Constitutional Reform Gone Awry: The Apportionment of Property Taxes in California after Proposition 13

Rodney T. Smith

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CONSTITUTIONAL REFORM GONE AWRY:  
THE APPORTIONMENT OF PROPERTY  
TAXES IN CALIFORNIA AFTER 
PROPOSITION 13  

Rodney T. Smith*  

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In April 1989, a lawsuit was filed challenging the constitutionality of the legislative imple- 
mentation of Proposition 13. Gillanders v. Mackzum, Case No. 198595, Superior Court of the 
State of California, County of Riverside. The author has served as a consultant in that litiga- 
tion and has completed the economics study, The Apportionment of Property Taxes After 
Proposition 13: Constitutional Problems, Fiscal Consequences, and Remedies, which was sub- 
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APPORTIONMENT OF PROPERTY TAXES

INTRODUCTION

The constitutions of almost half the states allow voters to propose constitutional amendments or statutes through the initiative process. In most states, an initiative is enacted if it receives a simple majority of the votes cast in an election. State legislatures typically have no role in drafting or approval. A product of the early twentieth-century Progressive movement, the initiative was intended to break the grip special interests had on state legislatures. The objective was to promote state legislation more closely aligned with the views of the general electorate.

While initiatives are now frequently used to amend state constitutions, they also create their own legal problems. Constitutional challenges and ambiguities in the language of the initiatives place a heavy burden on courts. Certainly, the experience in California supports this criticism. Federal or state courts have struck down, in whole or in part, four of the ten initiatives enacted by California voters between 1960 and 1980. A California Supreme Court decision to

4. V. Key & W. Crouch, supra note 3, at 432.
5. Some argue that constitutional amendments adopted by initiatives conflict with the guarantee of the republican form of government found in the United States Constitution because they constitute government by direct democracy. See Note, supra note 2, at 733. The United States Supreme Court has consistently held that this objection is political in nature and, therefore, not justiciable. See, e.g., Baker v. Carr, 369 U.S. 186 (1962); Pacific States Tel. & Tel. Co. v. Oregon, 223 U.S. 118 (1912); Luther v. Borden, 48 U.S. (7 How.) 1 (1849).
strike down a fifth initiative was reversed by the United States Supreme Court. Poor draftsmanship has also been common. The Jarvis-Gann Initiative, also known as Proposition 13, which limited property taxes, contained forty ambiguities in language that have required clarification through extensive litigation.

This Article investigates one consequence of poor draftsmanship—inadequate guidance for implementation legislation. The lack of an implementation plan in Proposition 13 placed political pressure on the legislature to mitigate the effects of the initiative. The implementing legislation violated longstanding constitutional principles.

The nature of the problem can be understood by reviewing the context of California's property tax revolt. When California voters approved Proposition 13, they addressed a fiscal problem that the California Legislature had proved incapable of solving. While state government accumulated a large fiscal surplus, California residents incurred a large and growing tax burden, especially for property taxes, compared to residents in other states. In adding Article XIII A to the California Constitution, voters sought "effective real property tax relief." To this end, voters limited property tax rates and assessed valuations, and placed restrictions on the ability of state and local governments to raise non-property taxes. The new limits cut the property tax revenues collected by cities, counties, schools, and special districts in half.

The drafters sketched a framework for property tax limitation; however, they neglected to draft an implementation plan. They failed to explain how property tax limitation could be integrated into the constitutional framework governing local fiscal affairs in California. They did not even specify how the property taxes collected under the 1%
The legislature had only three weeks to pass implementation legislation for “the most significant fiscal act of the people of California in modern times.” The outcome was legislation shaped by the politics of government spending rather than legislation informed by long-standing principles that have shaped California’s constitutional history and case law.

In implementing Proposition 13, the Legislature was pressured to protect local spending programs. The Legislature passed legislation favoring local governments most dependent on property taxation before Proposition 13. An emergency statute, Senate Bill (SB) 154, implemented Proposition 13 for the fiscal year (FY) 1978-79 for “the partial relief of local government from the temporary difficulties brought about by the approval of Proposition 13.” The statute apportioned property tax revenues and disbursed state bail-out monies on the basis of historical property tax revenues. One year later, the Legislature passed Assembly Bill (AB) which apportioned property tax revenues for every subsequent fiscal year. While AB 8 included complex modifications of the apportionment formula defined by SB 154, it still tied the apportionment of property taxes to the amount of property tax revenues collected in previous fiscal years.

Few commentators or cases have addressed whether the Legislature exceeded its constitutional authority when it apportioned property

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14. Proposition 13 only required that those revenues be “apportioned according to law.” Cal. Const. art. XIII A, § 1(a).
17. For a discussion of the Legislature’s objectives, see Post, Effects of Proposition 13 on the State of California, 32 Nat’l Tax J. 381 (June Supp. 1979); see also Doerr, supra note 16, at 78-79.
20. See Doerr, supra note 16, at 78-79; Post, supra note 17, at 381.
23. Id. § 97.5.
This lack of scrutiny may reflect the belief that, under the broad plenary power of state legislatures, the allocation of property taxes is solely a policy question. But the plenary power of state legislatures is limited by state constitutions. The California Constitution and case law establish many principles that define California's "fiscal constitution." For the purposes of this Article, the important principles are tax situs, tax uniformity, and fiscal home rule. Together, they provide a framework for how local fiscal arrangements should be structured after Proposition 13.

In adopting SB 154 and AB 8, the Legislature violated sections 1(b) and 14 of article XIII of the California Constitution. Taxpayers living in jurisdictions with low property tax rates before Proposition 13 now pay property taxes that are apportioned, in part, to local governments that do not serve them. This violates tax situs. The same taxpayers also pay a disproportionate share of their property taxes to county government in comparison to taxpayers living in jurisdictions with high property tax rates.

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24. Most commentators generally examine the effect of the legislative implementation of Proposition 13 on the revenues and expenditures of local governments. See, e.g., CALIFORNIA AND THE AMERICAN TAX REVOLT: PROPOSITION 13 FIVE YEARS LATER (T. Schwadron ed. 1984); Rafuse, Proposition 13: Initial Impacts on the Finances of Four County Governments, 32 NAT'L TAX J. 229 (June Supp. 1979). Most cases have addressed how Proposition 13 should be implemented within the framework established by existing law. See, e.g., Carmon v. Alvord, 31 Cal. 3d 318, 322, 644 P.2d 192, 194, 182 Cal. Rptr. 506, 508 (1982) (funding of voter-approved pension plans should be exempt from 1% tax limit). See Henke & Woodlief, supra note 9, at 267-75, for a discussion of cases involving the meaning of key terms undefined in Proposition 13—ad valorem tax, district, vote requirements, special tax, and assessments. The California Supreme Court upheld the constitutionality of Proposition 13 in Amador Valley Joint Union High School Dist. v. State Bd. of Equal., 22 Cal. 3d 208, 583 P.2d 1281, 149 Cal. Rptr. 239 (1978), and a state appellate court held that Proposition 13 implementation legislation did not violate equal protection or abrogate vested tax powers in Matin Hospital Dist. v. Rothman. 139 Cal. App. 3d 495, 188 Cal. Rptr. 828 (1983). For a discussion of these cases, see infra notes 190-223, 270-74 and accompanying text.


26. D. MANDELKER, supra note 25, at 8; O. REYNOLDS, supra note 25, at 74-94; see also E. MCQUILLIN, THE LAW OF MUNICIPAL CORPORATIONS § 44.05, at 15-16 (power to tax), § 44.06, at 23 (legislative power) (3d rev. ed. 1989); C. ANTIEAU, MUNICIPAL CORPORATION LAW §§ 3.00, 3.16, at 3-5, 3-56 (1989).

27. See Dam, The American Fiscal Constitution, 44 U. CHI. L. REV. 271 (1976) for development of the concept of a fiscal constitution—the "edifice of powers and limitations" concerning fiscal arrangements found in various sections of a constitution. Id. at 272.

28. "All property taxed by local government shall be assessed in the county, city, and district in which it is situated." CAL. CONST. art. XIII, § 14.

29. All property shall be taxed in proportion to its assessed value. Id. § 1.

30. "The legislature may not impose local taxes for local purposes . . . ." Id. § 24.

31. See infra notes 478-84 and accompanying text.
rates before Proposition 13. This violates tax uniformity. The Legislature's implementation plan is a multi-billion dollar constitutional violation which was not required to achieve the intent of Proposition 13.

This Article proposes that these constitutional violations can be remedied by a different apportionment of property taxes which requires only simple modifications of existing law. Part I reviews the intent of Proposition 13. Part II describes relevant implementation legislation. Part III analyzes judicial decisions concerning the constitutionality and meaning of Proposition 13. Part IV reviews pertinent economic and legal principles of California's fiscal constitution before Proposition 13. Part V explains how the apportionment of property taxes after Proposition 13 violated these principles even though they remain valid after Proposition 13. Case studies demonstrate that the violations are fiscally significant. Part VI describes remedies that allocate property taxes while conforming with court decisions that have previously enforced California's fiscal constitution and have upheld the constitutionality of Proposition 13. The conclusion argues that the problems with existing law could have been avoided if either Proposition 13's drafters or the Legislature had devised an implementation plan based on a principled analysis of the integration of the property tax limitation into California's fiscal constitution.

I. THE INTENT OF PROPOSITION 13

Proposition 13 was placed on the ballot amid widespread voter dissatisfaction with fiscal affairs in California. The initiative's electoral success was not guaranteed. For a decade, voters had rejected initiatives proposing reform of California's property tax system. Moreover, the Legislature had placed on the ballot a competitive constitutional amendment, Proposition 8, that offered homeowners property tax relief only if voters defeated Proposition 13. In the past, the Legislature had won head-to-head competition with initiatives.

Proposition 13 succeeded because California voters demanded reduced property taxation without increases in other local taxes or state taxes. Neither the Legislature's competing amendment nor any prior initiative guaranteed this outcome. The official pre-election analyses made

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32. See infra notes 491-501 and accompanying text.
33. See infra notes 503-37 and accompanying text.
35. See Levy, supra note 34, at 68-72.
clear that Proposition 13 did not repeal tax situs, tax uniformity, or fiscal home rule. The Legislature’s competing amendment would have repealed tax uniformity, but it was rejected decisively by voters who supported Proposition 13.

A. Prior Voter Initiatives

Many commentators trace the origins of California’s tax revolt to 1967 when the legislature enacted the Petris-Knox bill. County assessors were required to reassess, within three years, all property at 25% of market value and to reassess property frequently to keep that ratio intact. This assessment procedure shifted the property tax burden away from commercial and industrial properties and toward homeowners because, before 1967, single-family housing was assessed at a smaller fraction of market value than commercial and industrial properties. Homeowner opposition to this shift in the burden of the property tax spawned a series of tax reform initiatives.

In 1968, the “Watson Initiative” proposed a five-year plan to eliminate the use of property tax revenues to fund non-property tax related services. The initiative would have limited property tax rates to 1% of market value. During the election, debate centered around whether state income and sales taxes would be raised to replace the revenues lost by local governments. The voters defeated the Watson Initiative by a margin of two to one because it failed to guarantee a reduction in the overall level of government spending.

The Legislature responded by offering its own plan for property tax relief. It passed California’s first homeowner property tax exemption which required voter approval of necessary constitutional amendments.


37. See, e.g., Levy, supra note 34, at 68.


39. For example, single-family housing in San Francisco was assessed at 9% of market value while commercial property was assessed at 35%. Levy, supra note 34, at 68.

40. For example, under the “Watson Initiative,” property tax revenues for education and welfare were to decline by 20% of 1969-70 levels until eliminated in 1973. Id. at 69.

41. Id.

42. Id.

43. Id. at 70.

The first $750 of a homeowner’s assessed valuation was exempted from property taxation. Increased state subventions replaced the revenues lost by local governments. Fifty-four percent of the voters supported the Legislature’s amendment.

In June 1970, California voters considered Proposition 8, which proposed sweeping changes in governmental finance. It called for increased homeowner’s exemptions and increased state funding for local welfare programs and education. But Proposition 8 did not require local governments to reduce the property taxes levied on homeowners. The lack of an explicit guarantee to reduce property taxes was responsible for the defeat of the initiative, which received only 28% of the vote.

Two years later, the second Watson Initiative (Watson II) qualified for the November 1972 ballot. Like the earlier, unsuccessful Watson Initiative (Watson I), Watson II called for a limit on local property taxes and for a shift to state financing of most educational and welfare programs. To fund the expansion of state spending, Watson II identified specific state taxes—sales, liquor, cigarette, and corporate income—which would be increased. With the threat of higher state taxes explicit, the voters resoundly defeated Watson II by a margin of three to one.

After the November 1972 election, the Legislature completed a “moderate” alternative to Watson II. It increased the homeowner’s exemption to $1,750, introduced a modest income-tax credit for renters, and placed limits on the property tax rates levied by local governments and the expenditure levels of school districts.

45. Id.
46. Levy, supra note 34, at 71.
47. Id.
48. Id.
50. Levy, supra note 34, at 71.
51. Id.
52. Id.
53. Id.
54. Id.
55. Id. at 72.
The final unsuccessful initiative for tax reform was Proposition 1.\footnote{Levy, supra note 34, at 72.} Introduced in 1973, this initiative proposed explicit limitations on state spending.\footnote{Id. at 73.} Opponents argued that the limit on state spending would result in higher local taxes in order to pay for the services previously funded by state taxes.\footnote{Id.} The fear of higher local taxes defeated Proposition 1, which received 44% of the vote.\footnote{Id.}

Despite the failure of tax reform initiatives, the political support for fiscal reform grew. By the mid-1970s, residential property values were increasing at an annual rate of 15%.\footnote{Id. at 76.} In contrast, assessments of commercial properties were growing slowly because they were based on their estimated income potential which was stagnant.\footnote{Id.} Local governments could not reduce their property tax rates by significant amounts because the California Constitution required that equal rates be levied on residential and commercial properties.\footnote{Id.} Therefore, any reductions in property taxes of homeowners would have sacrificed collection of property taxes from commercial and industrial properties. The limits on property tax rates imposed by the Legislature in 1972 also proved ineffective in providing tax relief. The limits did not mandate reductions in rates; they only prevented further increases in property tax rates.\footnote{See Cal. Rev. & Tax. Code §§ 2260-2267 (West 1987). Levy, supra note 34, at 77.} The problem for California taxpayers was not rising property tax rates,\footnote{Id.; see Cal. Const. art. XIII, § 1(b).} but rising property taxes because tax rates did not fall fast enough to offset the rapid growth in assessed valuations. The political climate was ripe for Proposition 13.

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\footnote{60. Levy, supra note 34, at 72.}
\footnote{61. Id. at 73.}
\footnote{62. Id.}
\footnote{63. Id.}
\footnote{64. Id.}
\footnote{65. Id. at 76.}
\footnote{66. Id.; see Cal. Const. art. XIII, § 1(b).}
\footnote{67. See Cal. Rev. & Tax. Code §§ 2260-2267 (West 1987). Levy, supra note 34, at 77. In general, maximum tax rates were set at the level levied in either 1971-72 or 1972-73. The governing body could select which year defined the maximum. Levies for voter-approved debt, federal and state mandated costs, and outstanding pension programs and other contracts were exempted from the rate limit.}
B. The Electoral Success of Proposition 13

Proposition 13 was successful because its provisions responded to the arguments used against the unsuccessful initiatives. The Legislature's competing amendment, Proposition 8, was defeated because it did not meet voter demand for effective property tax relief without increased state taxes or local non-property taxes.

The major sections of Proposition 13 as codified define a comprehensive approach to property tax limitation. The first section defines the property tax limit:

1(a) The maximum amount of any ad valorem tax on real property shall not exceed one percent (1%) of the full cash value of such property. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties.

1(b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any indebtedness approved by the voters prior to the time this section becomes effective.

Section 2 rolls back assessed valuations to the levels prevailing in 1975-76 and caps increases in valuations at 2% per year until a property is sold. Section 3 requires that any changes in state taxes, whether by increased rates or change in methods of computation, be approved by two-thirds of all members elected to both houses of the Legislature, except new ad valorem taxes on real property are prohibited. Section 4 requires a two-thirds vote in a special election before cities, counties, and special districts can impose special taxes, except new ad valorem taxes on real property were prohibited. All four sections were necessary for the electoral success of Proposition 13.

Sections 1 and 2 were both required for effective property tax relief.

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69. When it upheld the constitutionality of Proposition 13, the California Supreme Court also took the view that the various sections of Proposition 13 were "reasonably germane" to each other to achieve the goal of effective property tax relief. Amador Valley Joint Union High School Dist. v. State Bd. of Equal., 22 Cal. 3d 208, 230, 583 P.2d 1281, 1290, 149 Cal. Rptr. 239, 248 (1978). The court, however, did not relate the provisions of Proposition 13 to the criticisms of past failed initiatives.

70. CAL. CONST. art. XIIIA, §§ 1-4. Proposition 13 also had two other sections. Section 5 stipulated when article XIIIA was to become effective. Id. § 5. Section 6 contained a "severability" clause so that if any section was declared unconstitutional, the remaining sections would remain in force. Id. § 6.

71. Id. § 1.

72. Id. § 2.

73. Id. § 3.

74. Id. § 4.
They responded to the criticism of Proposition 8 that tax-limit initiatives do not guarantee reductions in property taxes.\textsuperscript{75} A tax rate limit alone would not have addressed the plight of homeowners, because the burden on homeowners before Proposition 13 was caused by increased assessments, not rising property tax rates.\textsuperscript{76} A roll-back of assessments and caps on future increases in assessed valuations was politically necessary. Without section 2, local governments could still raise larger amounts of revenue from property taxes. Sections 3 and 4 placed obstacles in the path of any attempts to circumvent the fiscal restraint imposed by property tax limits. By restricting the ability of the Legislature to increase state taxes, section 3 assured that property tax limits need not result in higher state taxes as advocated by the discredited Watson I and Watson II initiatives. By restricting the ability of local governments to raise local taxes, section 4 guaranteed that property tax relief need not be offset by an increase in other local taxes—a fear which defeated Proposition 1 in 1972.\textsuperscript{77}

In contrast, the Legislature's competing amendment did not provide constitutionally guaranteed property tax relief. Proposition 8 simply authorized the legislature to provide for taxation of owner-occupied property at a rate lower than that levied on other property.\textsuperscript{78} As observed by the Attorney General, "it is an enabling act only; it is up to the legislature to establish the rates."\textsuperscript{79} Proposition 8's only connection to tax relief was through the Behr Bill, which the Legislature had passed before the election.\textsuperscript{80}

Four portions of the Behr Bill are relevant to the discussion.\textsuperscript{81} First, the property tax rate on owner-occupied dwellings would have been reduced by 30%; the tax rates on other property would have been main-

\textsuperscript{75} Levy, \textit{supra} note 34, at 71.
\textsuperscript{76} Id.
\textsuperscript{77} Id. at 73.
\textsuperscript{78} Senate Constitutional Amendment 6, Res. ch. 85, Cal. Stat. 1977.
\textsuperscript{79} \textit{Analysis of the Attorney General}, \textit{supra} note 36, at 3.
\textsuperscript{81} Id. \textit{See also Analysis of the Attorney General}, \textit{supra} note 36, at 3-4. The bill contained other provisions that would have: (1) increased the amount of renter's credit under the state's personal income tax; \textit{Act of March 3, 1978} (commonly referred to as the Behr Bill), ch. 24, § 32, 1978 Cal. Stat. 98 (codified as amended at \textit{Cal. Rev. & Tax. Code} § 17053.5 (West Supp. 1989)); and (2) reduced the share of costs for welfare and MediCal programs shouldered by county governments; \textit{id.} § 42, 1978 Cal. Stat. 106-09.
Second, maximum property tax rates for local governments would have been recomputed so that local agencies would not receive more property tax revenues than the amount received in the prior year, adjusted by an inflation factor, plus increases in assessed valuation due to new construction and substantial improvements to existing property. Third, a limit on state revenue would have been established equalling the revenue for the prior fiscal year adjusted by the percentage increase in California personal income multiplied by the 1.2 "revenue elasticity factor." Revenues above the limit, so-called excess revenues, would have been restricted to specified uses—additional property tax relief programs, reduction of state taxes, maintenance of a surplus not exceeding 3% of total revenues, declared emergencies, and funding revenue-sharing programs with local agencies. Finally, the bill would be repealed unless voters approved Proposition 8 and rejected Proposition 13.

Voters did the opposite. Proposition 13 received 64.8% of the vote, carrying fifty-five of the state's fifty-eight counties which accounted for 95% of the state's population. Proposition 8 received 47.1% of the vote, carrying only fifteen counties which accounted for 30% of the state's population.

Voters who supported Proposition 13 opposed Proposition 8. There was almost a one-for-one offset between the share of the countywide vote cast for Proposition 13 and the share of the countywide vote cast for Proposition 8. For each percentage point increase in the vote in favor of Proposition 13, the vote in favor of Proposition 8 was lower by 0.9%.

