a percentage of the votes cast for governor in the last regularly scheduled gubernatorial election.

Our Repeal the Death Tax initiative collected over 402,000 signatures, and it was picking up momentum every week. Unfortunately, we reached our 180-day deadline before reaching the necessary number of signatures to qualify. Thank you to everyone who volunteered to collect signatures and to help spread the word. It was a brand-new issue to many people, and HJTA Members did an amazing job of educating the public about the death tax and why it must be repealed.

What's next? HJTA is reviewing all the data from our first effort and all the options to find the best way forward. We have not given up on qualifying

the Repeal the Death Tax Act for the ballot and fixing the part of Proposition 19 that is hurting so many families. This is an extremely important issue to our Members and to all California property owners.

The other initiative that HJTA has worked to qualify is the Taxpayer Protection and Government Accountability Act. The aim of this measure is to close loopholes the courts have carved in Proposition 13, which have made it easier to raise local taxes. In this effort, HJTA is part of a large coalition of business and taxpayer groups. The coalition collected more than 1.1 million signatures by mid-June and asked for HJTA's help as it

tried to get 300,000 more at the end, just to be extra sure there were enough valid signatures to qualify. Thank you to all the HJTA Members who stepped up to help collect signatures on very short notice.

The Taxpayer Protection and Government Accountability Act had a turn-in deadline for signatures of August 2, which was too late to be on the 2022 ballot, but it can still qualify now for the 2024 ballot.

We will keep you informed of the progress on these efforts. You can also keep up with the latest developments by checking the websites for updates: RepealTheDeathTax.com and RightToVoteOnTaxes.com.

CALIFORNIA'S GENERAL ELECTION IS NOV. 8, 2022.

Every active registered voter will receive a ballot in the mail early in October, so watch your mailbox!

To register to vote, visit RegisterToVote.ca.gov, or go to VoterStatus.sos.ca.gov to check your current voter registration.



HJTA PAC RECOMMENDATIONS FOR THE NOVEMBER 8, 2022, CALIFORNIA GENERAL ELECTION

The HJTA Political Action Committee has taken positions on the following November ballot measures. Please check the website at www.hjta.org for updates and additions to this list before you vote.

BALLOT MEASURES STATEWIDE

NO ON PROPOSITION 29

NEW REGULATIONS ON KIDNEY DIALYSIS CLINICS

Voters have twice rejected the same proposal to put new and needless regulations on kidney dialysis clinics. This is the third try by a powerful labor union to impose new costs on these important medical service providers.

VOTE NO on 29.

NO ON PROPOSITION 30

TAX INCREASE TO PAY FOR ELECTRIC VEHICLE SUBSIDIES AND CHARGING STATIONS

Taxes are too high in California, and Proposition 30 would make them even higher, raising the top tax rate on incomes over \$2 million by 1.75%, to a new rate of 15.05%. The money would be spent mostly on subsidies for electric vehicles and new charging stations, but the damage from higher taxes would soon be felt by all Californians. As the *L.A. Times* reported in April, 40% of all California personal income taxes are paid by only about one-half of one percent of state tax filers. When many other states have an income tax of zero, California shouldn't risk the fiscal damage that would result from driving even more taxpayers out of the state.

VOTE NO on 30.

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For official election and voter information, go online to
sos.ca.gov/elections

LOCAL MEASURES CITY OF LOS ANGELES

NO ON MEASURE _____ (undetermined at press time)

PARKS AND RECREATIONAL FACILITIES PARCEL TAX

This is another parcel tax for parks that will cost property owners \$84.14 per 1,000 square feet of their home every year. The city should prioritize the current budget, not raise taxes again.

VOTE NO on the L.A. Parks Parcel Tax.

NO ON MEASURE _____ (undetermined at press time)

TAX ON REAL PROPERTY TRANSFERS OVER \$5 MILLION

This is a new transfer tax on real estate transactions that will cost up to 5.5% of the sale price of high-value properties such as apartment buildings, shopping centers, office buildings, restaurants and hotels, putting upward pressure on prices. The money will go to developers and organizations that plan to build homeless housing and provide related services. L.A. taxpayers have already agreed to two tax hikes for this purpose and the money has been wasted.

VOTE NO on the L.A. Real Estate Tax.