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83. Id. § 10, 1978 Cal. Stat. 87-91 (The percentage change in the cost of goods and services purchased by state and local governments reported in the GNP deflator).
84. Id.
85. Id. 1978 Cal. Stat. 103. Therefore, applying this formula, if personal income increased by 10%, the state revenue limit would increase by 12%. Id.
86. Id.
89. Id. Proposition 13 failed to carry only Kern, San Francisco, and Yolo Counties. Id. The percentage of population residing in counties approving Proposition 13 has been computed from estimated population of California counties on June 30, 1978. CALIFORNIA STATISTICAL ABSTRACT, Table 1, at 1 (1979).
91. See supra note 89 for computation of percent of state population residing in counties approving Proposition 8.
92. Consider the following regression analysis relating the share of the vote cast in favor of Proposition 8 (P8) to the share of the vote cast in favor of Proposition 13 (P13). If the support for Proposition 13 was independent of the support for Proposition 8, then there should be no relation between the vote shares for the Propositions—the coefficient for the variable P13
Voters who sought property tax relief understandably supported Proposition 13, not Proposition 8. Proposition 13 offered constitutionally guaranteed property tax relief with provisions against raising state taxes or other local taxes. Proposition 8 only proposed to amend the California Constitution to allow non-uniform property taxation. While the passage of Proposition 8 and the defeat of Proposition 13 would have implemented the Legislature's property tax relief program, Proposition 13 more effectively addressed two issues that had dominated the history of tax reform initiatives.

First, Proposition 13 offered homeowners the greatest property tax relief. Proposition 13 would immediately reduce property taxes on owner-occupied property by twice as much as the Behr Bill. In addition, Proposition 13 would limit the growth in property taxes to 2% per year until homeowners sold their property. Despite the "maximum property tax rates" in the Behr Bill, property taxes under the Legislature's bill would grow much faster because the basis of calculating taxable assessed valuations would have been unchanged.

Second, Proposition 13 addressed attempts to circumvent tax limits; the Behr Bill did not. The state revenue limit would still have allowed state expenditures to grow 20% faster than state personal income. In

\[
P8 = 1.05 - 0.934 \times P13, \quad R^2 = 0.699
\]

\[(19.68) \quad (-11.40)\]

The coefficient for the variable measuring Proposition 13 vote share measures the effect of support for Proposition 13 on the vote share of Proposition 8 that is discussed in the text. The t-statistic indicates that this measured effect is statistically significant—the probability that the estimated coefficient would be \(-0.934\) if its true value were zero is less than 1 in 100,000. Therefore, there is strong statistical support for the view that voters who supported Proposition 13 also rejected Proposition 8.

93. See supra notes 75-77 and accompanying text for a discussion of the provisions of Proposition 13.

94. See supra text accompanying note 82.

95. ANALYSIS OF THE ATTORNEY GENERAL, supra note 36, at 9-10. The comparison of the tax relief programs involved the amount of tax relief on a $47,000 home. The Behr Bill would reduce property tax payments by $360. Proposition 13 would reduce property tax payments by $740. Id.

96. CAL. CONST. art. XIIIA, § 2.

97. As commented by the Attorney General, the combined effect of Proposition 8 and the Behr Bill would have no effect on assessed valuation. ANALYSIS OF THE ATTORNEY GENERAL, supra note 36, at 10. Furthermore, the limits on property tax rates would allow property taxes to increase by the rate of inflation plus the rate of increase in assessed valuations due to new construction or improvements in existing property. See supra notes 83-84 and accompanying text.

98. The 1.2 "elasticity revenue factor" in the proposed limit would mean that state reve-
addition, the excess of state revenues over the limit need not result in tax relief. It would have been permissible to use the funds for "declared" emergencies and for revenue-sharing programs with local governments. Proposition 13 therefore assured that property tax limitation would yield spending cuts while Proposition 8 did not.

C. The Meaning of Proposition 13

The voters’ message was clear: reduce property taxes collected by local governments and cut government spending. These views dominated the ballot analyses and post-election commentary and are consistent with how Proposition 13 later reversed the trends in local and state finances that had prompted the tax revolt. Neither the ballot analysis nor the post-election commentary indicated that Proposition 13 intended to repeal tax situs, tax uniformity, or fiscal home rule powers of local governments.

Official ballot analyses made clear that Proposition 13 involved property tax limitation, not repeal of constitutional principles concerning property taxation. The Attorney General’s summary stated that Proposition 13 “limits ad valorem taxes on real property.” The summary also stated the financial impact of Proposition 13 to be “annual losses of local government property tax revenues.” The analysis by the Legislative Analyst states that Proposition 13 “place[s] a limit on the amount of property taxes that could be collected by local governments.” In short, no official analysis characterized Proposition 13 as repealing local powers to tax property.

The view that Proposition 13 did not change the constitutional principles of property taxation is consistent with how the Legislative Counsel addressed two of the many ambiguities in the draftsmanship of Proposition 13. The relevant ambiguities involved section 1(a). The first ambiguity involved the language that “[t]he maximum amount of any ad valorem tax on real property shall not exceed one percent.” In California, the total property tax roll includes county assessments on real property (land and buildings) and personal property as well as state assessments on public utilities and railroads. If the limit only applied to

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99. CALIFORNIA VOTERS PAMPHLET, 56 (June 6, 1978) (emphasis added).
100. Id. (emphasis added).
101. Id. (emphasis added).
102. Id. at 57 (emphasis added).
103. Id. at 56.
real property, then county-assessed personal property as well as all state-
assessed property would be excluded from the tax limit. The Legislative
Counsel concluded that the 1% limit would apply to all types of taxable
property.104 Otherwise, Proposition 13 would have resulted in non-uniform
taxation of property in California because real property would have
been under the 1% limit and other property would have been outside the
1% limit. Such a scheme would conflict with article XIII, section 1(b) of
the California Constitution which requires uniform tax rates.105

The second ambiguity involved the language "[t]he one percent
(1%) tax to be collected by the counties and apportioned according to
law to the districts within the counties."106 Under California law, cities
and counties are not "districts."107 If property taxes were only apportioned among "districts," then cities and counties would no longer re-
cieve property tax revenues. The Legislative Counsel concluded that
unless the ballot arguments by the proponents of Proposition 13 made it
clear that counties and cities are to be excluded from the apportionment
of property taxes, these local governments could be included in the ap-
portionment of property taxes.108 If the Legislative Counsel had held
otherwise, denying the power of counties and cities to collect property
taxes could have been possibly viewed as the intent of Proposition 13. In
FY 1977-78, the last fiscal year before Proposition 13 was passed, coun-
ties and cities had collected, respectively, 28.9% and 13.3% of all prop-
erty taxes.109 In the absence of explicit language, the Legislative Counsel
refused to read such a radical change in California's fiscal arrangements
as the intent of Proposition 13. The proponents did not express in their
ballot arguments an intent to prevent counties and cities from collecting
property taxes.110

Instead, the ballot arguments concentrated on the wisdom of prop-
erty tax limitation and cutbacks in local spending. Proponents advocated
that Proposition 13 would "[l]imit property tax to 1% of market value,
require two-thirds vote of both houses of the legislature to raise any other
taxes, limit yearly market value tax raises to 2% per year, and require all

104. Id.
105. "All property so assessed shall be taxed in proportion to its full value." CAL. CONST.
art. XIII, § 1(b).
106. CALIFORNIA VOTERS PAMPHLET, supra note 99, at 57.
107. Id. See also ANALYSIS OF THE ATTORNEY GENERAL, supra note 36, at 7.
108. CALIFORNIA VOTERS PAMPHLET, supra note 99, at 57.
109. See Smith, Local Fiscal Arrangements after Proposition 13 in PROPOSITION 13: A TEN
YEAR RETROSPECTIVE Table 1 (F. Stocker ed. 1989) (Lincoln Institute of Land Policy) [here-
inafter Local Fiscal Arrangements].
110. CALIFORNIA VOTERS PAMPHLET, supra note 99, at 58.
other tax raises to be approved by the people." They did not discuss repealing tax situs, tax uniformity, or any other constitutional principle. The proponents also argued that "[a] 1% limit would still leave property tax revenue far above the level required to pay for property-related governmental services, street lighting maintenance, sewers, trash collection, and POLICE AND FIRE PROTECTION." They added that "[t]he amendment . . . DOES NOT prohibit the use of property tax money for schools." In sum, the proponents linked the property taxes collected under the 1% limit to the funding of services provided by local governments. As was the case before Proposition 13, property taxation was to remain a local tax after Proposition 13.

Opponents based their arguments primarily on the fiscal implications of property tax limitation, not constitutional considerations. They argued that "Proposition 13 invites economic and governmental chaos in California," and warned that "[i]t will drastically cut police and fire protection and bankrupt schools unless massive new tax burdens are imposed on California taxpayers." In other words, opponents disapproved of the impending loss of revenues for local governments and any cuts in spending required by the loss of such revenues. Opponents argued that Proposition 13 would "take decision-making away from the local level and weaken home rule" but did not specify how home rule would be weakened. The shift of decisionmaking from local to state government was based on the belief that state taxes would be "inevitably" increased to offset the loss in property tax revenues. In sum, not even the opponents argued that Proposition 13 would change the constitutional principles governing property taxation in California.

The view that Proposition 13 promised nothing for defenders of rising property taxes, state taxes, or other local taxes finds support from the fiscal events since 1978. Proposition 13 achieved a permanent 54% re-

111. Id.
112. Id. (emphasis and capitalization in original).
113. Id. (capitalization in original).
114. CALIFORNIA VOTERS PAMPHLET, supra note 99, at 59.
115. Id.
116. Opponents offered more explicit arguments when they challenged the constitutionality of Proposition 13. They argued that Proposition 13 violated home rule provisions of the California Constitution. Id. The California Supreme Court rejected these arguments. See Amador Valley Joint Union High School Dist. v. State Bd. of Equal., 22 Cal. 3d 208, 227, 583 P.2d 1281, 1288, 149 Cal. Rptr. 239, 246 (1978); see infra notes 190-223 and accompanying text for a discussion of Amador.
117. "Shocking increases in state and local taxes are virtually inevitable." CALIFORNIA VOTERS PAMPHLET, supra note 99, at 59.
duction in property taxes.\textsuperscript{118} It also halted the growth of state and local taxes.\textsuperscript{119} In the eighteen years prior to Proposition 13, the total share of state personal income taken by state and local taxes steadily increased from 11.29\%, in FY 1960-61, to 15.44\% by FY 1977-78.\textsuperscript{120} After Proposition 13, that share dropped immediately to 11.87\% and has not grown since that time.\textsuperscript{121} Contrary to the ballot arguments offered by the opponents to Proposition 13, other local taxes and state taxes were not increased to offset reduced revenues from property taxes.\textsuperscript{122} The steady growth in the share of personal income taken by the non-property taxes levied by state and local government was reversed after Proposition 13.\textsuperscript{123} Proposition 13's call for fiscal restraint has been heeded.

The electoral victory of Proposition 13 has also been interpreted as widespread acceptance of other fiscal principles. Voters expressed a preference for greater control over budgetary decisions.\textsuperscript{124} They also stated a preference about the composition of government spending, demanding more spending on police, schools, fire protection, and demanding less on welfare, parks, and highways.\textsuperscript{125} These lessons were not lost on politicians. In response to Proposition 13, counties and cities favored spending cuts on administration, health and public aid, and public works over spending cuts on public safety.\textsuperscript{126} The League of California Cities, which had opposed Proposition 13,\textsuperscript{127} derived the following lessons from voter support of Proposition 13:

(1) property taxes should be used primarily for property-related services;

\textsuperscript{118} See R. Smith, Constitutional Reform Gone Awry: The Legislative Implementation of Proposition 13, 16 n.32 (Oct. 23, 1987) (unpublished manuscript on file at Lowe Institute of Political Economy, Claremont McKenna College) [hereinafter Constitutional Reform].
\textsuperscript{119} Id. at 18-19.
\textsuperscript{120} Id. at 16-17.
\textsuperscript{121} Id.
\textsuperscript{122} Id. at 19.
\textsuperscript{123} By the mid-1980s, that share was 0.5\% below the peak share attained in the last fiscal year before Proposition 13 became effective. Id.
\textsuperscript{124} D. Sears & J. Citrin, Tax Revolt: Something for Nothing in California 244 (2d ed. 1985).
\textsuperscript{125} Id. at 48.
\textsuperscript{126} In response to Proposition 13, county governments reduced their expenditures on general government by 48\%, on health and public aid by 28\%, on recreation by 30\%, but reduced their spending on public safety by only 16\% and on public works by 13\%. Local Fiscal Arrangements, supra note 109, Table 11. City governments reduced their spending on general government by 21\%, on health and public aid by 14\%, on public works by 15\%, on recreation by 11\%, but reduced spending on public safety by only 5\%. Id.
\textsuperscript{127} California Voters Pamphlet, supra note 99, at 59.
(2) local services such as schools, health, and welfare should be funded at the state level with non-property taxes;
(3) future growth in spending should be paid for by special taxes approved by the voters or financed by existing budgets. Proposition 13’s message was clear, and its opponents quickly challenged it in the Legislature.

II. IMPLEMENTING LEGISLATION: THE APPORTIONMENT OF PROPERTY TAXES

After the election, political attention turned to how the legislature would implement Proposition 13. What supporters of local government spending lost at the ballot box they vigorously defended in the halls of the Legislature. They sought an apportionment of property taxes and a state bail-out of local governments that protected local spending. The discussion concentrated on the apportionment of property taxes under SB 154, an emergency statute to allocate property tax revenues for FY 1978-79, and AB 8131 which modified the apportionment formula defined by SB 154. The resulting tax allocations translated the 1% tax limit into a set of maximum tax rates for local governments. During recent legislative sessions, the Legislature has amended existing law to increase the property tax allocation received by cities that levied no or low property tax rates before Proposition 13. Economic and legal analysis requires a detailed understanding of the complex provisions in these statutes.

A. Setting the Rules for FY 1978-79

The Legislature prohibited local governments from levying ad valorem property taxes other than those necessary to service voter-approved debt exempted from the 1% tax limit. The Legislature directed county governments to levy the 1% property tax on behalf of local

129. For a discussion of state bail-out programs and subventions see Constitutional Reform, supra note 118, at 22-24; see also Doerr, supra note 16, at 77-78.
132. See CAL. CONST. art. XIII A, § 1(b).
governments and to allocate the collected revenues among local governments that levied a property tax in FY 1977-78. County auditors were instructed to use a two-stage computation based on the historical collection of property tax revenues, exclusive of debt levies. In effect, property tax revenues were allocated in proportion to the amount of property taxes collected before Proposition 13.

The first stage divided FY 1978-79 property tax revenues into two categories: local agencies (cities, county, special districts) and school agencies (school districts, county superintendent of schools, community college districts). The local agency share equalled the total amount of tax revenue raised under the 1% limit multiplied by the fraction that local agencies collected of countywide property tax revenues in FY 1977-78. The school share equalled countywide property tax revenues minus the local agency share.

The second stage divided the local agency share among local agencies and the school share among school entities. The revenue pool for local agencies was divided among local agencies on the basis of property taxes collected during the three fiscal years before Proposition 13. The revenue pool for schools was divided among schools on the basis of property taxes collected in the fiscal year before Proposition 13.

133. Id. § 1(a); see Amador Valley Joint Union High School Dist. v. State Bd. of Equal., 22 Cal. 3d 208, 227, 583 P.2d 1281, 1288, 149 Cal. Rptr. 239, 246 (1978).
134. This eligibility requirement excluded 31 of the more than 400 cities in California from receiving property tax monies.
135. CAL. GOV'T CODE § 26912 (West 1988).
136. Id. § 26912(b)(1). Countywide property tax revenues included state reimbursement for homeowners and business inventory exemptions, subject to allocation and payment of funds as provided for in subdivision (b) of section 33670 of the Health and Safety Code. Id. § 26912(b).
137. Id. § 26912(b)(1)(A).
138. Id. § 26912(b)(2)(A).
139. Id. § 26912(b)(1)(B), (b)(2)(B).
140. Id. § 26912(b)(1)(B). Each local agency had a local agency factor—the average amount of property taxes it received in the three fiscal years prior to FY 1978-79 divided by the average amount of countywide property taxes received by all local agencies for the same three fiscal years. Id. Each local agency then received a property tax allocation for FY 1978-79 equal to their local agency factor multiplied by the local agency share. Id.
141. Id. § 26912(b)(2)(B). Each school entity had a school factor—the amount of property tax revenues it received in FY 1977-78 divided by the amount of countywide property tax revenues received by all school entities in FY 1977-78. Id. Each school entity received a property tax allocation for FY 1978-79 equal to the school share multiplied by their school factor. Id.
When it passed AB 8, the Legislature shifted the apportionment of property tax revenues away from school entities and toward local agencies. It also defined property tax allocations on the basis of tax rate areas. It divided property tax allocations of each local government into two components: (1) the amount allocated in the prior fiscal year, and (2) a share of the additional property taxes collected because taxable assessed valuations grew in tax rate areas served by each local government. In implementing these changes, the Legislature faced a troubling problem—SB 154 had allocated property tax revenues in FY 1978-79 without regard to tax rate areas.

The Legislature devised apportionment formulae that made SB 154's approach seem simple. One set of rules applied to FY 1979-80 and another set to FY 1980-81 and thereafter. Moreover, one set of rules applied to local agencies and another set to school entities. Property tax allocations were adjusted to take account of the monies received by redevelopment agencies. Despite these changes, the apportionment of property taxes remained tied to historical collections of property taxes.

1. Local agencies in FY 1979-80

Each local agency received a base allocation equal to its allocation in FY 1978-79 plus a fraction of state assistance received from the state financed bail-out of local governments in FY 1978-79. The revised


143. A tax rate area is “a specific geographic area all of which is within the jurisdiction of the same combination of local agencies and school entities.” CAL. REV. & TAX. CODE § 95(g) (West 1987).

144. Id. § 96.

145. Id. § 97.5(f).

146. Id. §§ 96, 97.

147. Id. § 100(b).

148. Id. § 98.5. Pursuant to article XVI, section 16 of the California Constitution, the legislature passed the Community Redevelopment Act in which redevelopment agencies can be formed to remove “blight.” CAL. HEALTH & SAFETY CODE § 33385 (West Supp. 1990).

149. Each local agency's property tax allocation for FY 1978-79 included a recomputation of the FY 1978-79 allocation for any city which levied a utility user's tax prior to 1978 but repealed such tax prior to December 31, 1977. CAL. REV. & TAX. CODE § 96(d) (West 1987). For such cities, property tax revenues for the three fiscal years before Proposition 13 were now deemed to include the proceeds from the utility user's tax. Id.

150. State assistance equals (1) for counties, the amount of bail-out funds increased by the amount specified in section 94 of chapter 282 of Statutes of 1979, with the resultant sum reduced by an amount derived from calculation pursuant to section 16713 of the Welfare and
base was then attributed to tax rate areas within the local agency's boundaries on the basis of taxable assessed valuation.\textsuperscript{151} The FY 1979-80 allocation for a local agency equalled the sum, over all tax rate areas within its boundaries, of its base allocations and its allocation of the \textit{annual tax increment} (growth in property taxes due to increased assessed valuations).\textsuperscript{152} The allocation method for the annual tax increment is discussed below.\textsuperscript{153}

The property tax allocations of special districts were then adjusted for financial transactions associated with the \textit{Special District Augmentation Fund} (SDAF).\textsuperscript{154} Special districts had their property tax allocation reduced by an amount related to the state assistance they had received in FY 1978-79.\textsuperscript{155} The size of the countywide SDAF equalled the sum of all such contributions.\textsuperscript{156} Each county's Board of Supervisors would decide how the funds would be distributed among special districts.\textsuperscript{157} The final property tax allocation for special districts equalled their original unadjusted allocation, plus their allocation of the annual tax increment, less their contribution to the SDAF, plus allocations received from the SDAF.

2. School entities in FY 1979-80

The property tax allocations for school entities reflected the shift in tax base toward local agencies. The legislature revised the school entity

\begin{itemize}
\item \textsuperscript{151} \textit{Id.} § 98(f)(1)-(2). The revised base for a local agency in a tax rate area the revised base of the local agency multiplied by the \textit{attribution factors for tax rate areas}—the ratio of a tax rate area's taxable assessed valuation to the total taxable assessed valuation of the local agency. \textit{See id.} (defining attribution factors for tax rate area); \textit{see also id.} § 96(a) (defining amount of local agency revenue attributed to each tax rate area).
\item \textsuperscript{152} \textit{Id.} § 96(c).
\item \textsuperscript{153} \textit{See infra} note 162.
\item \textsuperscript{154} \textit{CAL. REV. & TAX. CODE} § 98.6 (West 1987).
\item \textsuperscript{155} Their contribution to the SDAF equalled their unadjusted tax allocation multiplied by their \textit{SDAF Contribution Ratio} (amount of state assistance received in FY 1978-79 divided by the sum of that assistance and property tax revenue received in FY 1978-79). \textit{Id.} § 98.6(a)(1).
\item In 1984, the Legislature froze the contribution by independent special districts to the levels in FY 1983-84. Act approved July 16, 1984, ch. 448, § 5, 1984 Cal. Stat. 1864-65 (codified as amended at \textit{CAL. REV. & TAX. CODE} § 98.6(a)(3) (West 1987)). Thereafter, the contribution of a special district to the SDAF was the lesser of its unadjusted property tax allocation multiplied by its contribution ratio or its contribution limit. \textit{CAL. REV. & TAX. CODE} § 98.6(a)(3) (West 1987).
\item \textsuperscript{156} \textit{CAL. REV. & TAX. CODE} § 98.6(a)(4) (West 1987).
\item \textsuperscript{157} \textit{See id.} §§ 98.6(b)-(m) for description of the procedures followed and the factors considered in this allocation.
\end{itemize}
share for FY 1979-80 to be the difference between the property tax allocations for all school entities in FY 1978-79 and total state assistance received by local agencies in FY 1978-79. Each school entity received a revised FY 1978-79 allocation equal to the countywide revised school entity share multiplied by the share of FY 1978-79 School Entity Share received by a school entity. The revised FY 1978-79 allocation was then attributed among tax rate areas within its boundaries on the basis of taxable assessed valuation. The FY 1979-80 allocation of a school entity equaled the sum over all tax rate areas within its boundaries of the base allocations and its allocation of the annual tax increment.

3. Allocation of annual tax increment

The Legislature reserved its most complex formula to allocate the annual tax increment. It instructed county auditors to use a six-step procedure. In effect, the growth in property tax revenues generated

158. Id. § 96(b).
159. Id.
160. The attribution of school entity revenues to each tax rate area equaled the revised FY 1978-79 allocation for each school entity multiplied by the attribution factor for tax rate areas. Id. These attribution factors equaled the ratio of a tax rate area's taxable assessed valuation to the taxable assessed valuation of the school entity. Id. § 98(f)(3).
161. Id.
162. The six steps are the following:
(1) For each tax rate area, compute 1% of the growth in taxable assessed valuation. Growth in property taxes levied in the tax rate area equals current year taxable assessed valuation for the current year multiplied by the tax rate limit (4% before FY 1981-82, 1% thereafter) minus taxable assessed valuation from the prior fiscal year multiplied by the tax rate limit. Id. § 98(a).
(2) For each tax rate area, compute a growth quotient by dividing the amount computed in step (1) by the sum of the amounts so computed for all tax rate areas in the county. Id. § 98(b).
(3) Compute the annual tax increment as the difference between countywide property tax revenues and the amount allocated in the prior fiscal year. This difference equals (i) for FY 1979-80, property taxes levied less amount attributed under sections 96(a) and 96(b). Id. § 98(c); (ii) for FY 1980-81 and thereafter, property taxes levied in current fiscal year less attributed revenues from prior fiscal year. Id. § 98(c).
(4) Determine the amount of growth in property taxes attributable to a tax rate area by multiplying the growth quotient computed in step (2) by the amount computed in step (3). Id. § 98(d).
(5) Define allocation factors for the annual tax increment for a local government as the ratio of its property tax allocation attributed to the tax rate area in the prior fiscal year to the attributed revenues of all local governments serving the tax rate area in the prior fiscal year. Id. § 98(e).
(6) Use allocation factors in step (5) to allocate growth in property tax revenues from a tax rate area among local governments serving residents in tax rate area. Multiply the amount of growth in countywide property taxes attributable to the tax rate area by the allocation factor of the annual tax increment. Id.
within each tax rate area was allocated among local governments serving residents in that tax rate area in proportion to the base allocation each local government received from that tax rate area in the previous fiscal year.\textsuperscript{165} The annual tax increment received by each local agency or school entity equalled the sum of its allocations over all tax rate areas within its boundaries.\textsuperscript{164}

4. Post FY 1979-80 allocations

For FY 1980-81 and thereafter, property tax allocations build on computations at the level of tax rate areas. Each jurisdiction would receive a base allocation equal to the amount of property tax allocation received from the tax rate area in the prior fiscal year, ignoring contributions to and receipts from the SDAF.\textsuperscript{165} The annual tax increment would equal countywide property tax revenues in the current fiscal year less total tax allocations of all local governments in the prior fiscal year.\textsuperscript{166} This annual tax increment would then be allocated among local governments serving the tax rate area by the allocation factors for the annual tax increment.\textsuperscript{167} Tax allocations received by special districts were reduced by the amount of their mandatory contributions to the SDAF and were increased by disbursements they received from the SDAF.\textsuperscript{168}

The property tax allocations of local governments were reduced if tax rate areas within their boundaries were located in a redevelopment agency.\textsuperscript{169} Complying with the California Constitution,\textsuperscript{170} the Legislature defined the \textit{increment in assessed valuation} for a redevelopment agency as the taxable assessed valuation of all tax rate areas within the boundaries of the project, less a \textit{frozen base allocation} (the assessed valuation of property within the project prior to the formation of the project).\textsuperscript{171} To meet debt service, the redevelopment agency would receive the property taxes collected from the 1% tax on the increment in assessed valuation.\textsuperscript{172} The loss of property tax revenues to local govern-

\textsuperscript{163} Id. § 98(f)(2).
\textsuperscript{164} Id. § 98(f)(1).
\textsuperscript{165} Id. § 98(e).
\textsuperscript{166} Id.
\textsuperscript{167} See supra note 162.
\textsuperscript{168} \textsc{cal. rev. & tax. code} § 98.6(a)(1) (West 1987).
\textsuperscript{169} Id. § 98.5.
\textsuperscript{170} See \textsc{cal. const. art. XVI, § 16(a).}
\textsuperscript{171} See \textsc{cal. health & safety code} § 33670(a) (West Supp. 1990) (defining frozen base assessed valuation); id. § 33670(b) (defining increment assessed valuation).
\textsuperscript{172} \textsc{cal. rev. & tax. code} § 98.5(a) (West 1987). This follows the provisions specified in article XVI, section 16 of the California Constitution.
ments would be apportioned among local governments serving the tax rate areas within the redevelopment agency by the allocation factors used to allocate the annual tax increment.\textsuperscript{173}

\section*{C. The Tax Allocations Are Maximum Local Property Tax Rates}

The legislation effectively defined maximum property tax rates for local governments. Before each fiscal year, any local government could request a reduction in its tax allocation.\textsuperscript{174} The rebated revenues would reduce the property tax rate below 1\% for taxpayers residing within the boundaries of the local government.\textsuperscript{175} This local control over tax rates is necessary for a tax to be locally imposed.\textsuperscript{176}

The Legislature turned to other principles of local property taxation when constructing the apportionment formula. It applied the concept of tax uniformity when attributing among tax rate areas the property tax allocations received by local governments in FY 1978-79.\textsuperscript{177} It allocated the growth in property tax revenues among local governments on the basis of situs.\textsuperscript{178} It allocated the homeowner’s subvention on the same basis as property tax revenues in order to meet its constitutional obligation to reimburse local governments for the loss of local revenues from the homeowner’s exemption.\textsuperscript{179} It allocated the loss of property tax revenues to redevelopment agencies to local governments serving tax rate areas within redevelopment agencies in order to meet the constitutional requirement that redevelopment agencies only affect the tax base of local

\begin{itemize}
\item \textsuperscript{173} Id.
\item \textsuperscript{174} Id. § 100.
\item \textsuperscript{175} Id.
\item \textsuperscript{176} McCabe v. Carpenter, 102 Cal. 469, 471, 36 P. 836, 838 (1894) (Legislature imposes tax if local authorities lack discretion to determine magnitude of tax).
\item \textsuperscript{177} Before Proposition 13, when local governments levied uniform tax rates, each tax rate area’s share of property tax revenues received by a local government equaled the ratio of the assessed valuation of that tax rate area to the assessed valuation of the local government. See R. Smith, The Apportionment of Property Tax Revenues: Constitutional Problem, Fiscal Consequences, and Remedies, 2-5 (Feb. 16, 1989) (unpublished manuscript on file at Stratecon, Inc., Claremont, California). Note that this coincides with the definition of the attribution factor for a tax rate area. See Act approved July 24, 1979, ch. 282, § 59, 1979 Cal. Stat. 1029 (codified as amended at CAL. REV. & TAX. CODE § 98(f)(1), (2) (West 1987)).
\item \textsuperscript{178} See supra notes 162-64 for a discussion of the allocation of the annual tax increment.
\item \textsuperscript{179} The legislature defined property tax revenues to include “the amount of state reimbursement for the homeowner’s exemption.” CAL. REV. & TAX. CODE § 95(d) (West 1987). It defined taxable assessed valuation to be “total assessed value minus all exemptions other than the homeowner’s... exemption.” Id. These definitions include state subventions for the homeowner’s exemption as part of local property taxation because the California Constitution ties these state subventions to the property tax base of local governments. “The legislature shall provide... reimbursements to each local government for revenue lost” from the homeowner’s exemption. CAL. CONST. art. XIII, § 25 (emphasis added).
\end{itemize}
governments whose jurisdictional boundaries include the redevelopment project.\textsuperscript{180}

\section*{D. Recent Amendments to the Revenue and Taxation Code}

In recent sessions, the Legislature has adjusted the property tax allocation of cities and county governments. In 1987, it adopted SB 709\textsuperscript{181} which added section 97.35 to the Revenue and Taxation Code. In 1988, the legislature passed AB 1197\textsuperscript{182} which repealed section 97.35 as added by SB 709 and then added a new section 97.35 to the Revenue and Taxation Code.

Under SB 709, qualified cities would have received a \textit{Tax Equity Allocation} of 10 cents per $100 taxable assessed valuation, provided a variety of other conditions were satisfied.\textsuperscript{183} Qualified cities were defined as cities that levied no property taxes in FY 1977-78,\textsuperscript{184} that is the no-property tax cities, or cities that would receive less than 10 cents per $100 taxable assessed valuation pursuant to section 97 of the Revenue and Taxation Code—the apportionment procedure described above.\textsuperscript{185} The additional property tax allocations received by qualified cities were to be taken from the property tax allocations of county government, provided the county decided to participate in the \textit{Trial Court Funding Act}.\textsuperscript{186} The payment of the 10 cent rate per $100 taxable assessed valuation would be phased in over ten years—qualified cities receive one cent the first year, two cents the second, and so on.\textsuperscript{187}

AB 1197 replaced the 10 cent tax rate, ten-year phase-in period of SB 709 with a 7 cent tax rate, seven-year phase-in period.\textsuperscript{188} It also changed the definition of a \textit{qualified} city to any city that received less than a 7 cent tax property tax allocation.\textsuperscript{189}

\section*{III. PROPOSITION 13 CASE LAW}

Not all activity prompted by Proposition 13 was confined to the halls of the legislature. Supporters and opponents of property tax limita-

\begin{footnotesize}
\textsuperscript{180} See supra notes 169-73 and accompanying text.
\textsuperscript{182} Act approved Sept. 16, 1988, ch. 944 §§ 5-6, 1988 Cal. Stat. 5-8 (codified at \textsc{Cal. Rev. & Tax. Code} § 97.35 (West Supp. 1990)).
\textsuperscript{183} See \textsc{Cal. Rev. & Tax. Code} § 97.35(5)(c) (West Supp. 1990).
\textsuperscript{184} Id. § 97.35(5)(d)(1).
\textsuperscript{185} Id. § 97.35(5)(d)(2).
\textsuperscript{186} Id. § 97.35(5)(g).
\textsuperscript{187} Id. § 97.35(5)(f)(1-10).
\textsuperscript{188} Id. § 97.35.
\textsuperscript{189} Id. § 97.35(d).
\end{footnotesize}
tion entered the courtroom to explore the constitutionality and meaning of Proposition 13. Case law has viewed Proposition 13 as simply a property tax limitation, not a major revision of the nature of local government in California. Proposition 13 has been construed to avoid conflict with other provisions in the California Constitution or the United States Constitution.

A. The Constitutional Challenge

In *Amador Valley Joint Union High School District v. State Board of Equalization*, the California Supreme Court upheld the constitutionality of Proposition 13 against a variety of challenges, two of which are pertinent to this discussion. First, the petitioners argued that Proposition 13 was a constitutional revision, not an amendment, and therefore required the approval of a constitutional convention or the Legislature before being placed on the ballot. Since Proposition 13 was placed on the ballot by initiative, the petitioners argued, it was invalid.

The second challenge was that even if Proposition 13 was a legitimate initiative, it violated the single-subject requirement of the California Constitution. The court's analysis considered the effect of Proposition 13 on constitutionally granted home rule powers of local governments, especially taxation. With the exception of one dissent on another issue, the court unanimously upheld the constitutionality of Proposition 13.

The revision-amendment issue centered on whether Proposition 13

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190. 22 Cal. 3d 208, 583 P.2d 1281, 149 Cal. Rptr. 239 (1978).
191. Id. at 221, 583 P.2d at 1284, 149 Cal. Rptr. at 242.
192. Id.
193. Id. at 224-27, 583 P.2d at 1289, 149 Cal. Rptr. at 245-46. See CAL. CONST. art. II, § 8.
194. The plaintiffs only raised, and therefore the court only addressed, concerns about the home rule powers found in article XI, sections 3 through 7 of the California Constitution.
195. *Amador*, 22 Cal. 3d. at 224-27, 583 P.2d at 1289, 149 Cal. Rptr. at 245-46.
196. *Amador*, 22 Cal. 3d at 249, 583 P.2d at 1302-03, 149 Cal. Rptr. at 260 (Bird, C.J., dissenting in part).
197. Id. at 248, 583 P.2d at 1301-02, 149 Cal. Rptr. at 259. The other challenges included violation of equal protection, id. at 232, 583 P.2d at 1292, 149 Cal. Rptr. at 250, interference with the right to travel, id. at 237, 583 P.2d at 1295, 149 Cal. Rptr. at 253, impairment of contracts, id. at 258, 583 P.2d at 1295, 149 Cal. Rptr. at 253, improper initiative title and summary, id. at 242, 583 P.2d at 1298, 149 Cal. Rptr. at 256, and vagueness, id. at 244, 583 P.2d at 1299, 149 Cal. Rptr. at 257. Justices Richardson, Tobriner, Mosk, Clark, Manuel, and Newman upheld Proposition 13 against all challenges. Id. at 248, 583 P.2d at 1302, 149 Cal. Rptr. at 259. Then-Chief Justice Bird concurred except on the issue of equal protection, which she reasoned was violated by the assessment procedures required by article XIII A, section 2. Id. at 249, 583 P.2d at 1303, 149 Cal. Rptr. at 260 (Bird, C.J., concurring in part and dissenting in part).
implicitly abrogated other provisions of the California Constitution by fundamentally altering the nature of local government.197 Rather than identify the distinguishing features of revisions and amendments in the abstract, the court compared Proposition 13 with an earlier initiative which the court had struck down as a revision.198 In McFadden v. Jordan,199 the court heard a challenge to the McFadden Initiative which would have substantially altered fifteen of the twenty-five articles then found in the California Constitution.200 Among these changes, the initiative would have destroyed the power of cities and counties to tax and regulate their budgets and expenditures.201 The initiative would also have limited those governments to a 2% gross receipts tax as the sole means of taxing real and personal property.202 In effect, the initiative would have revoked the power of local government to levy an ad valorem tax on property.203 In Amador, the court concluded that, unlike the McFadden Initiative, Proposition 13 did not destroy or annul local taxing powers.204 Therefore, Proposition 13 was fundamentally different from the revision called for by the McFadden Initiative.205

In reaching its decision, the Amador court rejected the view that the implementation of Proposition 13 required abrogation of home rule.206 The principle of home rule allows local governments to control and finance local affairs without undue interference by the Legislature.207 Petitioners who opposed Proposition 13 argued that section 1(a), which required property taxes collected under the 1% limit to be "apportioned according to law,"208 vested the legislature with the power to allocate local property tax revenues "at its whim, and upon whatever conditions it may impose, to pick and choose among the local agencies, rewarding 'deserving' agencies with substantial rewards while penalizing others by reduced awards."209 The court concluded that nothing in the design of Proposition 13 required such an outcome, or that the Proposition "dis-

197. See Lefcoe & Allison, supra note 68, at 181-85.
198. Amador, 22 Cal. 3d at 222, 583 P.2d at 1285, 149 Cal. Rptr. at 243 (citing McFadden v. Jordan, 32 Cal. 2d 330, 196 P.2d 787 (1948), cert. denied, 336 U.S. 918 (1949)).
200. Id. at 345, 196 P.2d at 796.
201. Id. at 344, 196 P.2d at 796.
202. Id. at 336-37, 196 P.2d at 791.
203. Id. at 344, 196 P.2d at 791-92.
204. Amador, 22 Cal. 3d at 225, 583 P.2d at 1287, 149 Cal. Rptr. at 245.
205. Id. at 226, 583 P.2d at 1287, 149 Cal. Rptr. at 245.
206. Id. at 225, 583 P.2d at 1287, 149 Cal. Rptr. at 245.
207. Id.
208. CALIFORNIA VOTERS PAMPHLET, supra note 99, at 59; see also CAL. CONST. art. XIII A, § 1.
209. Amador, 22 Cal. 3d at 225, 583 P.2d at 1287, 149 Cal. Rptr. at 245.
close[ed] any intent to undermine or subordinate preexisting constitutional provisions on that subject.” The court also observed that SB 154 did not appear to have the “pernicious character” feared by the opponents to Proposition 13 because property tax allocations were not conditioned on the ultimate use of the monies.

Furthermore, the Amador court concluded that Proposition 13 did not destroy the taxation powers of local governments. It interpreted article XIII A, section 4 as empowering local governments to levy special taxes. The court also noted that a property tax limitation should not be confused with the revocation of the power to tax property. For many decades, the legislature had the power to impose “maximum property tax rates and bonding limits for local governments.” In fact, the legislature had exercised that authority in 1972, when it set maximum property tax rates for local governments. Therefore, Proposition 13 simply required the legislature to impose a more stringent maximum on property tax rates. The court interpreted SB 154 as requiring that “the new one percent maximum tax is to be levied by the counties on behalf of all local agencies and districts.” The court did not conclude that Proposition 13 revoked the power of local governments to collect property taxes. Rather, Proposition 13 simply limited property tax collections by local governments.

Once the Amador court held Proposition 13 was an amendment, it quickly dismissed the claim that Proposition 13 violated the single-subject requirement for ballot initiatives. The court concluded that an initiative does not violate the single-subject requirement “if, despite its varied and collateral effects, all of its parts are ‘reasonably germane’ to each other.” The court held that the four major sections of Proposition 13 were reasonably germane to the purpose of achieving effective property tax relief, without any offsetting increase in other state or local

210. Id.
212. Amador, 22 Cal. 3d at 227, 583 P.2d at 1287, 149 Cal. Rptr. at 245.
213. Id. at 226, 583 P.2d at 1287, 149 Cal. Rptr. at 245.
214. Id.
215. Id. at 225, 583 P.2d at 1287, 149 Cal. Rptr. at 245 (citing CAL. CONST. art. XIII, § 20).
216. Id. at 226, 583 P.2d at 1287, 149 Cal. Rptr. at 245.
217. Id.
218. Id. at 246, 583 P.2d at 1301, 149 Cal. Rptr. at 258 (emphasis added).
219. Id. at 247, 583 P.2d at 1301, 149 Cal. Rptr. at 258.
220. Id. at 232, 583 P.2d at 1292, 149 Cal. Rptr. at 250.
221. Id. at 230, 583 P.2d at 1290, 149 Cal. Rptr. at 248.
In reaching its conclusion, the court did not review the history of tax reform initiatives in California. Neither did it have access to information on the effects of Proposition 13 on the subsequent growth of taxation in California. Nevertheless, that history supports the court's conclusion about the intent of Proposition 13.

B. Other Court Battles

Once the constitutionality of Proposition 13 was determined, litigation turned to the interpretation of specific provisions of Proposition 13 and to challenges of implementation legislation. California courts have applied a standard rule of constitutional construction: If possible, interpret one constitutional provision so that it does not imply the repeal of another.

In Sonoma County Organization of Public Employees v. County of Sonoma, the California Supreme Court declared portions of the implementing legislation of Proposition 13 unconstitutional because it violated the Contracts Clause of the United States Constitution and the California Constitution and it abrogated the home rule powers of cities and counties. The case involved a condition imposed by the legislature on the allocation of state bail-out funds—any local agency receiving state funds could not grant its employees a greater cost-of-living wage or salary increase for FY 1978-79 than received by state employees. The Legislature's stated purpose was to "allow essentially local government services to be maintained at a higher level than would otherwise be the case;" limiting the salaries of local employees was intended to "alleviate the current fiscal crisis created by the passage of Proposition 13." The court held that the legislature permanently impaired the wage contracts between unions and local governments, and the fiscal crisis created by Proposition 13 was an insufficient justification to warrant such a "se-
vere impairment” of contractual rights. The Legislature also violated the home rule provisions of the California Constitution when it interfered with a municipal affair (compensation of employees) over which chartered cities and counties have complete control even to the extent that the provisions of charters prevail over general state law. On both due process and equal protection grounds, the court extended the home rule protections to general law cities and counties that did not generally enjoy the same constitutional autonomy as chartered local governments.

In Board of Supervisors v. Lonergan, the California Supreme Court considered whether the real property tax rate and valuation limitations mandated by Proposition 13 applied to the taxation of the unsecured portion of the assessment roll for FY 1978-79. The issue involved the relation between Proposition 13 and two other provisions of the California Constitution: (1) article XIII, section 2, which states that personal property cannot be taxed at a higher rate than real property; and, (2) article XIII, section 12, which requires that taxes on personal property and possessory interests be levied at the prior year’s tax rate for secured property. The court reasoned that the 1% limit did not apply to the taxation of unsecured property for FY 1978-79; unsecured property would be taxed at the rate levied on secured property during FY 1977-78. The court reasoned that, otherwise, Proposition 13 would have implicitly repealed article XIII, section 12. The court also noted that Proposition 13 did not necessarily imply a conflict with the requirement that unsecured property be taxed at the same rate as secured property.