COUNTY OF SACRAMENTO

NO ON MEASURE _____ (undetermined at press time)

SALES TAX INCREASE FOR TRANSPORTATION INFRASTRUCTURE

This sales tax increase of one-half percent was put on the ballot by a developer-backed group to raise \$8.5 billion for certain transportation projects. It will raise the price of all taxable purchases.

VOTE NO on the Transportation Sales Tax Hike.

STATE OFFICE

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**Every registered voter will be sent a vote-by-mail ballot.
In-person voting and early in-person voting are also available.**

Save this page and watch for your ballot in the mail!

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Howard Jarvis
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**Due to the number of requests for endorsement we receive, HJTA does not generally endorse candidates for local (city and county) offices. On rare occasions, exceptions are made for candidates that have a long history of protecting Prop. 13.*

FOUNDATION REPORT



ATTORNEY TONY TANKE AWARDED TAXFIGHTER OF THE YEAR



HJTA is pleased to announce that legal expert Tony Tanke is the recipient of our 2021 Taxfighter of the Year award. Tony has been

a stalwart ally of HJTA for many years, devoting countless hours to representing taxpayers in the courtroom. We're all fortunate to have Mr. Tanke in our corner in the fight to protect taxpayers in California.

His impressive credentials are far too numerous to list, but here are some highlights of his illustrious career.

Mr. Tanke has practiced civil law in California for more than 30 years and was a staff attorney to Chief Justice of the California Supreme Court Malcolm M. Lucas from 1989–1994.

He is a civil appellate specialist who has handled over 250 appeals in areas ranging from business and tax law to civil rights. He has taught commercial law at the University of San Francisco School of Law, and law and religion at the Graduate Theological Union in Berkeley. His primary teaching and research interests include civil procedure and practice, torts, commercial and business law and dispute resolution, judicial decision-making, law and religion, and legal history. He is also a member of the California Academy of Appellate Lawyers.

On behalf of taxpayers, he has successfully sued local governments who abuse taxpayer

rights, including an important case against the City of East Palo Alto over the constitutionality of an excise tax.

More recently, Mr. Tanke was the primary sponsor of the Howard Jarvis Taxpayers Foundation 2021 conference of pro-taxpayer lawyers who practice throughout California. This all-day event brought together some of the best legal minds in the state to strategize and discuss how to advance the interests of taxpayers. We were proud to host this in-person conference and are grateful to Mr. Tanke for making it possible.

Tony Tanke is the Howard Jarvis Taxpayers Association's 2021 Taxfighter of the Year.

A FEW WORDS FROM THE FRONT DESK: A COMMON MISCONCEPTION ABOUT PROP. 13

By Debra Desrosiers, Executive Assistant to the President

Here on the front lines of HJTA, specifically the phone lines, you wouldn't believe how many times a caller says, "I used to have Prop. 13, but..."

If I ever meet a genie, here's my first wish: Please let everyone in California know that all property owners still have the security of property tax assessment increases limited to 2% per year thanks to Proposition 13.

Everyone.

It's Proposition 13 that allows new property owners and longtime property owners to sleep better at

night knowing that tomorrow they aren't going to receive a property tax bill that increases their assessed property value by however much the housing market has gone up in the last year.

You know who else really needs to know? Renters. Could you imagine the outrage of a tenant if they received a notice of a huge rent increase just because the property tax bill to the property owner went up 5% or 10% or more? It used to happen, and it could happen again if attacks on Proposition 13 continue.

So, can you do me a favor?

Talk to your kids, talk to your grandkids, talk to your friends, neighbors, the cashier at the grocery store — tell them what it would be like to lose Proposition 13. If you lived through the 70s in California, share your story about how inflation was out of control, how interest rates were rising (I remember 18% mortgage rates in the 1980s) and how desperately we needed the stability of property taxes.

Gee, that sounds eerily like 2022. Every California homeowner



and taxpayer should become a Member of the Howard Jarvis Taxpayers Association. It's the best way to stay informed. Visit www.hjta.org and join us! ☐



TUNE IN www.kabc.com/the-howard-jarvis-podcast

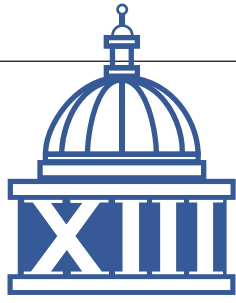
PODCAST

The Howard Jarvis Podcast

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UNDER THE DOME



CALIFORNIA'S SHAM BUDGET PROCESS SHAFTS TAXPAYERS

By Scott Kaufman, Legislative Director

In an apocryphal quote usually attributed to Otto von Bismarck, it is said that “laws, like sausages, cease to inspire respect in proportion as we know how they are made.” In California, we don’t have to look further than the state budget process to see that regardless of who said it, the quote is accurate.