In State Board of Equalization v. Board of Supervisors, the California Court of Appeal held that Proposition 13 had not repealed article XIII, section 1, which requires uniform rates and assessments. The

231. Id. at 309-12, 591 P.2d at 7-9, 152 Cal. Rptr. at 909-11.
232. CAL. CONST. art. XI, §§ 3-6.
233. Sonoma, 23 Cal. 3d at 315-18, 591 P.2d at 12-13, 152 Cal. Rptr. at 914-15.
234. Id. at 319, 591 P.2d at 14, 152 Cal. Rptr. at 916.
236. Id. at 858, 616 P.2d at 803, 167 Cal. Rptr. at 821.
237. Id. at 859, 616 P.2d at 804, 167 Cal. Rptr. at 822.
238. CAL. CONST. art. XIII, § 2.
239. Id. § 12.
241. Id. at 868, 616 P.2d at 809, 167 Cal. Rptr. at 827.
242. Id.
244. Id. at 822, 164 Cal. Rptr. at 744-45.
court, therefore, invalidated a post-Proposition 13 assessment rule issued by the State Board of Equalization.\textsuperscript{245} The Board of Equalization’s rule had stated that an assessment of a property could not be reduced below its base period assessment, even if the true market value of that property had declined, until that property was subsequently sold.\textsuperscript{246} The Board of Equalization defended its rule by arguing that section 2 of article XIII\textsuperscript{A} had severed that relation between assessed value and market value.\textsuperscript{247} The appellate court rejected the board’s argument.\textsuperscript{248} The court held that Proposition 13 did not repeal, either expressly or by implication, article XIII, section 1 of the California Constitution, requiring property to be taxed in accordance with its “fair market value.”\textsuperscript{249} Proposition 13 had simply redefined the meaning of “fair market value.”\textsuperscript{250} While section 2 of article XIII\textsuperscript{A} placed a ceiling on the growth of assessed valuation, it did not create a floor.\textsuperscript{251} Therefore, assessments must be reduced to reflect declines in market value even before properties are sold.\textsuperscript{252} The court observed, “Article XIII, section 1, and 129 years of historical constitutional principle were left unchanged by the express language of ‘13’.”\textsuperscript{253} The court also dismissed the notion that article XIII, section 1 had been repealed by implication.\textsuperscript{254}

In \textit{Carmon v. Alvord},\textsuperscript{255} the California Supreme Court interpreted Proposition 13 to avoid conflict with the Contracts Clause of the United States Constitution and the California Constitution.\textsuperscript{256} The issue was whether the exemption of property taxes for the payment of voter-approved debt included voter-approved pension plans.\textsuperscript{257} The court held

\begin{footnotes}
\item \textsuperscript{245} \textit{Id.} at 823, 164 Cal. Rptr. at 745.
\item \textsuperscript{246} \textit{Id.} at 817, 164 Cal. Rptr. at 741. The board reasoned that the constitutional amendment approved by the voters on November 8, 1978, requiring reduced assessments to reflect declines in market value, applied prospectively, but not for FY 1978-79. \textit{Board of Equal.}, 105 Cal. App. 3d at 817, 164 Cal. Rptr. at 741; see \textit{CAL. CONST.} art. XIII\textsuperscript{A}.
\item \textsuperscript{247} \textit{Id.} at 818, 164 Cal. Rptr. at 742.
\item \textsuperscript{248} \textit{Id.} at 820, 164 Cal. Rptr. at 743.
\item \textsuperscript{249} \textit{Id.} at 822, 164 Cal. Rptr. at 744-45.
\item \textsuperscript{250} \textit{Id.} at 823, 164 Cal. Rptr. at 745.
\item \textsuperscript{251} \textit{Id.} The court noted that “[a] complete reading of the voters pamphlet fails to reveal how the electorate intended to relinquish the established constitutional guaranty providing for taxation on \textit{fair market value}. They merely voted to limit the increase in the value under certain stated circumstances.” \textit{Id.} at 821-22, 164 Cal. Rptr. at 744.
\item \textsuperscript{252} \textit{Id.} at 825, 164 Cal. Rptr. at 746.
\item \textsuperscript{253} \textit{Id.} at 822, 164 Cal. Rptr. at 744 (emphasis in original).
\item \textsuperscript{254} \textit{Id.} The court also held that the board’s interpretation of Proposition 13 would have been unconstitutional even if voters had not passed the clarifying amendment in November 1978. \textit{Id.} at 823, 164 Cal. Rptr. at 745.
\item \textsuperscript{255} 31 Cal. 3d 318, 644 P.2d 192, 182 Cal. Rptr. 506 (1982).
\item \textsuperscript{256} \textit{Id.} at 333, 644 P.2d at 514, 182 Cal. Rptr. at 200.
\item \textsuperscript{257} \textit{Id.} at 322, 644 P.2d at 508, 182 Cal. Rptr. at 194.
\end{footnotes}
that the debt exemption included pension plans approved prior to Proposition 13, thereby avoiding a constitutional conflict.\footnote{258} In \textit{ITT World Communications, Inc. v. City and County of San Francisco},\footnote{259} the California Supreme Court considered whether the assessment provisions of Proposition 13 applied to public utilities.\footnote{260} Since the 1930s, the State Board of Equalization had assessed utilities as unit property and allocated that assessed value among local jurisdictions which then taxed that property at the same rate as locally assessed property.\footnote{261} The court held that Proposition 13 only applied to locally assessed, and not state-assessed, property.\footnote{262} It reasoned that the assessment limitations in article XIII A, section 2, which effectively prevented annual reassessments, would have otherwise conflicted with the provisions of article XIII, section 19, which requires annual assessment of public utilities.\footnote{263} The court observed:

So strong is the presumption against implied repeal that when a new enactment conflicts with an existing provision, in order for the second law to repeal or supercede the first, the former must constitute a revision of the entire subject, so that the court may say that it was intended to be a substitute for the first.\footnote{264}

The court harmonized the otherwise conflicting sections of the California Constitution by noting that section 2(a) of Proposition 13 only mentioned county-assessed property, not state-assessed property, while article XIII, section 19 only required that state-assessed property be taxed at the same rate as locally assessed property.\footnote{265} The court reconciled its

\footnote{258. \textit{Id.} at 333, 644 P.2d at 514, 182 Cal. Rptr. at 200. Between FY 1978-79 and FY 1982-83, the implementation of Proposition 13 had treated taxes levied for voter-approved pension plans as part of historical property tax revenues. See \textit{CAL. REV. & TAX. CODE} § 97.4 (West 1987); see also Patton v. City of Alameda, 40 Cal. 3d 41, 44, 706 P.2d 1135, 1136-37, 219 Cal. Rptr. 1, 3 (1985). Since those taxes were now exempt from the limit, \textit{Carmon}, 31 Cal. 3d at 322, 644 P.2d at 192, 182 Cal. Rptr. at 306, they should have been excluded from the statutory definition of the historical base. This would have required the statewide reallocation of approximately $1.04 billion of the revenues raised under the 1% tax limit. In response to the decision, the legislature enacted AB 377, which deferred any financial effects from the ruling, and forgave all potential liability for the repayment of improperly allocated property taxes. Act effective July 28, 1983, ch. 491, §§ 2, 5, 1983 Cal. Stat. 1994-95 (codified as amended at \textit{CAL. REV. & TAX. CODE} §§ 97.4-97.6 (West 1987)).}

\footnote{259. 37 Cal. 3d 859, 693 P.2d 811, 210 Cal. Rptr. 226 (1985).}

\footnote{260. \textit{Id.} at 862, 693 P.2d at 814, 210 Cal. Rptr. at 229.}

\footnote{261. \textit{Id.}}

\footnote{262. \textit{Id.} at 866, 693 P.2d at 817, 210 Cal. Rptr. at 232.}

\footnote{263. \textit{Id.}, 210 Cal. Rptr. at 231. See \textit{CAL. CONST. art. XIII A}, § 2; \textit{id.} art. XIII, § 19.}


\footnote{265. \textit{Id.} at 870, 693 P.2d at 820, 210 Cal. Rptr. at 235.}
holding with the Legislative Counsel opinion that Proposition 13's 1% limit applied to state-assessed property.266 The court noted that its analysis agreed with the Counsel's view that section 1(a) applied to state-assessed property, and the Legislative Counsel had not stated that section 2(a) of Proposition 13 applied to state-assessed property.267

The narrow construction of Proposition 13 has been followed in other cases. Though special assessments are levied on real property, they have been held outside the 1% limit.268 Special assessments have also been held exempt from the limitations imposed by article XIII A, section 4.269 This treatment of special assessments illustrates how California courts have consistently avoided reading destruction and annulment of local fiscal powers as the intent or a necessary consequence of voter approval of Proposition 13.

To date, only one decision has expressly addressed challenges to the constitutionality of the apportionment of property taxes. In Marin Hospital District v. Rothman,270 a California appellate court rejected challenges based on a violation of equal protection and impairment of vested tax powers.271 In the case, the Marin Hospital District received no property tax revenues because it did not collect property taxes during FY 1977-78.272 The court held that the "state's local agencies' shortage of funds" provided a sufficiently rational basis for the apportionment of property taxes to satisfy equal protection under the United States Constitution and the California Constitution.273 It also dismissed the claim of impairment of vested tax powers, observing that "local public agencies have no vested right to impose taxes or otherwise to exercise any particular governmental function."274

C. The Lessons

Case law has established three themes for interpreting the intent and consequences of Proposition 13: (1) Proposition 13 should be viewed as a

266. Id. at 868, 693 P.2d at 819, 210 Cal. Rptr. at 233. For a discussion and analysis of the opinion by the Legislative Counsel, see supra notes 102-05 and accompanying text.
267. ITT, 37 Cal. 3d at 868-69, 693 P.2d at 818-19, 210 Cal. Rptr. at 233-34.
271. Id. at 501-02, 188 Cal. Rptr. at 832.
272. Id. at 497, 188 Cal. Rptr. at 829.
273. Rothman, 139 Cal. App. 3d at 501, 188 Cal. Rptr. at 832.
274. Id. (citations omitted) (emphasis in original). For a critical analysis of this conclusion, see infra notes 574-85 and accompanying text.
local property tax limitation, not a major revision of the nature of local government in California;\textsuperscript{275} (2) it should be construed in ways to avoid conflict with other constitutional provisions;\textsuperscript{276} and, (3) it should be construed narrowly in regard to limiting the home rule powers of local governments, including their power over fiscal affairs.\textsuperscript{277}

While a state appellate court has upheld the constitutionality of the apportionment of property tax revenues,\textsuperscript{278} it should not be concluded that implementation legislation is beyond further scrutiny. In \textit{Amador Valley Joint Union High School District v. State Board of Equalization},\textsuperscript{279} the California Supreme Court stressed that it only responded to the issues raised by the petitioners, and expressly left for future litigation other challenges to Proposition 13 or its implementing legislation.\textsuperscript{280} This Article responds to the court's invitation by extending the analysis of apportionment of property taxes after Proposition 13 to include issues not considered in prior cases or commentaries.

\section*{IV. California's Fiscal Constitution}

California's legal traditions do not support the view that the plenary power of the state legislature leaves local governments with few, if any, independent fiscal powers. Local governments find their power to tax property in the California Constitution, not from the state legislature. Local governments may provide and finance local services without undue interference from the state legislature. A review of the economic principles, history, and case law of sections 14 and 24 of article XIII of the California Constitution establishes that many constitutional provisions must be satisfied by the apportionment of property taxes after Proposition 13.


\textsuperscript{277} See, e.g., \textit{ITT}, 37 Cal. 3d at 859, 693 P.2d at 811, 810 Cal. Rptr. at 226; \textit{Sonoma}, 23 Cal. 3d at 296, 591 P.2d at 1, 152 Cal. Rptr. at 903; \textit{Amador}, 22 Cal. 3d at 208, 583 P.2d at 1281, 149 Cal. Rptr. at 239; \textit{Marin Hosp. Dist. v. Rothman}, 139 Cal. App. 3d 495, 188 Cal. Rptr. 828 (1983).

\textsuperscript{278} \textit{Marin Hosp. Dist.}, 139 Cal. App. 3d at 495, 188 Cal. Rptr. at 828.

\textsuperscript{279} 22 Cal. 3d 208, 583 P.2d 1281, 149 Cal. Rptr. 239 (1978).

\textsuperscript{280} \textit{Id.} at 219-20, 583 P.2d at 1283-84, 149 Cal. Rptr. at 241-42.
A. Economic Principles

Economic analysis supports granting local governments substantial autonomy over the provision and the financing of public services.\(^{281}\) Governments may provide many alternative services: police and fire protection, education, social services, parks, street maintenance, traffic control, and different regulations. Public provision of those services may be extensive or modest, supplied by government employees or contract suppliers, and financed by different combinations of taxes and user fees. If local governments are granted independent fiscal powers, they can offer different bundles of services, taxes, and fees. Individuals can select the locality which offers, from their viewpoint, the best combination of government services for the taxes and user fees paid.

This “inter-jurisdictional competition” promotes many principles of good government: individuals have greater freedom of choice than they would under more centralized government; public decisionmaking is held accountable through competition for industry and households; and, individuals who benefit from government programs are held responsible for paying the costs.\(^{282}\)

Voter-approved tax limitations address potential impediments to inter-jurisdictional competition. The effectiveness of competition may be inhibited by moving costs and the presence of non-government, locational advantages of land. In these situations, local governments may spend and tax excessively without risking a significant loss of economic activity.\(^{283}\) Tax limitations prevent local governments from exploiting these rigidities.\(^{284}\) This view explains the focus of Proposition 13: limit local taxation of the most immobile of all assets—property, prohibit the imposition of new property taxes, and make local governments seek direct voter approval for levying special taxes to support the expansion of local government spending.

B. The Fall of Dillon’s Rule

On the surface, the plenary power of state government contradicts

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282. See *Fiscal Federalism*, supra note 281 at 5-12.


284. Id. at 197-201.
the economic principles of local autonomy. State legislatures have wide discretion in designing statutes concerning local government powers, except as limited by the state constitution. 285 This plenary power is exemplified by Dillon's Rule, which states that local governments have only those powers expressly granted, those necessarily or fairly implied as incidental to those powers expressly granted, and those that are essential and indispensable to the declared purposes of the municipality. 286 Historically, this rule has been interpreted as stating that local governments possess few independent powers; their powers only originate from statutes enacted by state legislatures. 287

In California, the plenary power of the Legislature has been severely limited by constitutional restrictions. Local governments have independent, constitutionally protected fiscal powers. 288 The limitations did not originate from abstract reasoning but from bitter experience applying an extreme form of Dillon's Rule in the mid-19th century.

1. The 1849 Constitution: the era of unbridled state plenary powers

When California's first constitution was drafted in 1849, it embodied an extreme form of Dillon's Rule. Local self-government was not viewed as important or desirable because the drafters trusted local government less than state government. 289 As a result, they made it the "duty" of the legislature to restrict the power of cities to tax, borrow, and conduct business, "so as to prevent abuses in assessments and contracting debts" by local governments. 290 Local governments enjoyed few powers independent of those granted by the Legislature. 291

A flood of special legislation imposing obligations on local governments and overriding local decisions followed the adoption of Dillon's Rule. Cities became obligated, among other things, to pay claims to designated individuals, and to issue bonds and to levy taxes for purposes

285. See supra notes 25-26 and accompanying text.
286. O. Reynolds, supra note 25, § 49, at 137. Dillon's Rule was first proposed by Judge John F. Dillon. J. Dillon, The Law of Municipal Corporations § 55 (1st ed. 1872). Although critics have charged that the authorities cited by Dillon do not support his rule, it is often cited even where it is no longer strictly applied. O. Reynolds supra note 25, § 49, at 137.
288. Id. at 135-37.
289. See Peppin, Municipal Home Rule in California I, 30 Calif. L. Rev. 1, 7 (1941) [hereinafter Home Rule I].
291. Home Rule I, supra note 289, at 23.
specified by the Legislature. The Legislature validated ordinances, earlier held illegal under local law, and mandated local projects and local policies even though these policies conflicted with the preferences of local residents and locally elected officials. On the basis of Dillon’s Rule, early California case law upheld these actions against legal challenges.

Despite these early court victories, the prominence of Dillon’s Rule for California law was decreasing by the 1870s. In People v. Lynch, decided in 1875, the California Supreme Court held unconstitutional a legislative act that had instructed the City of Sacramento to improve its streets and to assess taxes for paying the cost of the project. The court cited violations of the state constitution, which it reconstrued to protect local autonomy in fiscal affairs, including the inherent right of local self-government. At the time of drafting California's second Constitution in 1879, “the supreme court had completely abandoned the doctrine of absolute legislative supremacy over municipal corporations . . .”

2. The 1879 Constitution: the emergence of local autonomy

The adoption of the 1879 Constitution quickly overshadowed the evolving case law. Five new sections were adopted limiting the power of the Legislature to interfere with the affairs of municipal corporations, and all have survived to this day: (1) article IV, section 25, prohibiting special legislation and providing for incorporation of cities under general law; (2) article XI, section 8, giving any city the power to have a charter for its own government; (3) article XI, section 11, vesting in cities the power to make and enforce within the limits of their jurisdictions all local, police, sanitary, and other regulations that do not conflict with general law; (4) article XI, section 12, taking from the Legislature the power to impose taxes on cities or their inhabitants or property, for city or municipal purposes; and, (5) article XI, section 13, prohibiting the Legislature from delegating to any special commission, private corporation, company, association, or individual any power to make, control,

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292. Id. at 11-14.
293. Id. at 11, 15-19.
294. See, e.g., People ex rel Blunding v. Burr, 13 Cal. 343 (1859) (upholding state law requiring San Francisco commissioner to issue bonds to pay debt).
295. 51 Cal. 15 (1875).
296. Id. at 16-17.
297. Id. at 31.
298. Home Rule I, supra note 289, at 34.
299. CAL. CONST. art. IV, § 25 (1879) (current version at art. XI, § 2).
300. Id. art. XI, § 3.
301. Id. art. XI, § 7.
302. Id. art. XI, § 12 (current version at art. XIII, § 24).
appropriate, supervise, or in any way interfere with any county, city, or municipal improvement, including the levying of taxes or assessments, or performance of municipal functions.303

Still, not all of these sections significantly protected the autonomy of local government. The provision against special legislation and general laws for organization did not result in a substantial grant of home rule.304 While the third provision was once "widely heralded as a salutary provision guaranteeing home rule,"305 such claims have subsequently been held "largely spurious."306 Additionally, the fifth provision has been generally ineffective and its repeal has been suggested.307 Only the fourth provision has promoted local autonomy.308

The California Constitution’s rejection of Dillon’s Rule warrants scrutiny. As Professor Cohn has concluded, “California stands alone, among home rule states, in the scope of revenue autonomy enjoyed by its cities . . . includ[ing] the power of local taxation, a heartening rejection of the almost universal rule that municipalities have no inherent power of taxation.”309 The high degree of local autonomy originates from sections 14 and 24 of article XIII.310

C. Local Government Power to Tax Property.

Local governments derive their power to tax property from the California Constitution. Unless expressly exempted by the California Constitution or the laws of the United States, all property is taxable.311 This power to tax property is self-executing; statutory authority is not needed.312 Even though most discussions of home rule ignore the tax

303. Id. art. XI, § 11.
306. Id. This assessment is particularly ironic because it was the modern day version of this section that was the focus of debate in Amador Valley Joint Union High School Dist. v. State Bd. of Equal., 22 Cal. 3d 208, 224-27, 583 P.2d 1281, 1287-88, 149 Cal. Rptr. 239, 245-46 (1978); see supra notes 183-216 and accompanying text for a discussion of Amador.
308. Id. at 676.
310. CAL. CONST. art. XIII, §§ 14, 24. Neither of these sections were considered by the California Supreme Court in Amador. 22 Cal. 3d 308, 583 P.2d 1281, 149 Cal. Rptr. 239.
311. CAL. CONST. art. XIII, § 1.
312. Bauer-Schweitzer Malting Co. v. City and County of San Francisco, 8 Cal. 3d 942,
situs provision of the California Constitution, its history has established the division of property tax powers between state and local governments.

The tax situs provision states that "[a]ll property . . . shall be assessed in the county, city . . . or district in which it is situated." Constitutional history and case law establish that tax situs recognizes the power of local governments to tax real, personal, and state-assessed property. In addition, it conforms with the rule that "the basic limit on municipal use of the property tax is territoriality—i.e. a local government can only tax property within its boundaries."

1. Constitutional history

Tax situs dates from the 1849 Constitution when landowners in southern California demanded its inclusion to restrain the property tax powers of state government. Those landowners feared that, without the restriction, politically powerful interests in northern California would tax their property to finance out-of-county expenditures. Under the 1849 Constitution, the legislature imposed a general property tax for state purposes, and local governments levied their own property tax for local purposes. County officials assessed property for both state and local property taxation. Their assessment practices became the source of substantial political conflict about whether property was uniformly assessed statewide. The primary concern was that local assessors under-assessed property to reduce the state property tax burden paid by local


313. See, e.g., E. McQuillin, supra note 26, §§ 3.00-.40, at 3-5 to 3-21; see also CAL. CONST. art. XIII, § 14.

314. E. McQuillin, supra note 26, § 3.08, at 3-27.


316. E. McQuillin, supra note 26, § 44.87, at 303, § 44.07, at 26-27; Cohn, supra note 309, at 42-43.

317. O. Reynolds, supra note 25, § 96, at 293 (emphasis added and footnote omitted); see also E. McQuillin, supra note 26, § 44.86, at 302 (while property within city can be taxed for city purposes, no authority exists to levy tax on properties situated beyond corporate limits); id. § 44.87, at 303 (place where property is taxable is generally place where property is situated, irrespective of residence of owner); 4 C. Sands & M. Libonti, LOCAL GOVERNMENT LAW § 23.09, at 23-24 (1982) (local governments cannot tax real property beyond boundaries of municipality absent express grant of extra territorial taxing power).