The budget was drafted largely in secret and put into print less than a week before it sailed through the Legislature and to the governor’s desk.

You may have read news reports of the state budget’s passage in early June. What you probably didn’t know is that it was really nothing more than a placeholder budget. It was not the real budget. Simply put, the budget was a sham. It was rammed through to meet the constitutional obligation of passing a budget by June 15 so the Legislature could continue to get paid.

The budget was drafted largely in secret and put into print less than a week before it sailed through the Legislature and to the governor’s desk. And, clocking in at almost 1,000 pages, this breakneck process left little time for public input or review. But then, serious review would be a fool’s errand since many details are to be filled in later via a slew of “trailer bills” following negotiations with the governor.

These trailer bills often start out as stacks of blank bills with a single line of text. After the real budget is negotiated, again in secret, by the governor and the

Democratic legislative leaders, the agreed-upon provisions become “amendments” to the blank bills and can have very little, if anything, to do with the implementation of the budget.

Sure enough, the Sunday before the start of the fiscal year beginning that Friday, the real budget deal was struck and around 30 trailer bills came to life and started to move. The only law on the books to counter any of this is the California Legislature Transparency Act, which requires that every bill be in print and posted online for at least 72 hours before its final vote in either house of the Legislature.

That slows the process, but only momentarily. These trailer bills still sail through just like the fake budget did because in a one-party state like California, there is no one to say no.

It wasn’t always this way. But in 2010, the Legislature put Proposition 25 on the ballot. Entitled the “On-Time Budget Act of 2010,” its real purpose was to repeal the requirement that the budget bill receive a two-thirds vote of both houses.

Knowing that voters are rightfully suspicious of lowering any vote threshold, the Legislature sold the proposal to voters by saying that, if they approved Prop. 25, budgets would be passed on time, with greater transparency, and legislators would forfeit their pay if the budget was late.

All three of these representations were clearly lies.

So, you might be asking, what’s in the actual budget? Well, \$300 billion in spending, but if you were hoping for some relief at the gas pump, I have bad news for you.

Assembly Member Kevin Kiley, R-Rocklin, introduced Assembly Bill 1638, a bill that would have suspended the gas tax for six months, but when the bill was heard in

the Assembly Transportation Committee, it was an ambush. Alex Lee, D-San Jose, immediately moved to gut the bill and replace it with a new tax on gas suppliers with the proceeds going to a supposed rebate.

There was no debate. There wasn’t even bill language for these new amendments that the committee could review. The chair of the committee, Assembly Member Laura Friedman, D-Glendale, admitted that she had “not had the opportunity to dive in depth into this.”

But the bill passed out of committee anyway with an 8–4 vote. The gas tax cut had turned into a gas tax hike. Then, on the last day of the session before the Legislature slipped out of town for Spring

Recess, the Democrats simply struck the bill from the file on a party-line vote. That means the Transportation Committee’s amendments were not made — it’s like they never happened.

Again, there was no debate. The bill wasn’t even referred to as AB 1638 on the floor. It was just “Item Number One.” Even though Kiley’s bill remains in print, it’s effectively dead for the year.

But don’t worry, the budget does contain yet another stimulus check (because Sacramento thinks giving away money is a better idea than cutting taxes) of up to \$1,050. Checks will go out in October...just in time for the November election. They’re trying to buy your vote with your money. It’s business as usual in our one-party state.



April 1, 2022

Hon. Shannon Grove
State Capitol Building
Sacramento, CA 94249

Re: Senate Bill 1156 (Grove)

Dear Senator Grove,

This is to inform you that the Howard Jarvis Taxpayers Association **supports your SB 1156**. Gov. Gavin Newsom’s proposed budget will temporarily stop this year’s 5% increase in the excise tax. The governor is correct that inflation is hitting Californian families hard, and the gas tax should not be increased. But California’s gasoline and diesel prices are the highest in the nation, and inflation threatens to make them even more expensive once the governor’s temporary suspension is lifted.

SB 1156 would put an end to the automatic inflation adjustment in the gasoline and diesel excise tax and offer Californians permanent and much-needed relief at the pump. Given the current inflationary spike in prices, only SB 1156 will protect consumers from future increases to the gasoline excise tax.

Further, SB 1156 also restores to the legislature its responsibility to vote on tax increases.

Sincerely,

Scott Kaufman
Legislative Director

HJTA supported a bill to stop the annual increase in the gas tax.

GRASSROOTS REPORT

HOW MUCH IS THAT POLITICIAN IN THE WINDOW?

By Eric Eisenhammer, HJTA Director of Grassroots Operations

In one episode of the classic comedy sitcom *Dharma and Greg*, Dharma decides to run for office. Trying to talk her out of the idea, her husband Greg asks his wealthy father what it takes to win a race for the county board of supervisors. He replies, “\$78,400; at least that’s what the last clown cost me.”

Most people know that major politicians, such as candidates running for president, raise tens or hundreds of millions of dollars. Often, people running for lesser offices like Congress or seats in the State Legislature also raise in excess of a million dollars, and even campaigns for local office can raise six figures or more in highly populated areas.

It’s worth your time to research who’s giving to candidates and campaigns. Much of the information is publicly available online and can be found on one of the official government websites, depending on the jurisdiction of the campaign.

These websites are not always user-friendly (the most cynical among us may even wonder if that’s by design). Regardless, they are a treasure trove of useful information

that taxpayers should know. Are companies, labor unions or organizations with business before the local government or the state also funding candidates, and could that present a conflict of interest?

Most candidates believe they need to raise a lot of money to win and typically spend a lot of time fundraising. This is a reflection of the fact that campaigns are like a major marketing operation. Money is necessary to get the word out.

We can hope that our candidates will decline contributions from individuals or businesses that might not have the most ethical motives, but past experience observing politics certainly teaches us not to be under any illusions that politicians will always do the right thing.

If your fundraising research uncovers some information that concerns you, don’t be afraid to ask tough questions. After all, this is not a monarchy where the politicians rule us by birthright. In America, they work for us!

Where to Find More Information

- **Federal Elections Committee Campaign Finance Data:**
<https://www.fec.gov/data>
- **California Secretary of State Power Search:**
<https://powersearch.sos.ca.gov>
- **California Secretary of State Cal-Access database search:**
<https://dbsearch.sos.ca.gov>
- **California Fair Political Practices Commission Transparency Portal:**
<https://www.fppc.ca.gov/transparency.html>
- **Your county elections office campaign finance or ethics website**
(will be different for every county)
- **Your city elections office campaign finance or ethics website**
(will be different for every city)

HIDDEN TAXES PUSH PRICES HIGHER

Continued from page 1

for making transportation fuels.

The money from the sale of the permits goes into the state’s Greenhouse Gas Reduction Fund, and the governor and the State Legislature decide how to spend that money. They decided years ago that 25 percent of the revenue paid into the Greenhouse Gas Reduction Fund should go toward building the bullet train. You’re paying for the boondoggle high-speed rail project with every fill-up.

At a time of roaring inflation, the last thing Californians need is higher consumer prices because of hidden taxes. Even though these programs may have begun with good intentions, hidden taxes raise the already high cost of living in California and increase the state’s poverty rate, which, according to the U.S. Census Bureau, is the highest in the nation when the cost of living is taken into account. □

A NOTE FROM LAURA DOUGHERTY

Continued from page 3

2019, we took that fight all the way to the California Supreme Court, where I was privileged to represent HJTA as amicus (friend of the court) in the case. We won that battle. The Court agreed with us that no agency can block a ratepayer’s judicial access by imposing a requirement that the ratepayer must go through the motions of protesting at a public hearing where it would be impossible to resolve their

concern.

HJTA is currently fighting in the courts to protect the two-thirds vote on local special taxes, to oppose vacant lot fees that ignore Proposition 218, and to secure the right to vote on high-risk pension obligation bonds that put taxpayers on the hook if the strategy doesn’t work out. It’s not easy for taxpayers, but I’m here because every case is the right fight. □

YOUR? answered

WHY IS MY PROPERTY TAX BILL GOING UP SO MUCH, AND HOW DO I KNOW IF IT'S RIGHT?