318. J. Gould, THE CALIFORNIA TAX SYSTEM: CALIFORNIA REVENUE AND TAXATION CODE (SECTIONS 1 TO 6000) 8 (West 1956).

319. Id.

320. CAL. CONST. art. XI, § 13 (1849, repealed 1879).


322. Id.
Despite this dispute, tax situs effectively restrained the power of the legislature to dictate local property tax policy. Moreover, one year before the California Supreme Court decided *People v. Lynch,* the court declared unconstitutional a statute which had authorized the State Board of Equalization to alter locally assessed property values. The court's reasoning was that the statute had implicitly vested a tax power in a state government agency which tax situs had vested in local assessors. Tax situs protected local government property tax powers.

Disputes over assessment practices continued for the next thirty years. A 1905 commission on revenue and taxation concluded that the general property tax system in California was antiquated. The incentives for local assessors to understate property values had made a mockery of state fiscal arrangements. To solve the problem, the Commission recommended a "Separations Agreement," which contained three features: (1) the general property tax is abandoned as a source of revenue for state government; (2) counties and cities have a generally exclusive right to impose property taxes for local purposes; and, (3) state government generally has an exclusive right to derive revenue from corporate franchises, banks, public utilities, railroads and the like. In 1910, California voters approved two constitutional amendments which effectively implemented the Separations Agreement. Article XIII, section 10 stated, "All property, except as otherwise in this Constitution provided, shall be assessed in the county, city, city and county, town or township, or district in which it is situated, in the manner prescribed by law." In the same election, the voters also approved article XIII, section 14, which gave state government the exclusive power to tax the enti-

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323. *Id.* at 12.
324. See generally, *Home Rule I,* supra note 289; *Home Rule II,* supra note 304; *Home Rule III,* supra note 305; *Home Rule IV,* supra note 307. No instance of state interference with local property taxation is contained in Peppin's extensive recitation of successful intrusion by the legislature into local affairs during the heyday of Dillon's Rule in California.
325. 51 Cal. 15 (1875).
326. Houghton v. Austin, 47 Cal. 646 (1874).
327. *Lynch,* 51 Cal. at 23-24; *see also Houghton,* 47 Cal. at 664-65 (right to fix tax rates cannot be delegated to State Board of Equalization); J. Gould, *supra* note 318, at 13.
328. *Lynch,* 51 Cal. at 24; *Houghton,* 47 Cal. at 660.
331. *Id.* at 19.
333. *Id.*
ties mentioned in the third part of the Separations Agreement.\textsuperscript{334} This was achieved through a gross receipts tax.\textsuperscript{335}

For almost a quarter of a century, the state abandoned the entire field of property taxation, including the valuation of properties for the purpose of establishing assessed values.\textsuperscript{336} In 1933, the legislature approved the Riley-Stewart Plan,\textsuperscript{337} which abandoned the Separations Agreement.\textsuperscript{338} Public utilities, exempted from property taxation by the original Separations Agreement, now became subject to property taxation to the same extent and in the same manner as other property.\textsuperscript{339} The State Board of Equalization would now assess public utilities as state-assessed properties.\textsuperscript{340} The Board then transmits to local taxing jurisdictions an assessment roll showing the value of public utility property located within their jurisdiction.\textsuperscript{341} Utility property so assessed was subject to taxation locally at the rates fixed for taxation of property in the respective taxing jurisdictions.\textsuperscript{342}

The wording of the tax situs provision of the California Constitution was unchanged until the 1974 election when voters approved the current version.\textsuperscript{343} The 1974 amendment dropped two clauses: "except as otherwise in this Constitution provided," and "in the manner prescribed by law."\textsuperscript{344} The Attorney General's ballot summary of the 1974 amendment viewed the wording changes as minor, with no expressed or implied intent to change the conduct of actual fiscal affairs in California.\textsuperscript{345}

2. Judicial interpretations

Courts have used tax situs to decide which local governments may tax specific properties.\textsuperscript{346} The reasoning used in these cases illustrates how the economic principles of fiscal autonomy have guided California
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courts for over a century. The disputes have involved the situs of personal property or state-assessed property for the purpose of taxation.\(^{347}\)

Shortly after the 1879 Constitution was adopted, the California Supreme Court decided *City of San Francisco v. Charles Lux Executors*.\(^{348}\) The court used tax situs to determine which county could assess the bank deposits of an estate located in San Mateo County after the executor moved the funds to San Francisco County.\(^{349}\) The court used the decedent's place of residence, as opposed to place of the funds' deposit, to allow taxation by San Mateo County, thereby preventing taxation by San Francisco County.\(^{350}\)

Twenty years later, in *San Francisco & San Mateo Electric Railway Co. v. Scott*,\(^{351}\) the California Supreme Court addressed the issue of whether street railroad property was properly assessed by the State Board of Equalization or county governments.\(^{352}\) Under the California Constitution at the time, local governments taxed locally assessed property within their jurisdictions and state-assessed property apportioned among local jurisdictions on the basis of track mileage.\(^{353}\) Therefore, locally assessed property was exclusively within the tax base of the local governments where the property was situated. Whereas, state-assessed property was included in the apportionment of all "unitary" property among the tax bases of local governments throughout the state where the railroad had trackage.\(^{354}\)

The issue confronted by the court was whether "railroads," as envisioned by the California Constitution, included "street railroads."\(^{355}\) Reasoning that street railroads were not railroads, the court concluded that the property in question was locally assessed and, therefore, taxable only by the local governments where the street railroads were situated.\(^{356}\)

In a classic statement of the theory of tax situs, the court observed:

It is plainly the general policy of the law that property situated

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\(^{347}\) See, e.g., *Stockton*, 149 Cal. at 83, 84 P. at 771; *San Joaquin Co.*, 148 Cal. at 313, 83 P. at 54; *Scott*, 142 Cal. at 222, 75 P. at 575; *Charles Lux*, 64 Cal. at 481, 2 P. at 254.

\(^{348}\) 64 Cal. 481, 2 P. 254 (1884).

\(^{349}\) *Id.* at 482, 485, 2 P. at 254-57.

\(^{350}\) *Id.* at 485, 2 P. at 256.

\(^{351}\) 142 Cal. 222, 75 P. 575 (1904).

\(^{352}\) *Id.* at 223, 75 P. at 575.

\(^{353}\) CAL. CONST. art. XIII, § 10 (1879, repealed 1974); *see also* Bertane, supra note 340, at 422.

\(^{354}\) Bertane, supra note 340, at 423.

\(^{355}\) *Scott*, 142 Cal. at 225, 75 P. at 580.

\(^{356}\) *Id.* at 228-29, 75 P. at 580-81.
in one county or city should be taxable in that county or city for *local purposes* . . . and that local subdivision alone should have the benefit of this value for the purpose of raising its revenue. This, indeed, is the basis of all local taxation . . . the property which receives the benefit of local government shall pay its proportion of the expenses thereof, apportioned according to actual value. It would be a very *anomalous* condition of affairs, therefore, if a franchise granted by one municipality, and entirely local to that municipality, should be assessed by a system which would permit a part of its value to be taken from the assessment of the municipality in which it is situated and transferred to another municipality . . . .357

The California Supreme Court relied on this interpretation of tax situs again in *San Francisco & San Joaquin Valley Railway v. City of Stockton*,358 when it upheld Stockton’s power to tax a local railway company.359 The court observed that unless explicitly enumerated in the constitution, property “must be assessed by the assessor of the district where situated, in the same manner as other property.”360 The court reasoned:

[T]he only property in the state excepted from the local assessment required by the constitution is that portion of the property of railroads operated in more than one county . . . and this . . . is not an exception to the general policy that *the local subdivision wherein property is situated, shall have the benefit of the value thereof for the purpose of raising its revenue.*361

This interpretation constrains the Legislature because it “could not,” the court noted, “make assessable by the state board that which the constitution required to be assessed locally.”362 The California Constitution determines the property to be taxed by local governments, not the state legislature.363

The interpretation of tax situs used in the railway cases has also

357. *Id.* at 229, 75 P. at 581 (emphasis added).
358. 149 Cal. 83, 84 P. 771 (1906).
359. *Id.* at 88-89, 84 P. at 773-74.
360. *Id.* at 87, 84 P. at 773.
361. *Id.* at 89, 84 P. at 774 (emphasis added).
362. *Id.* at 88, 84 P. at 773.
363. *Id.* at 85-86, 84 P. at 772. This reasoning followed an earlier decision of the court, *San Francisco v. Central Pac. R.R.*, 63 Cal. 467 (1883), and a decision of the United States Supreme Court, *California v. Central Pac. R.R.*, 127 U.S. 1 (1888) (state law requiring steamers used by railroad companies to transport passengers to be state-assessed rather than locally-assessed held unconstitutional).
been used to resolve other property tax disputes. In *Stockton Gas & Electric Co. v. San Joaquin Co.*, the California Supreme Court considered which county could assess and tax the franchise held by Stockton Gas. The company's operations were located in the City of Stockton, but the company was incorporated in San Francisco. The court held that "the franchise can be assessed for the purposes of taxation only in the county where it is situated." The court reasoned that tax situs recognizes "one of the fundamental principles of taxation, that property situated in a city and county should be taxed there for the purpose of revenue; that the property which has had the protection and benefit of municipal government shall pay its share of the expenses required to insure these advantages . . . ." Stockton Gas was to be taxed exclusively by the City of Stockton, not San Francisco.

In *Temescal Water Co. v. Niemann*, an appellate court affirmed the taxation of Temescal's property by the City of Elsinore, where the property was located, against a claim that the company should be taxed solely by Riverside County and the City of Corona, where the water company operated. The court reasoned:

> It is conceded, and indeed that matter is not subject of question, that a municipality has the right to assess all real property found within its limits for the purpose of maintaining the municipal revenues, and that county taxing officials have the right to levy upon the same property for county purposes.

In reaching its decision, the court relied on the explanation for tax situs found in the California Supreme Court's decision in *Scott*. Tax situs has also determined which local governments within a county may tax property. In *Kern Valley Water Co. v. County of Kern*, the plaintiff challenged the validity of its property tax obligation

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364. 148 Cal. 313, 83 P. 54 (1905).
365. *Id.* at 316, 83 P. at 55.
366. *Id.* at 314, 83 P. at 54.
367. *Id.* at 322, 83 P. at 58.
368. *Id.*
369. *Id.* at 321-22, 83 P. at 57-58; see also *Cox Cable San Diego, Inc. v. San Diego County*, 158 Cal. App. 3d 368, 386, 229 Cal. Rptr. 839, 849-50 (1986) (relying on explanation of tax situs in *Stockton Gas* to conclude that possessory interest of cable television company was properly assessable by county assessor).
371. *Id.* at 178-79, 133 P. at 994.
372. *Id.* at 176, 133 P. 993.
373. *Id.* (citing *San Francisco & San Mateo Ry. Co. v. Scott*, 142 Cal. 222, 75 P. 575 (1904)); see *supra* notes 351-57 and accompanying text for a discussion of *Scott*.
374. 137 Cal. 511, 70 P. 476 (1902).
because its tax bill did not show which school and road districts had taxed its property.\textsuperscript{375} The dispute arose because the water company had canals and ditches that ran throughout the county and across the boundaries of many school and road districts.\textsuperscript{376} The California Supreme Court held that the canals and ditches must be separately assessed by each school and road district so that property taxes would be collected only by the districts in which the property was situated.\textsuperscript{377} The court observed that "any other view would not be in harmony with the constitution."\textsuperscript{378}

The California Supreme Court applied the same rule eleven years later in \textit{Kern River Co. v. County of Los Angeles}.\textsuperscript{379} The plaintiff was a corporation engaged in the production and transmission of power from its plant in Kern County to a transforming station located in the City of Los Angeles, but owned by another corporation.\textsuperscript{380} The dispute concerned the method used by the Los Angeles County Assessor to apportion Kern River's property among school districts.\textsuperscript{381} The apportionment formula created a tax obligation to the Delsur School District, even though the plaintiff's lines did not extend over a public right-of-way in that district.\textsuperscript{382} The court held that the assessment formula was not accurate enough for constitutional purposes because it allocated monies to Delsur School District even though, under tax situs, it was not entitled to any tax monies.\textsuperscript{383} As with its decision in \textit{Kern Valley Water},\textsuperscript{384} merely keeping monies in the "right county" did not pass constitutional muster.

Tax situs has also been used to construe local assessment tax powers broadly and state assessment powers narrowly. In \textit{Atchison, Topeka & Santa Fe Railroad v. County of Los Angeles},\textsuperscript{385} the California Supreme Court upheld local assessment of a portion of the railroad's property not directly related to its right-of-way.\textsuperscript{386} The plaintiff argued that this property should be state-assessed.\textsuperscript{387} The court disagreed, stating: "the ques-
tion as to which is the proper body or person to assess depends *entirely*
upon the language of the constitution; that the assessment by the [State]
[B]oard of [E]qualization is an exception to the general rule requiring all
property to be assessed locally."\textsuperscript{388} In effect, local assessment is
presumed unless the constitution expressly states otherwise.

In *Story v. Richardson*,\textsuperscript{389} the California Supreme Court again
decided in favor of local taxation. The plaintiff owned an office building in
Los Angeles County.\textsuperscript{390} Boilers and other equipment in his building
were used to supply tenants with electricity and hot water.\textsuperscript{391} He also
sold power to tenants in an adjacent building.\textsuperscript{392} The State Board of
Equalization levied a tax on the plaintiff and claimed jurisdiction under
then article XIII, section 14 of the state constitution, the provision em-
powering the Board to tax sales of electricity and steam.\textsuperscript{393} The plaintiff
argued that section 14 only gave the Board the power to tax companies
which operated as public utilities, and not to tax entities which supplied
services also provided by public utilities.\textsuperscript{394} The court agreed with the
plaintiff.\textsuperscript{395} Since his business was not a public utility, the court rea-
soned, the plaintiff's activities were outside the tax powers of the
Board.\textsuperscript{396} The court effectively applied a narrow definition of what con-
stitutes a public utility. Accordingly, the court's holding is consistent
with the general rule in California—unless expressly stated otherwise in
the constitution, assessment and property tax powers are reserved to lo-
cal governments.

More recently, in *Zantop Air Transport, Inc. v. County of San Ber-
nardino*,\textsuperscript{397} an appellate court held that airplane property could be lo-
cally assessed for the purpose of local taxation.\textsuperscript{398} The court rejected the
argument that airplanes were exempt from taxation because they were
not mentioned in the California Constitution.\textsuperscript{399} The court stated that
"the fact that section 14, article XIII of the Constitution providing for
the centralized assessment of railroad, utility, and certain other types of

\textsuperscript{388} *Id.* at 441, 111 P. at 251 (emphasis added).
\textsuperscript{389} 186 Cal. 162, 198 P. 1057 (1921).
\textsuperscript{390} *Id.* at 163, 198 P. at 1058.
\textsuperscript{391} *Id.* at 163-64, 198 P. at 1058.
\textsuperscript{392} *Id.* at 164, 198 P. at 1058.
\textsuperscript{393} *Id.*; see CAL. CONST. art. XIII, § 14.
\textsuperscript{394} *Story*, 186 Cal. at 165, 198 P. at 1059.
\textsuperscript{395} *Id.* at 166, 198 P. at 1060.
\textsuperscript{396} *Id.* at 166-67, 198 P. at 1060. The California Supreme Court applied identical reason-
ing 17 years later in *Cadahy Packing Co. v. Johnson*, 12 Cal. 2d 583, 86 P.2d 348 (1939).
\textsuperscript{397} 246 Cal. App. 2d 433, 54 Cal. Rptr. 813 (1966).
\textsuperscript{398} *Id.* at 438, 54 Cal. Rptr. at 816.
\textsuperscript{399} *Id.* at 437, 54 Cal. Rptr. at 816.
property fails to include aircraft cannot be taken as an intention to exempt such property from taxation. Instead, the court applied the theory of tax situs to allow local assessment and taxation of the airplanes. As in the earlier “private” utility cases, the Zantop court presumed local governments had the power to tax property unless the California Constitution expressly stated otherwise.

In Smith-Rice Heavy Lifts, Inc. v. County of Los Angeles, an appellate court used tax situs to decide which county should tax barges documented in San Francisco County but operated and permanently situated in Los Angeles County. In holding that the County of Los Angeles had the power to tax the barges, the court observed “[w]here property is situated exclusively within one taxing authority, in this instance a county, article XIII, section 10 (tax situs), requires that it be assessed only in that county from which it derives benefits and not in another county from which it receives no benefits.”

D. Local Taxes for Local Purposes: Fiscal Home Rule

Most discussions of home rule also ignore article XIII, section 24, even though, like tax situs, it establishes fiscal home rule powers of local governments. The section now reads: “The Legislature may not impose taxes for local purposes but may authorize local governments to impose them.” The amendment history and case law of this section indicate that it has also restricted the plenary power of the legislature in regard to the fiscal affairs of local governments.

This fiscal home rule provision was originally added to the 1879 California Constitution as article XI, section 12. That section was part of the repudiation of unbridled plenary power of the legislature over the policies of local governments. As adopted in 1879, it stated:

The Legislature shall have no power to impose taxes upon counties, cities, towns, or other public or municipal corporations, or upon the inhabitants or property thereof, for county, city, town, or other municipal purposes, but may, by general laws, vest in the corporate authorities thereof the power to as-

400. Id.
401. Id.
402. See, e.g., Story, 186 Cal. at 162, 198 P. at 1057.
403. Zantop, 246 Cal. App. 2d at 437, 54 Cal. Rptr. at 816.
404. 256 Cal. App. 2d 190, 63 Cal. Rptr. 841 (1967).
405. Id. at 200-01, 63 Cal. Rptr. at 847-48.
406. Id. at 200, 63 Cal. Rptr. at 847-48 (citing CAL. CONST. art. XIII, § 10).
408. See supra notes 299-308 and accompanying text.
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sessed and collect taxes for such purposes.\textsuperscript{409}

Compared to tax situs, the amendment history for fiscal home rule is uneventful. Within the past two decades, its language has been shortened without any obvious intent to change its meaning. Its place in the California Constitution was transferred from article XI, section 12, where it appeared with other home rule sections, to article XIII, section 24, joining the other sections on taxation. Fiscal home rule has been consistently interpreted as protecting autonomy in local fiscal affairs. When combined with the other home rule provisions considered by the California Supreme Court in \textit{Amador Valley Joint Union High School District v. State Board of Equalization},\textsuperscript{410} section 24 suggests that a "reverse Dillon's Rule" applies for taxation by chartered counties and cities.

1. Fiscal home rule for all local governments

Case law has resolved many controversies surrounding the interpretation of fiscal home rule. Cases have defined what it means for the Legislature to impose, rather than simply authorize, a local tax.\textsuperscript{411} Cases have also defined what constitutes a municipal purpose.\textsuperscript{412} Furthermore, case law has decided the extent to which local authorities are vested with the power to tax.\textsuperscript{413}

In \textit{People v. Martin},\textsuperscript{414} the California Supreme Court considered the implications of the recently adopted article XI, section 12. The case involved a state statute enacted before the 1879 Constitution was adopted, which provided for a license tax on businesses and occupations to be collected by the tax collector of each county, who was obligated to place the proceeds of the tax in the county's general fund.\textsuperscript{415} The court held

\begin{itemize}
  \item \textsuperscript{409} CAL. CONST. art. XI, § 12 (1879, amended 1933).
  \item \textsuperscript{410} 22 Cal. 3d 208, 583 P.2d 1281, 149 Cal. Rptr. 239 (1978). See supra notes 190-223 and accompanying text for a discussion of Amador.
  \item \textsuperscript{411} See McCabe v. Carpenter, 102 Cal. 469, 36 P. 836 (1897) (procedure mandating how local authorities compute tax resulted in imposition of tax by Legislature rather than local authorities).
  \item \textsuperscript{412} See San Francisco v. Liverpool & London & Globe Ins. Co., 74 Cal. 113, 15 P. 380 (1887) (tax levied for firefighters relief fund constituted municipal purpose where fire departments are subject to local control).
  \item \textsuperscript{413} See West Coast Advertising Co. v. City & County of San Francisco, 14 Cal. 2d 516, 522, 95 P.2d 138, 142 (1939) ("[Any] power not expressly forbidden may be exercised by the municipality, and any limitations upon its exercise are those only which have been specified in the charter."); People v. Martin, 60 Cal. 153 (1882) (state constitution vests power to tax for local purpose exclusively in local authorities).
  \item \textsuperscript{414} 60 Cal. 153 (1882).
  \item \textsuperscript{415} CAL. POLITICAL CODE § 3360, \textit{repealed by} Act of May 16, 1939, ch. 154, 1939 Cal. Stat. 1274.
\end{itemize}
the statute unconstitutional.\textsuperscript{416} It observed that section 12 took "the power to impose such taxes from the Legislature and vest[ed] it in the local authorities, [and] is but another of the many evidences to be found in the new [1879] Constitution of the intention to bring matters of local concern home to the people."\textsuperscript{417} Notwithstanding the common belief that county governments are political subdivisions of the state with no vested powers, and thereby under the sole control of the Legislature, this decision established that fiscal home rule applied to county governments. The \textit{Martin} holding was sensible because counties were expressly mentioned in section 12.