Many California homeowners are dismayed by rising property tax bills and wonder how they can verify that what they're paying is actually correct.

All taxable properties in California are protected by Proposition 13, the 1978 ballot initiative that changed the state constitution so that the assessed value of your home generally cannot go up more than 2% per year for as long as you own it.

There are a couple of exceptions. If you make significant improvements to the property such as a room addition or garage conversion, those improvements will be assessed at their current market value, and that amount will be added to the assessed value of your home, which is otherwise unchanged. Remodeling will not cause your entire property to be reassessed.

Another exception relates to decline-in-value reassessments. If you buy a home and later the market value declines to below its assessed value, you are eligible for a new assessment at the lower value, reducing your property tax bill. However, when the market

recovers, assessors are required to bring the assessment back up to what it would have been if the market had not declined. The assessed value can go up in one jump that is not capped at 2% per year, although it cannot be higher than Proposition 13 would have allowed.

If you have made changes to the title of the property that reflect a partial change of ownership, that can cause a partial reassessment.

Most of the time, unexpected increases in your property tax bill are caused by voter-approved charges such as bonds (borrowed money) or parcel taxes (extra property taxes that are not based on value). These are local charges that vary depending on the city, county or district in which your property is located.

Sometimes these taxes were passed with a promise that there would be exemptions for senior citizens or low-income households. Typically, property owners must apply for the exemption. Check your property tax bill for the list of voter-approved bonds, taxes and fees,

and contact the agency, district or department that is responsible for each of those charges. Ask if you're eligible for an exemption.

If you own your principal residence, you are eligible for the

Some homeowners may be able to take advantage of the state controller's Property Tax Postponement Program. The 2022–23 application period will open on October 1, 2022.

homeowner's exemption, which will reduce your assessed value by \$7,000, saving you \$70 per year. Contact the office of your county assessor to apply or get more information.

Some homeowners may be able to take advantage of the

state controller's Property Tax Postponement Program. It allows homeowners who are seniors, are blind, or have a disability to defer current-year property taxes on their principal residence if they meet certain criteria, including at least 40 percent equity in the home and an annual household income of \$49,017 or less. (The deferment of property taxes will be secured by a lien against the property and must eventually be repaid.) The 2022–23 application period will open on October 1, 2022. For more information, call (800) 952-5661 or e-mail postponement@sco.ca.gov.

If you believe your property tax bill is wrong or that the property or improvements to it were assessed incorrectly, there is an appeals process. Contact your county assessor's office or contact the State Board of Equalization, which oversees property tax administration. The BOE's website is <https://boe.ca.gov/proptaxes/proptax.htm>, and the property tax department can be reached by phone at 916-274-3350 or PTWebRequests@boe.ca.gov by e-mail.

WATCH OUT FOR 'UPLAND' TAXES *Continued from page 1*

the two-thirds vote threshold but instead could pass with a simple majority.

So far, appellate courts around the state have agreed with that. Your Howard Jarvis Taxpayers Association continues to work hard on getting one of these cases back to the state Supreme Court so the issue can be reviewed.

Fortunately, voters may be blocking some of these taxes before they can even get to court. In Manhattan Beach, for example, a "citizens' initiative" was proposed to require property owners to pay a \$1,095 tax per parcel, with an inflation adjustment every year. Measure A said the money "shall be used" to, among other things, "increase salaries of teachers," "provide more competitive compensation to other School

District staff" and "increase staffing."

Under Prop. 13, Measure A would be a special tax that requires approval by a two-thirds vote of the electorate. But under the *Upland* decision, the city of Manhattan Beach said it would pass with a simple majority because it was a "citizens' initiative."

The voters thought it was a nonstarter. Measure A went down to a thunderous defeat, with 68% of voters saying no to the tax increase.

In Kings County, a "citizens' initiative" to raise the sales tax by 0.5% for fire department funding was resoundingly defeated, 64% to 36%.

But the fight goes on. In the city of Los Angeles, voters will be asked this fall to approve a

"citizens' initiative" proposing a new transfer tax on high-value real estate sales, which include the sales of apartment buildings and commercial buildings. The tax will add 4% to sales of \$5 million or more, 5.5% to sales valued at \$10 million or more. The money will go to homeless housing and service providers.