The California Supreme Court applied the same rule five years later in \textit{San Francisco v. Liverpool & London & Globe Insurance Co.}\textsuperscript{418} The state statute under review required agents of foreign insurance companies to pay county treasurers a portion of the premiums issued within each county.\textsuperscript{419} The statute further required that those funds be dedicated to a county fireman fund.\textsuperscript{420} The court held the statute unconstitutional because it was enacted for a municipal purpose.\textsuperscript{421} The court reasoned that "the purpose of [article XI, section 12] is to relegate to the local boards the whole subject of county and municipal taxes for local purposes, and that the legislature has no power to impose any tax whatever within those territories for local purposes."\textsuperscript{422}

The California Supreme Court has consistently applied article XI, section 12 to protect the tax powers of county governments. In \textit{Fatjo v. Pfister},\textsuperscript{423} the court held invalid a state statute which required placing the revenues collected from court filing fees into the general fund of county governments.\textsuperscript{424} The court held that the law violated article XI, section 12 by imposing a local tax for a local purpose.\textsuperscript{425}

While case law established that section 12 prohibited the legislature from imposing a local tax for local purposes, that section nevertheless empowered the Legislature to authorize local governments to impose their own taxes. What is the dividing line between imposing a tax, which

\textsuperscript{416} \textit{Martin}, 60 Cal. at 155-56.
\textsuperscript{417} \textit{Id.} at 156.
\textsuperscript{418} 74 Cal. 113, 15 P. 380 (1887).
\textsuperscript{419} \textit{Id.} at 117, 15 P. at 381.
\textsuperscript{420} \textit{Id.}
\textsuperscript{421} \textit{Id.} at 124, 15 P. at 384.
\textsuperscript{422} \textit{Id.}
\textsuperscript{423} 117 Cal. 83, 48 P. 1012 (1897).
\textsuperscript{425} \textit{Fatjo}, 117 Cal. at 86, 48 P. at 1013.
only local governments could do, and authorizing a tax, which the Legislature could do?

The court provided the answer in McCabe v. Carpenter. The case reviewed a state statute which involved taxes levied in counties and cities but "estimated" by the county superintendent of schools. The court held the statute unconstitutional because the cities and counties only performed a ministerial function. The court observed that "if the legislature cannot impose a tax upon the property or inhabitants of a school district, it would seem to follow, that it cannot prescribe a procedure through which such tax would inevitably be levied without leaving some discretion in regard to it to the local authorities." Therefore, the Legislature unconstitutionally imposes a tax if it leaves no discretion for local authorities to determine the magnitude of the tax. The court showed concern with the substance of local control over taxation, not its form.

To address what constitutes a municipal purpose, courts have applied reasoning that illustrates a close affinity between the theory of tax situs and fiscal home rule. In Hughes v. Ewing, the court reviewed a controversy over a voter-approved tax to build a new school house. Before levying the approved tax and building the school house, the school district changed its boundaries to exclude a portion of the people who had voted for the new tax. The question was whether those people were still subject to the tax they had approved even though they lived outside the district to be benefited by the new school house. Basing its decision on article XI, section 12, the court held that they were not subject to the tax. It observed that "the property upon which the supervisors should have levied the tax is only such property as, at the time when the tax is levied, was within the boundaries of this corporation." The court further stated that "it would be difficult, upon principle, to uphold the validity of a tax upon property which is without the district to be benefited by the expenditure of the money so to be raised. The theory

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426. 102 Cal. 469, 36 P. 837 (1894).
429. Id. at 471, 36 P. at 837.
430. See Home Rule IV, supra note 307, at 653 (citing McCabe v. Carpenter, 102 Cal. 469, 471, 36 P. 837, 837 (1894)).
431. 93 Cal. 414, 28 P. 1067 (1892).
432. Id. at 417, 28 P. at 1067.
433. Id.
434. Id.
435. Id. at 419-20, 28 P. at 1068.
436. Id. at 419, 28 P. at 1068.
upon which the power of taxation is authorized is the benefit to the taxpayer." The court effectively defined a municipal purpose as one which benefits the residents within the jurisdiction of the local government.

The California Supreme Court applied the same theory half a century later in *Rancho Santa Anita, Inc. v. City of Arcadia*. The plaintiff disputed the city's collection of taxes to finance bond interest and sinking funds. The plaintiff asserted that the city should levy taxes each year only to the extent necessary to cover that fiscal year's principal and interest obligations. The court upheld the financial practice, stating that the issue was whether, under the meaning of section 12, the monies accumulated in the challenged sinking funds constituted a municipal purpose. The use of the funds did constitute a municipal purpose because it financed the provision of future services to the city's residents. Whether funds are expended within the jurisdiction's boundaries determines what constitutes a municipal purpose.

While section 12 offers substantial fiscal home rule discretion to local governments, it is well established that it does not vest local governments with general tax powers. The Legislature's authority to vest tax powers in local governments must be derived from general laws. While the Legislature is under no duty to vest any tax powers, legislative authorization applies to local taxes other than property taxes, such as license taxes and fees. Local governments can find their property tax powers under sections 1 and 14 of article XIII.

2. Fiscal home rule for chartered cities and counties

It would be mistaken to conclude that chartered cities and counties have no vested tax powers other than property taxation. Since 1896, the California Constitution has exempted chartered cities and counties from general state laws in the case of "municipal affairs." Early cases held

437. *Id.*
438. 20 Cal. 2d. 319, 125 P.2d 475 (1942).
439. *Id.* at 324, 125 P.2d at 477.
440. *Id.* at 325, 125 P.2d at 478.
441. *Id.* at 326, 125 P.2d at 482.
442. *Id.* at 323, 125 P.2d at 477.
443. *Id.* at 326, 125 P.2d at 479.
444. See *Home Rule IV*, supra note 307, at 667-68.
447. *Id.*
that revenue powers are to be construed as protected municipal affairs. Subsequent amendments, such as in 1914, have strengthened the independent powers granted chartered local governments. As for property taxation in general, a reverse Dillon's Rule applies—chartered local governments, not the legislature, enjoy plenary tax powers in municipal affairs. Although this conclusion conflicts with the standard perception that local governments enjoy little independent power, it has substantial support from California case law.

In West Coast Advertising Co. v. City and County of San Francisco, the California Supreme Court overturned a lower court ruling that had invalidated a license tax imposed by the City and County of San Francisco. The issue was whether the city had the power to levy the license tax, even though neither the city charter nor the Legislature had explicitly empowered the city to impose the tax. The court concluded that the city had the power. In response to the argument that the absence of a charter provision made the local tax invalid, the court stated:

a charter is no longer a grant of powers, but is rather an instrument which accepts the privilege granted by Constitution of complete autonomous rule with respect to municipal affairs, and which otherwise serves merely to specify the limitations and restrictions upon the exercise of the powers so granted and

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449. See, e.g., Ex parte Braun, 141 Cal. 204, 210, 74 P. 780, 782 (1903) ("when the power to impose taxes is conferred upon a municipality to enable it to raise money essential for the purposes for which it was created, that power necessarily becomes a municipal affair.").

450. Calif. Const. art. XI, § 5 (city empowered "to make and enforce all laws and regulations in respect to municipal affairs ")

451. See generally E. McQuillan, supra note 26, § 44.10, at 35 (California Constitution permits municipalities to frame and adopt their own charters to levy taxes without any delegation of power from Legislature); C. Antieau, supra note 26, § 3.03, at 3-16 (California Constitution provides that city charter may permit exercise of all powers not expressly limited by charter, state constitution or federal laws); id. § 3.06, at 3-24 ("California courts have continued to look upon home rule charters as limitations upon power, not as grants of power. Where power over municipal affairs is involved, the old doctrine of strict construction of municipal power is completely inapplicable."); id. § 3.30, at 3-93 ("whether a home rule city has power to tax in [California] should depend upon the state constitution and municipal charter or ordinances, rather than upon acts of the state legislature"); id. § 21.05, at 21-14 (constitutional home rule provisions in California are deemed directly conferred upon municipal corporations' power of taxation for municipal affairs and purposes); id. § 31A.00, at 31-A3 (chartered county governments in California enjoy same home rule powers as city governments); id. § 31A.06, at 31A-10 to -12 (California Legislature is forbidden to legislate with respect to local municipal affairs in manners contrary to existing local law).

452. 14 Cal. 2d 516, 95 P.2d 138 (1939).

453. Id. at 526, 95 P.2d at 144.

454. Id. at 518, 95 P.2d at 140-41.

455. Id. at 522, 95 P.2d at 142.
In response to the theory that the tax was invalid because the Legislature had not empowered the city to levy the tax, the court observed:

The power of cities . . . to raise money by taxation for municipal purposes does not find its source in any grant by the Legislature. There is no enactment of the legislature purporting to vest such authority in such cities. Such power has been directly granted by the people of the state by the provisions of the state Constitution.\[*457*

Similarly, in *Franklin v. Peterson*,\[*458*\] an appellate court upheld a license tax levied by the City of Los Angeles.\[*459*\] The court noted that in 1914, the requirement that the state must specifically grant powers to a municipality was eliminated.\[*460*\] The court’s ruling indicated that taxation for municipal purposes was to be regarded as a municipal affair whose power stemmed from the Constitution, not a statute.\[*461*\]

As the explicit language of the Constitution suggests,\[*462*\] the plenary power of chartered local governments applies solely to municipal affairs.\[*463*\] The Legislature can preempt local policy in the arena of statewide affairs. In *Agnew v. City of Los Angeles*,\[*464*\] the California Supreme Court held that the state had occupied the field of licensing electrical contractors.\[*465*\] Therefore, a state statute could preempt a conflicting Los Angeles ordinance without violating the inherent powers which Los Angeles enjoyed as a chartered city.\[*466*\] An appellate court followed this rule in *Century Plaza Hotel Co. v. City of Los Angeles*,\[*467*\] by holding that the state had preempted alcohol beverage taxation when it discharged its constitutional duty to regulate alcoholic beverages, and by its adoption of the *Bradley-Burns Uniform Sales and Use Tax Law*.\[*468*\]

The final exception to local plenary powers over municipal affairs

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456. *Id.*
457. *Id.* at 524, 95 P.2d at 143-44.
459. *Id.* at 734, 197 P.2d at 792.
460. *Id.* at 732-33, 197 P.2d at 791.
461. *Id.* The California Supreme Court has also used this theory. See *Weekes v. City of Oakland*, 21 Cal. 3d 386, 579 P.2d 449, 146 Cal. Rptr. 558 (1978); *Ainsworth v. Bryant*, 34 Cal. 2d 465, 211 P.2d 564 (1949).
462. CAL. CONSTR. art. XI, § 5.
463. *Id.*
465. *Id.* at 6, 330 P.2d at 388.
466. *Id.* at 7, 330 P.2d at 388.
468. *Id.* at 624, 87 Cal. Rptr. at 171.
occurs if a local practice conflicts with the California Constitution. In Todd Shipyards Corp. v. City of Los Angeles, an appellate court held that the city had to pay interest on wrongfully collected back-taxes, even though a local ordinance stated otherwise. While the court acknowledged the city's plenary powers over municipal affairs as a chartered city, it noted that city policy conflicted with article XIII, section 32 of the California Constitution. Despite their autonomy, chartered cities could not adopt provisions or ordinances inconsistent with the California Constitution.

E. The Lessons for the Implementation of Proposition 13

California constitutional history and case law reject the view that local governments possess few, if any, independent tax powers. California's fiscal constitution has embraced the economic principles of local fiscal autonomy. Article XIII, section 1 bestows local governments with the power to tax property. Tax situs requires that local governments only collect property taxes from the properties within their jurisdictions. The California Constitution also prohibits the legislature from levying local taxes for local purposes. In striking a balance between the power of local governments to tax property and the state legislature's power to make policy, the fiscal constitution in California is closer to the reverse of Dillon's Rule than it is to the standard perception that the Legislature enjoys plenary powers over local governments. The remarkable feature about the legislative implementation of Proposition 13 is that it apportioned property tax revenues without conforming with any of these fiscal principles.

V. THE EROSION OF THE FISCAL CONSTITUTION

Existing law violates tax situs and tax uniformity. Tax situs was violated when SB 154 based the apportionment of property tax revenues on historical collection of property taxes. Tax uniformity was violated when AB 8 allocated the growth in property taxes on the basis of tax allocations in prior fiscal years. Both violations significantly affect taxpayers, as illustrated by case studies of the apportionment of property

470. Id. at 226-27, 181 Cal. Rptr. at 654-55.
471. Id. at 227, 181 Cal. Rptr. at 655.
472. Id.
taxes in the counties of Los Angeles,\textsuperscript{475} which accounts for one-third of California's taxable assessed valuation,\textsuperscript{476} and San Bernardino, the fastest growing county in California. Existing law must be reformed because it is at odds with the California Constitution.

\textbf{A. How Tax Situs Was Violated in FY 1978-79}

The constitutional problems with existing law can be demonstrated by comparing the distribution of property taxes before and after Proposition 13 in a hypothetical county. Imagine two property owners, Jones and Smith, each of whom owns a house with a market value of $100,000, and pre-Proposition 13 assessed valuations of $25,000. Jones and Smith live in the same county, but in different cities, which are the only two cities in the county. Jones and Smith are also the only residents in their respective cities. They are served by school districts and special districts which have boundaries coterminous with the cities.\textsuperscript{477}

Consider the allocation of property tax revenues before Proposition 13 in our hypothetical county.\textsuperscript{478} Both Jones and Smith paid a 4\% tax

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\textsuperscript{475} See Constitutional Reform, \textit{supra} note 118, at app. A.

\textsuperscript{476} Id. at 107-09.

\textsuperscript{477} The example uses simplifying assumptions, although the conclusion would be equally valid if complicating factors were considered. While the analysis becomes more complex if school districts and special districts do not have coterminous boundaries with cities, the conclusion about the unconstitutionality of existing law remains intact. See Constitutional Reform, \textit{supra} note 118, at 71-72. The analysis ignores other local taxes, fees, and grants from higher levels of government because they are not relevant to an analysis of the property tax provisions of the California Constitution. The analysis also ignores any rollback in assessed valuation after Proposition 13, because the issues involve the apportionment of property taxes, not the total amount of taxes to be apportioned. The analysis also ignores pre-Proposition 13 debt levies because debt levies are exempt from the tax limit. \textit{Id.} at 72. Neither does it consider the allocation of state bail-out funds because the state enjoys discretion over how it allocates state monies for local purposes. \textit{Id.}

Section 24 of Article XIII of the California Constitution allows the Legislature to appropriate state funds for local purposes. CAL. CONST. art. XIII, § 24. Therefore, any differential treatment of local governments in the allocation of such funds are within the discretionary powers of the Legislature. The California Supreme Court made this distinction when it observed that the allocation of state bail-out monies raises fewer constitutional issues than the allocation of property tax revenues. Amador Valley Joint Union High School Dist. v. State Bd. of Equal., 22 Cal. 3d 208, 227, 583 P.2d 1281, 1288, 149 Cal. Rptr. 239, 246 (1978). The state, of course, may not use its constitutional authority to obtain unconstitutional results. Sonoma County Org. Pub. Employees v. County of Sonoma, 23 Cal. 3d 296, 305, 591 P.2d 1, 5, 152 Cal. Rptr. 903, 907 (1979).

\textsuperscript{478} See infra Appendix, Table 1. Before Proposition 13, \textit{tax situs} and tax uniformity were the pillars of property taxation. Each local government decided its property tax rate, subject to a statutory maximum. CAL. REV. & TAX. CODE § 2261 (repealed 1978). Governments submitted these rates to the county auditor who then computed the total property tax levied on each property in the county. CAL. GOV'T CODE § 26912 (amended 1978). The county tax collector collected the property tax and remitted the proceeds to local governments in accord-
rate to county government ($1,000 annually). In addition, Jones paid a 2.56% rate to her city ($640 annually), a 2.24% rate to her schools ($560 annually), and a 0.20% rate to her special districts ($50 annually). The revenues collected from Jones were received by Jones’ local governments. Smith paid lower property taxes. She paid a 0.64% rate to her city ($160 annually), a 1.76% rate to her schools ($440 annually), and a 0.60% rate to her special districts ($150 annually). The revenues collected from Smith were received by Smith’s local governments.

Since Proposition 13, countywide property tax revenues have been apportioned on the basis of historical collections. The county auditor has divided countywide property tax revenues among local agencies (county, cities, and special districts) and school entities (schools). In this example, local agencies received 75% of the $2,000 of countywide revenues and schools 25% because these were the respective shares of countywide property taxes before Proposition 13. The auditor then apportioned the local agency and school entity pools. Assuming that the pre-Proposition 13 data in the Table were also the average of the three fiscal years prior to Proposition 13, the second stage allocation yields the apportionment listed in the bottom panel. If county government received a uniform effective tax allocation rate (the ratio of its tax allocation to its assessed valuation) from each taxpayer, the county received an equal contribution from Jones and Smith because both taxpayers had identical assessed valuations.

Note how property tax revenues have been redistributed. Jones pays $1,000 in property taxes, but her local governments receive $1,125. In effect, Proposition 13 cut property tax revenues collected by Jones’ local governments by less than it cut her property tax payments. This is because Smith’s local governments collect only $875, even though Smith

479. See infra Appendix, Table 1. The bottom panel of the table provides the computation of the various concepts defined by the statutory apportionment formula. See also CAL. REV. & TAX. CODE § 96 (West 1987).

480. This attribution of county government revenues to taxpayers follows the approach later taken in AB 8. See supra note 151. The effective tax allocation rate of the county is 2% (the ratio of its $1,000 tax allocation to its $50,000 taxable assessed valuation). Therefore, county government received 2% of each taxpayer’s assessed valuation, or $500. The concept of an “effective tax rate” is common in public finance. See D. HYMAN, PUBLIC FINANCE: A CONTEMPORARY APPLICATION OF THEORY TO POLICY 685 (1983).
paid $1,000 in property taxes. The apportionment of countywide property tax revenues transferred $125 from Smith, the taxpayer with the low total property tax rate before Proposition 13, to Jones, the taxpayer with the high total property tax rate before Proposition 13. Therefore, Smith partly finances local governments that do not serve her. In this illustration, 12.5\% of Smith's property tax payments finances Jones’ local governments.481

Two simple rules summarize the outcome illustrated by the Jones-Smith hypothetical. First, residents in tax rate areas with high property tax rates before Proposition 13 receive transfers from residents in tax rate areas which had low property tax rates before Proposition 13. Residents in tax rate areas with high property tax rates before Proposition 13 are served by local governments whose shares of historical countywide property tax revenues exceeded their historical shares of countywide property taxable assessed valuation. Second, residents in tax rate areas with low growth in taxable assessed valuations before Proposition 13 receive transfers from residents in tax rate areas with high growth in taxable assessed valuations before Proposition 13. This is because residents of tax rate areas with low growth in taxable assessed valuation before Proposition 13 are in a situation where their historical share of countywide taxable assessed valuation exceeds their current share of countywide taxable assessed valuation.

This revenue transfer violates tax situs. The legislative implementation of Proposition 13 severed the relation between property taxes paid by residents and the revenues received by their local governments. By disregarding tax situs, the Legislature destroyed one of the constitutional pillars of property taxation before Proposition 13.

Modest differences in pre-Proposition 13 tax rates and growth in taxable assessed valuation translate into significant violations of tax situs. Table 2 reports a taxpayer's net gain from the violation of tax situs expressed as a percent of her property tax payments.482 Taxpayers with a

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481. The lesson from the Jones-Smith illustration holds for the case of many taxpayers with unequal taxable assessed valuations, with different rates of growth in valuation before Proposition 13, and served by many cities, schools, and special districts. For a mathematical proof, see Constitutional Reform, supra note 118, at 72-79.

482. See infra Appendix, Table 2. The net gain of a taxpayer “i”, NG_i, depends on her pre-Proposition 13 total property tax rate, t_i, growth in her taxable assessed valuation from the historical base period until FY 1978-79, g_i, the (assessed value weighted) average countywide property tax rate before Proposition 13, t, and the growth in countywide assessed valuation, g, from the historical base period until FY 1978-79. The expression is:

\[ NG_i = \{t_i(1 + g_i)/t(1 + g) - 1\} \]

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relative tax rate\(^{483}\) and relative growth factor\(^{484}\) of 1.00 neither gain nor lose from apportioning property tax revenues without regard for tax situs. All other taxpayers are affected by the violation of tax situs. Only improbable circumstances affecting property taxation before Proposition 13 would have allowed the legislature's formula to comply with tax situs. If all taxpayers in a county paid the same total property tax rate and experienced identical growth in their taxable assessed valuation, then the allocation of countywide property tax revenues would not have violated tax situs. Total property tax rates and growth in assessed valuations, however, varied among taxpayers before Proposition 13. Therefore, the existence of the violation of tax situs does not raise a factual dispute. The only factual questions involve which taxpayers gained and which lost, and by how much.

B.  Continued Violation of Tax Situs and the Added Violation of Tax Uniformity

In 1979, the legislature passed AB 8 which changed the apportionment of property tax revenues.\(^ {485}\) AB 8 used the allocation of property tax revenues in FY 1978-79 as the base for the tax allocation in FY 1979-80.\(^ {486}\) It also used taxable assessed valuation to "attribute" each local government's FY 1978-79 allocations among tax rate areas within its boundaries, and allocated the additional property tax revenues generated by growth in assessed valuation among these tax rate areas.\(^ {487}\) These procedures may appear to avoid the problems with the apportionment of property tax revenues in FY 1978-79 because they used assessed valua-
tion and tax rate areas which, by definition, include only local governments that serve taxpayers. Nevertheless, AB 8 violated tax situs and also ran afoul of tax uniformity.

The attribution procedure specified by the legislation does not solve the tax situs violation because it begins with FY 1978-79 allocations and then attributes revenues to tax rate areas.\(^{488}\) That is, the law simply "attributed" Smith's revenues lost in FY 1978-79 among tax rate areas of Jones' city, schools, and special districts.

The statutory redefinition of FY 1978-79 tax allocations actually made matters worse. The legislation included specified fractions of state bail-out funds in each local government's base.\(^{489}\) Since bail-out funds were also allocated on the basis of property tax collections before Proposition 13,\(^{490}\) the attribution procedure intensified the magnitude of property tax revenues apportioned across jurisdictional boundaries. Taxpayers in high tax rate, low growth areas came to enjoy a "double hit" on the property taxes paid by taxpayers in low tax rate, high growth areas.

The allocation of the annual tax increment created non-uniform taxation. While county government received a uniform effective tax allocation rate in FY 1978-79,\(^{491}\) it now receives a non-uniform rate from the growth in taxable assessed valuation. County government received 57.1% of the growth in Smith's taxable assessed valuation but only 44.4% of the growth in Jones' taxable assessed valuation.\(^{492}\) This non-uniformity punishes the victims of the violations of tax situs with high county government effective tax allocation rates and rewards the beneficiaries of the violations of tax situs with low county government effective tax allocation rates. Over time, the effective tax allocation rate received by county government becomes increasingly non-uniform, not less.\(^{493}\)

\(^{488}\) Cal. Rev. & Tax. Code § 96(d) (West 1987).

\(^{489}\) Id. § 96(a).

\(^{490}\) Cal. Gov't Code § 16250 (West 1987).

\(^{491}\) See supra note 480.

\(^{492}\) In the hypothetical county, there are only two tax rate areas (Jones and Smith). The attribution of revenues is shown in the bottom panel of Table 3. See infra Appendix. The county's allocation factor of the annual tax increment from Smith equals 57.1% \([500/(500+80+220+75)]\) and from Jones equals 44.4% \([500/(500+320+280+25)]\). As described above, county government receives an allocation factor of the annual tax increment from each tax rate area equal to the ratio of its attributed property tax revenues to total attributed revenues of that tax rate area. See supra note 162 and accompanying text.

\(^{493}\) See infra Appendix, Figure 1. The effective tax allocation rates in Figure 1 were computed by dividing the attributed revenues county government receives from the indicated taxpayer by her assessed valuation. According to the California Revenue and Taxation Code, attributed revenues of county government were defined as the difference between a tax rate area's revenues and the allocations received by the city, school districts, and special districts
This non-uniformity violates section 1 of article XIII of the California Constitution, which requires uniform tax rates.\(^\text{494}\) Too much of the growth in Smith's assessed valuation supports county government, and too little is allocated to support Smith's other local governments. In contrast, too little of the growth in Jones' assessed valuation supports county government, and too much is allocated to support Jones' other local governments.

In the hypothetical, only county government tax rates are non-uniform because the boundaries of each city were assumed coterminous with the boundaries of school districts and special districts.\(^\text{495}\) This assumption is unrealistic. Taxpayers in tax rate areas where special districts or school districts levied higher property tax rates before Proposition 13 now pay a smaller portion of their taxes to city government than taxpayers in tax rate areas with low special district or school district tax rates before Proposition 13. In effect, a city government receives as many different fractions of the growth in its taxpayers' assessed valuations as there are distinct tax rate areas within its boundaries. For similar reasons, a school district or special district receives as many different fractions of the growth in its taxpayers' assessed valuations as there are distinct tax rate areas within its boundaries. The allocation of the annual tax increment yields non-uniform taxation as the rule, not the exception.

Smith's losses from the revenue transfers grow, rather than diminish, over time.\(^\text{496}\) The analysis assumes that Jones' and Smith's assessed valuations grow at a 9% annual rate.\(^\text{497}\) As discussed, Smith lost $125 from the violation of tax situs in FY 1978-79;\(^\text{498}\) she suffered no loss from non-uniform taxation in FY 1978-79 because the violations of tax uniformity did not begin until FY 1979-80.\(^\text{499}\) Because the growth in property taxes is allocated to governments that serve the taxpayer, the loss from the violation of tax situs remains constant. However, Smith's excessive contributions to county government begin with the non-uniform allocation of the growth in her property tax payments to county government. Unless the problems with existing law are corrected, her losses

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\(^\text{494}\) Cal. Const. art. XIII, § 1(b) ("All property . . . assessed shall be taxed in proportion to its full value.").

\(^\text{495}\) See supra note 477.

\(^\text{496}\) See infra Appendix, Table 3.

\(^\text{497}\) Smith's losses and Jones' gains from non-uniformity would be higher for faster growth rates and smaller for slower growth rates.

\(^\text{498}\) See supra text accompanying note 481.

\(^\text{499}\) See supra notes 491-93 and accompanying text.
will become larger, dominated increasingly by the violation of tax uniformity. Within ten to fifteen years, Smith's losses from the apportionment of countywide property tax revenues will stabilize at between 8-9% of her property tax payments.\footnote{500} Jones' gains from the unconstitutional apportionment of countywide property tax revenues grow in tandem with Smith's losses.\footnote{501}

\[C. \text{ Case Studies of the Apportionment of Property Tax Revenues}\]

Smith and Jones, the respective loser and winner from the violations of tax situs and tax uniformity in our hypothetical county, have counterparts in the real world. The revenue transfers are significant and will grow until existing law is reformed. The case studies were limited to a few cities because the study of property tax allocations for taxpayers in a city requires the collection of extensive data from the reports that county auditors use to apportion property tax revenues under existing law. Over 27,000 numbers had to be collected for the case studies.\footnote{502} By studying the allocation of property taxes in two counties, San Bernardino and Los Angeles, the case studies illustrate how the constitutional problems with existing law are a statewide concern.

1. \text{Methodology}

The case studies compare the property taxes levied on residents in selected cities with the tax allocations collected by all local governments that serve these residents. Because residents are served by many different combinations of local governments, the analysis is based on tax rate areas. The property tax levied on taxpayers in a tax rate area can be easily computed as 1% of taxable assessed valuation. The difficult measurement is attribution of the property tax allocations received by local governments to taxpayers in a tax rate area. The study attributes the tax allocations received by local governments among tax rate areas by a
method based on the constitutional principles of tax situs and tax uniformity. According to tax situs, only those tax rate areas within the boundaries of a local government should receive an attribution of that local government's tax allocation.\textsuperscript{503} According to tax uniformity, a local government's tax allocation should be apportioned among its tax rate areas on the basis of taxable assessed valuation.\textsuperscript{504} For example, if a tax rate area has 10\% of a local government's taxable assessed valuation, it would be attributed with 10\% of that local government's property tax allocation. The property tax system before Proposition 13 followed these principles.\textsuperscript{505}

The difference between the property taxes paid by taxpayers in a tax rate area and the attributed revenues of all local governments serving those taxpayers measures the degree to which existing law violates tax situs and tax uniformity. If property tax payments exceed attributed revenues, then taxpayers lose from the unconstitutional apportionment of property tax revenues. If property tax payments are less than attributed revenues, then taxpayers gain from the existing law's constitutional infirmities.

In the case studies, attributed revenues are estimated with and without adjustment for the Special District Augmentation Fund (SDAF).\textsuperscript{506} Attributed revenues without the SDAF adjustment use the property tax allocations of special districts ignoring the contributions to and receipts from the SDAF. The reason for ignoring the SDAF adjustment is that the financial transactions of the SDAF reflect budget allocation decisions of County Board of Supervisors.\textsuperscript{507} Attributed revenues with the SDAF adjustment use the property tax allocations of special districts, less their contribution to the SDAF, plus monies received from the SDAF. The theory of SDAF adjustment is that these monies are property tax revenues raised under the 1\% limit. However, it is unnecessary to choose between the theories concerning the SDAF adjustment. The conclusions

\textsuperscript{503} CAL. CONST. art. XIII, § 14.
\textsuperscript{504} CAL. CONST. art. XIII, § 1. The Legislature followed this approach when it defined how revised FY 1978-79 tax allocations of jurisdictions were to be attributed among tax rate areas. CAL. REV. & TAX. CODE § 97.5 (West 1987 & Supp. 1990). This attribution procedure, however, did not solve the constitutional problems of existing law. See supra note 408 and accompanying text.
\textsuperscript{505} See supra note 478 and accompanying text.
\textsuperscript{506} Section 98.6 of the California Revenue & Taxation Code deducts a contribution to the SDAF from the property tax allocations of special districts. CAL. REV. & TAX CODE § 98.6 (West 1987 & Supp. 1990). The County Board of Supervisors then allocates the SDAF among special districts. \textit{Id.} § 98.6(k).
\textsuperscript{507} \textit{Id.} § 98.6.
drawn from the case studies do not depend on whether the computation of attributed revenues includes the SDAF adjustment.

2. Findings for San Bernardino County

Taxpayers in the cities of Rancho Cucamonga and Redlands were selected for the San Bernardino County case study of property tax allocations. Rancho Cucamonga was selected because it is a high growth area, so its taxpayers are expected to lose from the violation of tax situs and tax uniformity. Redlands was selected because the city had the second highest pre-Proposition 13 property tax rate in the county, so its taxpayers are expected to benefit from the existing law's constitutional problems.

The differential treatment of city governments is the most striking feature of the apportionment of property taxes under existing law. The City of Rancho Cucamonga received an effective tax allocation rate of only 4.70 cents per $100 taxable assessed valuation; the City of Redlands received an effective tax allocation rate of 30.60 cents—six and a half times the amount received by the City of Rancho Cucamonga.

In FY 1987-88, taxpayers in Rancho Cucamonga paid more, and taxpayers in Redlands paid less in property taxes than their respective local governments received. The estimated loss for taxpayers in Rancho Cucamonga is $2,960,360 with the SDAF adjustment, and $2,681,180 without the SDAF adjustment. The estimated gains for taxpayers in Redlands is $501,738 with the SDAF adjustment, and $702,553 without the SDAF adjustment. Taxpayer losses in Rancho Cucamonga equal 14% to 16% of their city's own revenues of $18.4 million. Taxpayer gains in Redlands equal 2% to 3% of their city's own

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508. The property taxes paid by taxpayers and the property tax allocations received by local governments are net of the financial transactions of redevelopment agencies. See Apportionment of Property Tax Revenues, supra note 482, at 22.

509. The estimated population of the City of Rancho Cucamonga on June 30, 1988, was 71% higher than the population reported in the 1980 federal census. See STATE CONTROLLER'S OFFICE, ANNUAL REPORT 1987-88, FINANCIAL TRANSACTIONS CONCERNING CITIES IN CALIFORNIA Table 1, at 2. Statewide population increased by 22% over the same time period.

510. See STATE CONTROLLER'S OFFICE, 1977 ANNUAL REPORT, FINANCIAL TRANSACTIONS CONCERNING CITIES OF CALIFORNIA Table 19A, at 343.

511. See Apportionment of Property Tax Revenues, supra note 482, at 23; see also id. Appendix B, Table B-2.

512. See infra Appendix, Table 4.

513. Id.

514. Id.

515. Id.
revenues of $22.8 million.\footnote{16}

Existing law apportions a non-uniform share of growth in property taxes to county government. San Bernardino County receives 35.2\% of the growth in property taxes paid by taxpayers in Rancho Cucamonga, but only 30.8\% of the growth in property taxes paid by taxpayers in Redlands.\footnote{17}

The revenue transfers will grow substantially over the next ten years.\footnote{18} The annual loss of taxpayers in Rancho Cucamonga will reach $3.5 million by FY 1989-90, $5.6 million by FY 1994-95, and $7.3 million by FY 1997-98.\footnote{19} The cumulative loss will exceed $50 million.\footnote{20} In contrast, the annual gain of taxpayers in Redlands will more than double over the same time period, and the cumulative gain will be $8.5 million.\footnote{21}

3. Findings for Los Angeles County

Taxpayers in the cities of Los Angeles, Carson, Compton, El Segundo, and Temple City were selected for the case study of property tax allocations in Los Angeles County.\footnote{22} The City of Los Angeles was selected because it levied the highest pre-Proposition 13 city property tax rate in the county.\footnote{23} Therefore, its taxpayers are expected to benefit significantly from the violations of tax situs and tax uniformity. Carson and Temple City were selected because they are no property tax cities—they are excluded from the apportionment of property tax revenues because they did not levy a property tax in FY 1977-78 to pay for city services.\footnote{24} Compton was selected because it is a contract city which

\footnote{16. Id.}
\footnote{17. Apportionment of Property Tax Revenues, supra note 482, at 24.}
\footnote{18. See infra Appendix, Table 5. Two assumptions were made in forecasting future transfers: (1) the ratio of the taxpayers' transfers to their property tax payments will remain at the FY 1987-88 level; and, (2) taxable assessed valuation will grow at an annual rate of 9\%. The first assumption is a reasonable approximation ten to fifteen years into the implementation of Proposition 13. See infra note 539. The second assumption was recently made by the Legislative Analyst Office in preparing its forecasts of the fiscal effects of AB 1197—a bill which added Section 97.35 to the Revenue & Taxation Code. CAL. REV. & TAX. CODE § 97.35 (West 1987).}
\footnote{19. See infra Appendix, Table 5.}
\footnote{20. Id.}
\footnote{21. Id.}
\footnote{22. The Los Angeles County Auditor and Controller Office granted access to records for property tax allocations for FY 1986-87. Unlike the reports used in the San Bernardino case study, the Los Angeles reports covered property tax allocations before adjustments for the financial transactions of redevelopment agencies. See Apportionment of Property Tax Revenues, supra note 482, at 24-25 n.40.}
\footnote{23. See FINANCIAL TRANSACTIONS supra note 510, Table 19A, at 339.}
\footnote{24. Id.}
levied a low property tax rate before Proposition 13.\textsuperscript{525} El Segundo was selected because it is a full-service city that levied a low property tax rate before Proposition 13.\textsuperscript{526}

As with the cities in San Bernardino County, the differential treatment of city governments is the most striking feature of the apportionment of property tax revenues. City government in Carson and Temple City received effective tax allocation rates of 0 cents per $100 assessed valuation.\textsuperscript{527} City government in El Segundo and Compton received effective tax allocation rates of 4.29 cents and 14.77 cents, respectively.\textsuperscript{528} In contrast, the City of Los Angeles received an effective tax allocation rate of 33.61 cents—eight times El Segundo’s rate and more than twice Compton’s rate.\textsuperscript{529}

In FY 1986-87, taxpayers in the City of Los Angeles gained, and taxpayers in the other four cities lost from the violations of tax situs and tax uniformity.\textsuperscript{530} Taxpayers in Los Angeles paid $70,580,666 less in property taxes than property tax allocations received by their local governments.\textsuperscript{531} This takes into account the financing of the SDAF. Their gains were $77,855,906 if the SDAF is ignored. Taxpayers in El Segundo suffered the greatest losses—$10,294,123 with, or $10,021,455 without, adjustment for the SDAF.\textsuperscript{532} Taxpayers in Carson lost about $3 million and taxpayers in the other cities lost lesser amounts.\textsuperscript{533}

Non-uniform taxation also prevails in Los Angeles County. Los Angeles County government receives only 43.3\% of the growth in property tax revenues paid by taxpayers in the City of Los Angeles, but it receives more from taxpayers in the other four cities: Los Angeles County is allocated 66.9\% of the growth in property taxes paid by taxpayers in El Segundo and about 50\% of the growth in property taxes paid by taxpayers in the other three cities.\textsuperscript{534}

The revenue transfers will grow substantially over the next ten

\textsuperscript{525} Id.
\textsuperscript{526} Id.
\textsuperscript{527} See Apportionment of Property Tax Revenues, supra note 482, at appendix C, table C-2.
\textsuperscript{528} Id.
\textsuperscript{529} Id.
\textsuperscript{530} See infra Appendix, Table 6.
\textsuperscript{531} Id.
\textsuperscript{532} Id.
\textsuperscript{533} Id. 'Taxpayers' losses are significant relative to a city's own revenues, especially in El Segundo and Carson. The gain of taxpayers in Los Angeles equal about 4\% of that city's own revenues of $1.9 billion. Id.'
\textsuperscript{534} See Apportionment of Property Tax Revenues, supra note 482, at 26.
The annual gain of taxpayers in the City of Los Angeles will reach $92 million by FY 1989-90, $145 million by FY 1994-95, and $190 million by FY 1997-98. The cumulative gain will be $1.3 billion.\footnote{See infra Appendix, Table 7. The same two assumptions were made in forecasting future transfers as was made in the case study for San Bernardino County. See supra note 518.} By FY 1997-98, the annual loss of taxpayers in El Segundo will reach $28 million and in Carson $9 million.\footnote{Id.} The cumulative loss of the taxpayers in the four cities will exceed a quarter of a billion dollars.\footnote{Id.}

D. Existing Law Can Not Be Salvaged by Legal Interpretation

The argument that existing law violates the California Constitution assumes that tax situs and other provisions of California’s fiscal constitution remain valid after Proposition 13. California case law compels a simple answer to the question of whether Proposition 13 destroyed the local property tax, or repealed, by implication, other provisions of the California Constitution. Tax situs, fiscal home rule, and uniform taxation, of course, are constitutional constraints that pre-date Proposition 13.\footnote{See supra notes 28-30 and accompanying text.} Furthermore, Proposition 13 did not repeal expressly or by implication any of the thirty-three sections of article XIII.\footnote{See supra notes 190-223 and accompanying text.}

If Proposition 13 made the property tax a state, new county or local tax, then perhaps the constitutional constraints from the “old” system no longer apply to the “new” tax system. This approach, in fact, was taken by an appellate court when it held moot a dispute over how Los Angeles County spent its property taxes before Proposition 13.\footnote{City of Los Angeles v. County of Los Angeles, 147 Cal. App. 3d 954, 195 Cal. Rptr. 465 (1983).} The court concluded that Proposition 13 had made the property tax a new “countywide” tax, because SB 154 and AB 8 had limited the tax rates levied by local governments to the debt overrides.\footnote{Id. at 956, 195 Cal. Rptr. at 467. The debt overrides were authorized by article XIII A, section 1(b) of the California Constitution.} If the Legislature had repealed traditional local tax powers and replaced them with a new countywide tax, then the Legislature would have violated many sections of the California Constitution. Under article XIII A, section 3, the Legislature is prohibited from levying any new taxes on real property after Proposition 13.\footnote{Cal. Const. art. XIII A, § 3.}
different one from the traditional property tax, the Legislature exceeded its authority to impose new ad valorem taxes on real property.

Any "countywide tax" in its current form would also be unconstitutional, even if the Legislature was not prohibited from levying such a property tax. The allocation formula instructs county government how to spend the proceeds of its tax. Article XIII, section 24, which prohibits the Legislature from imposing local taxes for local purposes, applies to counties as well as cities and other forms of local government. Moreover, existing law treats chartered and general law local governments the same, even though the California Constitution prohibits the Legislature from interfering in the municipal and fiscal affairs of chartered governments. Finally, the tax situs cases showed that simply keeping the monies in the right county does not guarantee constitutionality, because monies cannot cross jurisdictional lines, nor can one local government transfer funds to other local governments, even if those other governments serve the same population.

The California Supreme Court has recognized that the property tax has remained a local one. The court concluded that Proposition 13 did not destroy or annul local tax powers, and a property tax limitation should not be confused with revocation of the power to tax property. Additionally, California courts have held that Proposition 13 did not repeal, expressly or by implication sections 1, 12, or 19 of article XIII of the California Constitution. Furthermore, courts have narrowly construed Proposition 13 as providing effective property tax relief and as not abrogating the home rule powers of local governments.