This is a tax for a special purpose, but since it was proposed by citizens — in this case, by the homeless housing and service provider organizations that will receive the money — the city of Los Angeles says this tax needs only a simple majority, not a two-thirds vote, to pass.

Your Howard Jarvis Taxpayers Association has been hard at work to qualify a ballot measure that would close this loophole and

clearly require a two-thirds vote for all special taxes. We've been working with a large coalition of business and taxpayer groups to collect the roughly 1.5 million signatures we estimate we need to make sure there are enough valid signatures to qualify.

Unfortunately, the measure started too late to qualify for this November's ballot, but signature verification is underway as *Taxing Times* goes to press, and we hope the Taxpayer Protection and Government Accountability Act will qualify now for the November 2024 ballot.

In the meantime, read your ballot very carefully and watch out for "citizens' initiatives" from special interests that are directing the revenue to their own pockets. □

THE LEGAL FRONT *Continued from page 3*

collection of a tax without voter approval is an ongoing violation of the voter approval requirement, thus the statute of limitations begins anew with each collection.

In *HJTA v. City of Roseville*, taxpayers had qualified a ballot initiative to repeal the City's utility users tax. The City fought back by placing a competing measure on the ballot to ratify the tax and dedicate it to "police, fire, parks, and libraries." Both measures received majority approval. The City's measure received more votes, but less than two-thirds. The City declared its measure passed. HJTA sued, arguing that dedicating the revenue to four specific purposes was not a ratification, but a new special tax needing two-thirds approval. The Court of Appeal agreed, ruling that the City's measure failed and the measure repealing the tax passed.

In another *HJTA v. City of Roseville*, we challenged what Roseville called an "in-lieu franchise fee" imposed on customers of the City's own water, sewer, and refuse collection departments. The City reasoned that, if those services were provided by private companies, the City would be able to charge them a franchise fee, and it should not be deprived of that revenue just because the City provided those services itself. We argued that the fee was not an actual cost of providing service, and thus prohibited under Proposition 218. The Court of Appeal agreed and invalidated the fee. Many cities throughout California charged similar fees and were forced to give them up.

HJTA v. City of Fresno challenged a similar widespread strategy for fleecing its own utility customers. The City collected a "fee in-lieu of property taxes" from city utility departments, which was then passed on to customers through rates. The City reasoned that, if those services were provided by private companies, the City would receive revenue from property taxes paid by the private utilities. It also argued that the fee was authorized by the City Charter, which voters approved. The Court of Appeal, however, agreed with us that the fee was not an actual cost of providing utility

services, and was thus prohibited under Prop. 218.

Proposition 218 requires voter approval of all property-related fees except fees for "sewer, water, and refuse collection services." In *HJTA v. City of Salinas*, the City enacted a storm drainage fee and added it to customers' sewer bills without

We sued to prevent a "Prop. 13 override" from being added to property tax bills in Huntington Beach to pay the City's public employee retirement debt. The Court of Appeal agreed with us.

seeking voter approval. We sued, arguing that stormwater collection is not the same thing as sanitary sewer, which is a measurable utility service connected to the property. The Court of Appeal agreed and tossed the fee. This decision continues to restrain local agencies even though the State Legislature subsequently passed a statute declaring storm drains to be a type of "sewer" service for purposes of Prop. 218.

Proposition 13 caps property taxes at 1% of enrolled value, but allows its cap to be overridden to pay for "indebtedness" that was voter approved prior to Prop. 13's enactment. In *HJTA v. County of Orange*, we sued to prevent a "Prop. 13 override" from being added to property tax bills in Huntington Beach to pay the City's public employee retirement debt. Even though the debt was due to new pension benefits added after Prop. 13's enactment, the City argued that voters approved a retirement "system." The Court of Appeal agreed with us, however, ruling that Prop. 13 could be overridden only for benefits in existence at the time of voter approval.

In *Silicon Valley Taxpayers Assn. v. Santa Clara County Open Space Authority*, the Open Space Authority imposed a countywide

assessment of a flat dollar amount on all private property to create a fund for purchasing open space whenever suitable parcels became available. HJTA sued, arguing that, even if voter approved, an assessment is not valid where it is impossible to know which parcels might be benefited because the Agency has no specific land acquisitions planned. The California Supreme Court agreed, ruling that courts should exercise independent judgment in reviewing local property levies, and that potential future benefits of unspecified projects or acquisitions are general benefits that cannot be funded by an assessment.

A victory in which I take special pride was *HJTA v. Bowen*, where we sued to prevent the Secretary of State from printing ballots containing a ballot question, title and summary written by the Legislature for its own ballot measure proposing bonds to fund high-speed rail. We argued that the Legislature had a conflict of interest preventing it from authoring impartial ballot descriptions, which in any event are entrusted to the Attorney General to write. The Court of Appeal held that the Political Reform Act requires the Attorney General, not the Legislature, to prepare ballot descriptions. This precedent halted a growing trend of the Legislature writing the "impartial" ballot descriptions for its own measures.

San Diego County Employees Retirement Assn. v. Superior Court was another very important victory. In response to Public Records Act requests for disclosure of the names and former positions of public employees collecting a pension in excess of \$100,000, the San Diego County retirement agency, along with many others to whom we made similar requests, refused to comply on grounds of retiree privacy. HJTA sued, arguing that payments of taxpayer funds can never be kept private. The Court of Appeal agreed and ordered disclosure, ruling that the public interest in transparency outweighs any privacy concerns.

HJTA had many other wins during my tenure as Director of Legal Affairs, but the cases above were milestones in steering the

course of the law in the direction benefiting taxpayers. And my duties, of course, extended beyond litigation. I had the privilege of contributing to the drafting of Proposition 26, which in 2010 amended the state constitution to provide a definition of what counts as a "tax" that needs voter approval. As defined, "'tax' means any levy, charge, or exaction of any kind imposed by [the] government," unless it fits one of a short list of narrow exceptions.

As comprehensive as that definition sounds, however, the courts recently created a huge loophole by ruling that special taxes proposed by a citizens' initiative need only simple majority approval rather than two-thirds. This has led to an avalanche of new special taxes drafted and qualified by politicians, disguising them as "citizens' initiatives."

One of my last major efforts as HJTA's Director of Legal Affairs was to help draft the "Taxpayer Protection and Government Accountability Act," a proposed constitutional amendment that will not only close the loophole above, but will fix several other injustices against taxpayers that I've cataloged during my tenure.

The cases above were milestones in steering the course of the law in the direction benefiting taxpayers.

That measure is currently being circulated for signatures and, if all goes well, will be on the ballot in 2024. If the measure passes, it will be my crowning achievement.

Having served at a managerial level, seeing the inner workings of HJTA, I can assure our Members that HJTA's small staff delivers more bang for your buck than most other nonprofit organizations, creating the perception among politicians and government lawyers that HJTA is much bigger than it really is. Our staff has a high level of integrity and dedication, and it has been my privilege to work with them. □

Thank You FOR RECRUITING NEW PROP. 13 SUPPORTERS!

HJTA's hat is off to all of you who have recruited new Members to the taxpayers' cause. Please keep up the good work!

The tax revolt that passed Proposition 13 has always depended on grassroots supporters. Howard Jarvis always fought for average taxpayers who pay government's bills, and we at HJTA continue his crusade.

Everyone knows at least one person, and probably more, who should join our movement.

The vast majority of those who know about Proposition 13 support it, but many are not aware that their taxpayer protections are under constant attack by Sacramento

politicians.

Taxpayers' best defense is an informed public. You can support Proposition 13 by helping HJTA recruit new Members who will strengthen the taxpayers' cause in Sacramento and throughout the state.

Please use the coupons below to send us the name and address of at least one taxpayer who would benefit from learning more about Proposition 13 and the tax-fighting work of HJTA. If you know of more than one, provide their information or pass a coupon on to them, and we will be glad to reach out to them as well.

HJTA MEMBERS: HELP HJTA HELP YOU

Howard Jarvis Taxpayers Association is California's number-one taxpayer advocacy organization. By recruiting new Members, we strengthen the taxpayers' cause in Sacramento and throughout the state.

Help protect Proposition 13! Every HJTA Member knows at least one person who should join HJTA. Please send us their names and addresses. HJTA will send them information on our ongoing work and a membership application. Thank you!

Mail to: HJTA, 621 South Westmoreland Avenue, Suite 200, Los Angeles, CA 90005-3971

Please send information on the tax-fighting work of the Howard Jarvis Taxpayers Association and a membership application to:

Name: _____

Street Address: _____

City: _____ State: _____ ZIP: _____

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