In Amador Valley Joint Union High School District v. State Board of Equalization, the court interpreted section 2237 of the Revenue and Taxation Code as instructing the counties to collect the 1% tax on behalf of
local governments. \(^{553}\) The 1% limit on countywide property tax does not prevent local governments from collecting property taxes; this interpretation is supported by official ballot analyses of Proposition 13. \(^{554}\) The Attorney General’s Summary stated that Proposition 13 would “limit ad valorem taxes on real property,” \(^{555}\) not repeal the property tax powers of local government. Furthermore, the Attorney General’s Summary stated the financial impact of Proposition 13 to be “annual losses of local government property tax revenues (approximately $7 billion in FY 1978-79),” \(^{556}\) not the loss of the entire local property tax base. The Legislative Analyst essentially agreed with the Attorney General. The Legislative Analyst stated that Proposition 13 would “place a limit on the amount of property taxes to be collected by local governments,” \(^{557}\) not repeal local powers to tax property. The Legislative Analyst also used, rather than discarded, constitutional principles of property taxation to interpret key ambiguities in the language of Proposition 13. \(^{558}\)

Concluding that Proposition 13 had changed the property tax, the appellate court in *City of Los Angeles v. County of Los Angeles* \(^{559}\) noted that following the California Supreme Court’s decision in *Amador*, section 2237 of the Revenue and Taxation Code had been repealed. \(^{560}\) Therefore, the court concluded, this portion of the Supreme Court’s decision became irrelevant. \(^{561}\) The appellate court’s analysis is flawed on two grounds. First, while section 2237 had been repealed, the legislature had used virtually identical language in adding section 93 to the Revenue and Taxation Code. \(^{562}\) Second, the appellate court did not explain how the legislature could have repealed, via statute, article XIII of the California Constitution.

The Legislature itself intended for the property tax to remain a local tax. \(^{563}\) The Legislature added section 100 to the Revenue and Taxation Code to allow any local government to reduce its allocation from the 1% tax. \(^{564}\) This type of local discretion is the litmus test for a tax to be

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553. 22 Cal. 3d 208, 246, 583 P.2d 1281, 1300, 149 Cal. Rptr. 239, 258 (1978).
554. CALIFORNIA VOTERS PAMPHLET, supra note 99, at 56.
555. Id.
556. Id. at 60.
557. Id.
558. See supra notes 102-10 and accompanying text.
560. Id. at 958, 195 Cal. Rptr. at 468.
561. Id.
563. See supra notes 174-80 and accompanying text.
564. CAL. REV. & TAX. CODE § 100 (West 1987).
locally imposed. Moreover, even though the apportionment formula added by AB 8 has constitutional problems, the legislature relies on tax situs and tax uniformity to guide its design of the apportionment formula. Its use of tax rate areas to allocate the annual tax increment keeps property taxes part of the tax base of local jurisdictions as required by tax situs. In defining the revised base period tax allocations for FY 1979-80, the Legislature’s attribution among tax rate areas of the property tax allocation received by local governments in FY 1978-79 relies on tax uniformity.

Nor can it be argued that Proposition 13 made the property tax a state tax. Before Proposition 13, the state levied no property tax. While section 3 of article XIII A permits changes in state taxes provided that increased rates are approved by two-thirds of all members elected to both houses of the Legislature, it expressly prohibits the state from levying new property taxes. In addition, the constitutional history of tax situs has protected the power of local government to tax property. The Legislature cannot reverse almost a century of constitutional case law simply because it wishes to accommodate supporters of local spending programs seeking protection from the fiscal restraint imposed by Proposition 13. "[F]iscal disruption threatened by Proposition 13 cannot be invoked by the state legislature as an excuse for abrogating the home rule powers of cities and counties." Logic dictates that the same attitude be taken toward article XIII, sections 1, 14, and 24 of the California Constitution.

Neither can existing law be salvaged by the reasoning in Marin Hospital District v. Rothman. The Rothman court concluded that the apportionment of property tax revenues does not violate equal protection or revoke "vested tax powers." The constitutional problems with existing law concern tax situs and tax uniformity, not equal protection.

567. See supra notes 177-78 and accompanying text.
568. See CAL. REV. & TAX. CODE § 98 (West 1987 & Supp. 1990); see also supra note 162 and accompanying text.
569. See CAL. REV. & TAX. CODE § 98(f)(1), (f)(2) (West 1987); see also supra note 504 and accompanying text.
570. CAL. CONST. art. XIII A.
571. Id.
572. See supra notes 312-406 and accompanying text.
575. Id. at 501, 188 Cal. Rptr. at 832.
The court in *Rothman* relied on two California cases to support its view that "local public agencies have no vested right to impose taxes." The court's analysis of "vested tax powers" is flawed.

The first case relied on by the court in *Rothman*, simply stands for the proposition that county government has no vested right to tax the property of an irrigation district because the California Constitution exempts property of public agencies from taxation. The power to tax property granted by article XIII, section 1 cannot override constitutionally granted exemptions. The second case cited by the *Rothman* court, *County of Alameda v. Janssen*, did not expressly address the issue of vested tax powers.

The *Rothman* court also relied on the California Supreme Court's decision, *In re Redevelopment Plan for Bunker Hill*, to support the proposition that "[special district] taxing agencies have no vested right to powers of taxation." However, the cited language itself is a quote from *County of Mariposa v. Merced Irrigational District*. Therefore, *Bunker Hill* offers no new analysis of vested tax powers. Moreover, the issue in *Bunker Hill* involved a challenge to the effects the Bunker Hill redevelopment project would have on the allocation of property taxes among local agencies. The California Supreme Court upheld the constitutionality of the tax allocation plan, reasoning that the California Constitution empowered the Legislature to devise tax allocation schemes for redevel-

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576. Id. (citing Trenton v. New Jersey, 262 U.S. 182, 186-88 (1923); County of Mariposa v. Merced Irr. Dist., 32 Cal. 2d 467, 474, 196 P.2d 920, 922 (1948); County of Alameda v. Janssen, 16 Cal. 2d 276, 106 P.2d 11 (1940)) (emphasis in original). Even though the court cited *Trenton v. New Jersey*, this decision did not address issues involving the California Constitution. The United States Supreme Court noted the importance of provisions in state constitutions when it observed that, in the absence of state constitutional provisions, municipalities have no inherent right of self-government beyond the legislative control of the State. 262 U.S. 182, 187 (1923). The California fiscal constitution contains many such provisions which must be considered in a principled analysis of local property tax powers. The United States Supreme Court recognized these powers forty years earlier when it decided *California v. Central Pacific Railroad*. 127 U.S. 1 (1888).


578. 16 Cal. 2d 276, 106 P.2d 11 (1940).

579. The issue in *Janssen* involved a challenge to the state government aiding aged indigents by authorizing the release of liens previously acquired on properties. The County Board of Supervisors was acting for the state in dispersing old age relief. Id. at 284, 106 P.2d at 15-16. 61 Cal. 2d 21, 389 P.2d 538, 37 Cal. Rptr. 74, cert. denied sub nom. Babcock v. Community Redevelopment Agency, 379 U.S. 899 (1964).

580. Rothman, 139 Cal. App. 3d at 502, 188 Cal.Rptr. at 832 (emphasis in original).


In sum, statutory interpretation cannot salvage existing law. As recognized by California courts, Proposition 13 limited the property taxes collected by local governments. By limiting taxation, however, Proposition 13 did not destroy the power of local governments to tax property, nor did it overturn other constitutional provisions which date from the 19th and early 20th centuries.

VI. RESTORING THE FISCAL CONSTITUTION

This Article now turns to the final and most important question. What apportionment formula implements Proposition 13 without violating the California Constitution? Proposition 13 can be implemented without violating tax situs and tax uniformity if existing law is modified to use a two-step procedure:

1) Divide countywide collections of the 1% property tax among different types of local governments—county, cities, types of school districts, types of special districts (e.g. flood, fire, sanitation, water, etc.);

2) Within each category of local government, apportion revenues on the basis of the taxable assessed valuation of local governments.

The resulting tax allocations translate the 1% tax limit imposed by Proposition 13 into a set of maximum tax rates for local government that satisfy tax situs and tax uniformity.

When used in conjunction with the second step, the first step assures that county government receives the same share of each taxpayer's property taxes; it guarantees that the apportionment of property taxes satisfies tax uniformity. The second step assures that each local government receives only the amount of property taxes paid by taxpayers within its boundaries; the second step thus guarantees that the apportionment of property tax revenues satisfies tax situs.

This remedy limits, but does not eliminate, the role of the Legislature in deciding how property tax revenues should be apportioned. The Legislature must still decide how to divide countywide property taxes among different types of local governments. If it wished, the Legislature could use the provisions of existing law. If it decided to amend existing law, the Legislature would have to treat all cities, all school districts of a

585. Id. at 72-73, 339 P.2d at 571, 37 Cal. Rptr. at 107; see also CAL. CONST. art. XIII, § 19 (1954) (current version at art. XVI, § 16 (1990)).
particular type, and all special districts of a particular type on a uniform basis.

The second step of the allocation could be implemented in two ways. The simple remedy would divide revenues without regard to whether all tax rate areas are served by all types of local government. The thorough remedy would use a credit/debit scheme in which a city’s allocation from the simple remedy would be increased if that city provided its residents with services that residents in other cities received from special districts, and a city’s allocation would be reduced if its residents receive services from special districts offered by “full-service” cities.

The choice between the simple and thorough remedy depends on the desired degree of precision. If courts demand correction of constitutional violations to the “very last penny,” then they should embrace the thorough remedy. If they would be content with substantial compliance with constitutional principles, the simple remedy will do. In either event, reform could be implemented easily and would address the constitutional issues which remain unsolved despite recent legislation modifying the apportionment of countywide property tax revenues.586

The analysis assumes that the Legislature uses the tax allocations from existing law to define the first stage allocation among different types of local government. This assumption demonstrates that the second stage allocations are the key to overcoming the constitutional problems with existing law. The remedies would result in a reallocation of property tax revenues among local governments of the same type, but would not change the division of countywide property tax revenues among county government, cities as a group, schools as a group, and special districts as a group.

A. The Simple Remedy

The simple remedy requires two computations: first, the revenue pools for each type of local government are created; second, each revenue pool is divided among local governments of the same type on the basis of taxable assessed valuation. For example, if the taxable assessed valuation of the City of Los Angeles is half of the taxable assessed valuation of all cities in Los Angeles County, then the City of Los Angeles would receive half the city revenue pool—nothing more, nothing less.

The simple remedy corrects the constitutional problems with existing law.587 This is illustrated by reconsidering the allocation of prop-

586. See infra notes 613-20 and accompanying text.
587. For a mathematical proof, see Constitutional Reform, supra note 118, at 95-97.
Under the first stage allocation, county government would receive 50% of countywide property tax revenues, the city pool 20%, the school pool 25%, and the special district pool 5%. These percentages are the shares of pre-Proposition 13 property tax revenues as well as the distribution, under existing law, of property tax revenues among the different types of government.

The second stage allocates the city pool among cities, the school pool among schools, and the special district pool among special districts. The allocations are made in proportion to each local government's taxable assessed valuation. As a result, Smith's property tax payments are divided as follows: $500 to county government; $200 to her city; $250 to her schools; and $50 to her special districts. Since county government receives 50% of each taxpayer's property tax payments, the simple remedy satisfies tax uniformity.

Jones, of course, loses the $125 revenue transfer she received under existing law. The simple remedy avoids this unconstitutional transfer because each taxpayer pays property taxes, and each of her local governments receives property tax allocations on the basis of her taxable assessed valuation. Therefore, the apportionment of countywide property tax revenues under the simple remedy would satisfy tax situs.

Not only do the property tax allocations under the simple remedy yield a uniform effective tax allocation rate for county government, they also create a uniform effective tax allocation rate for each type of local government. Both city governments, for example, would receive a 0.80% rate on their residents' taxable assessed valuation.

Uniformity of tax rates across different jurisdictions, of course, is not required by section 1 of article XIII of the California Constitution, which requires only uniform taxation within a given jurisdiction. Inevitably, however, property taxation under a fixed limit that satisfies tax situs will also yield uniform taxation among local governments of the same type. If each taxpayer is served by one local government, each local government receives a uniform tax rate equal to the tax limit. The presence of overlapping jurisdictions does not change the fact that a uniform

588. See infra Appendix, Table-8. The top panel reproduces the pre-Proposition 13 situation from Table 3. The bottom panel lists the allocation of FY 1978-79 countywide property tax revenues under the simple remedy.

589. Recall that Jones and Smith have identical assessed valuations. See supra note 478 and accompanying text. Therefore, each city receives half the city pool of property tax revenues, each school half the school pool, and each special district half the special district pool.

590. See infra Appendix, Table 9.

591. See CAL. CONST. art. XIII, § 1.
tax limit should yield uniform taxation unless, of course, local governments exercise their discretion to collect less than the maximum tax rate.

The gains realized and losses incurred from correcting the constitutional problems with existing law reflect the fiscal effects of moving to uniform taxation for each type of government.592 Local governments receiving high effective tax allocation rates for their type of government under existing law lose revenue under the simple remedy; local governments receiving low effective tax allocation rates for their type of government under existing law gain.593 Existing law had allocated to Jones’ city and schools higher effective tax allocation rates than to Smith’s city and schools, and Jones’ special districts were subject to a lower effective tax allocation rate than Smith’s special districts. For Jones, her city would lose $120 and her schools $30, but her special districts would gain $25—on net, reversing her $125 gain from the violation of tax situs.594 For Smith, her city would gain $120 and her schools $30, but her special districts would lose $25—on net, reversing her $125 loss.595

Since county government would receive a uniform effective allocation tax rate from all taxpayers, the simple remedy also provides for uniformity in the allocation of the growth in property tax revenues. The simple remedy would therefore correct both the tax situs and tax uniformity problems inherent in the existing apportionment of countywide property tax revenues.

B. The Thorough Remedy

Not all taxpayers are served by each type of special district. Some cities have their own fire departments, while other cities contract with fire districts to provide their residents with fire department services. The question arises whether reform of existing law can accommodate this feature of local government while satisfying tax situs and tax uniformity. The following illustration of a five-taxpayer hypothetical county shows how the simple remedy can be modified so that the resulting allocation of property tax revenues satisfies tax situs to the very last penny.

Consider the five taxpayers in Table 10.596 For simplicity, assume that the only special district in the county is a fire district. Taxpayers A, B, and D reside in cities which have their own fire departments. Taxpayers C and E receive fire protection from the fire district. As shown in the

592. See infra Appendix, Table 9.
593. Id.
594. Id.
595. Id.
596. See infra Appendix, Table 10.
bottom panel, taxpayers A, B, and C pay less in property taxes than monies received by their local governments; taxpayers D and E pay more in property taxes than monies received by their local governments. 597

Consider the apportionment of property tax revenues under the simple remedy. As with the Jones-Smith illustration, the county receives a uniform effective tax allocation rate (1.36%) from each taxpayer. Each city receives an effective tax allocation rate of 0.40%, each school a rate of 2.14%, and the fire district a rate of 0.27%. 598 The simple remedy creates its own set of revenue transfers; however, they are smaller in magnitude than the transfers under existing law. Taxpayers C and E pay less in property taxes than received by their local governments. Taxpayers A, B, and D pay more in taxes than received by their local governments. While existing law redistributes revenues from taxpayers in pre-Proposition 13 low-tax rate jurisdictions to taxpayers in pre-Proposition 13 high-tax rate jurisdictions, 599 the simple remedy redistributes revenues from those taxpayers not served by fire districts to those taxpayers served by fire districts.

A modification of the simple remedy's revenue allocations avoids the revenue transfers. The $27.16 loss of taxpayers A, B, and D equals the amount of money each would have received had the total fire district allocation ($135.83) been apportioned among all taxpayers without regard to whether each taxpayer had a fire district. 600 Moreover, the gain of taxpayers C and E equals the total losses of taxpayers A, B, and D apportioned among themselves in proportion to their taxable assessed valuations. 601 Therefore, the transfers from the simple remedy can be avoided by adjusting city allocations. Cities A, B, and D could receive a credit for their provision of fire service. Cities C and E could receive a debit for shifting the responsibility for fire protection to a special district.

The thorough remedy uses a credit/debit scheme based on three pieces of information: (1) the effective tax rates of special districts under

597. In the illustration, the (assessed value weighted average) countywide property tax rate before Proposition 13 was 11.78%. Therefore, taxpayers A, B, and C paid above average property tax rates and taxpayers D and E paid below average property tax rates before Proposition 13.

598. See infra Appendix, Table 11 (top panel). These effective rates are computed by taking the ratio of a local government's tax allocation to its assessed valuation.

599. See text following supra note 481.

600. Recall that each taxpayer has 20% of countywide taxable assessed valuation. Therefore, the apportionment of the fire district allocation among all taxpayers would yield $27.16 (0.20 X $135.83).

601. Because taxpayers C and E have identical assessed valuations, the apportionment of their total gain on the basis of assessed valuation is the same as them equally dividing their total gain.
the simple remedy; (2) city contracting ratios (for each type of special district, the share of total city taxable assessed valuation served by that type of special district); and (3) whether taxpayers in a particular city are served by that special district. If a city provides its own service, it receives a city credit equal to its taxable assessed valuation multiplied by the effective tax allocation rate of the special district type multiplied by the city contracting ratio. For example, cities serving taxpayers A, B, and D add a credit of $27.16 to their original city allocation because they have their own fire departments.\(^{602}\) If a city contracts for a service, it receives a city debit equal to its taxable assessed valuation multiplied by the effective tax allocation rate of the special district type multiplied by one minus the city contracting ratio. For example, cities serving taxpayers C and E subtract a debit of $40.75 from their original city allocation because they contracted for fire services.\(^{603}\) This credit/debit scheme allocates countywide property tax revenues and complies with tax situs to the very last penny.\(^{604}\)

Under the thorough remedy, effective city tax allocation rates vary among jurisdictions. Inclusive of the credit/debit for fire districts, cities serving taxpayers A, B, and D receive an effective tax allocation rate of 0.50% and cities serving taxpayers C and E receive an effective tax allocation rate of 0.23%.\(^{605}\) The city tax allocation rates are still uniform among cities that provide the same bundle of local services.

In sum, the thorough remedy satisfies tax situs, regardless of the complex, “patchwork” structure of special districts.\(^{606}\) It guarantees uniform taxation within any given jurisdiction. It therefore achieves that which has eluded the legislature since voters approved Proposition 13—implementation of property tax limitation without violating tax situs and tax uniformity.

**C. The Ease of Reform**

Existing law can be easily reformed so that property taxation adheres to long-standing constitutional principles. The principle of tax si-

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\(^{602}\) In the five-taxpayer illustration, the city contracting ratio equals .40 and the effective tax rate of the fire district equals .2716%. Therefore the credit equals .4 times .002716 times $25,000 = $27.16.

\(^{603}\) Since the city contracting ratio equals .40, one minus the contracting ratio equals .60. Using the definition in the text for the debit, .60 times .002716 times $25,000 = $40.74.

\(^{604}\) See infra Appendix, Table 11.

\(^{605}\) Id.

\(^{606}\) For a mathematical proof that the thorough remedy satisfies tax situs with any arbitrarily large number of taxpayers and any complex structure of overlapping jurisdictions, see Constitutional Reform, supra note 118, at 101-03.
tus, for example, has become so ingrained in California jurisprudence that the California Supreme Court refers to the principle without lengthy analysis or citation.\textsuperscript{607} Tax situs should not be abandoned simply because the legislature did not adhere to constitutional principles in implementing Proposition 13.

The problems with existing law cannot be dismissed as unimportant or merely technical. As demonstrated by the case studies of property tax allocation in San Bernardino and Los Angeles Counties, many taxpayers pay more in property taxes than received by their local governments.\textsuperscript{608} The revenue transfer will grow, not diminish. A multi-billion dollar, constitutional problem awaits resolution.

The problems with existing law are not confined to the taxpayers in cities included in the case studies. Consider the effect on city finances by solving the violations of tax situs and tax uniformity with the simple remedy. In FY 1984-85, about $200 million, or 17.8\% of the $1.1 billion of city property tax revenues allocated statewide, would have been reallocated.\textsuperscript{609} Two hundred and fifty-two cities, with almost eight million residents, would have received greater property tax revenues, and 174 cities, with almost eleven million residents, would have received less.\textsuperscript{610} Forty-six percent of the property tax revenues received by cities in Ventura County, for example, would be reallocated by the implementation of the simple remedy; over 30\% in Contra Costa County; about 25\% in Los Angeles County and Riverside County.\textsuperscript{611} With the exception of the least populated counties in California, almost all other counties would find at least 10\% of the property tax revenues allocated among cities would have been reallocated.\textsuperscript{612}

The proposed remedies can restore tax situs and tax uniformity to California's system of property taxation. They are administratively feasible. They use the same information as the current apportionment of

\textsuperscript{607} In \textit{Hansen v. City of San Buenaventura}, the California Supreme Court held that the city could impose a 70\% surcharge for water service to non-residents. 42 Cal. 3d 1172, 1190, 729 P.2d 186, 197, 233 Cal. Rptr. 22, 33 (1986). The court noted that the city had supported its water department, in part, with revenues from the city's general fund. \textit{Id.} at 1177, 729 P.2d at 188, 233 Cal. Rptr. at 23. Therefore, it concluded that city residents had contributed tax monies to the water department while non-residents had not. \textit{Id.} at 1184, 729 P.2d at 193, 233 Cal. Rptr. at 29. The disputed surcharge was a method for making residents and non-residents equally responsible for financing the water department. \textit{Id.} at 1185, 729 P.2d at 193-94, 233 Cal. Rptr. at 29. Tax situs, of course, bars the city from taxing non-residents.

\textsuperscript{608} See \textit{supra} notes 502-38 and accompanying text.

\textsuperscript{609} See Apportionment of Property Tax Revenues, \textit{supra} note 482, at 35 and Table 15.

\textsuperscript{610} \textit{Id.}

\textsuperscript{611} \textit{Id.}

\textsuperscript{612} \textit{Id.}
property tax revenues. They are less cumbersome than the formula defined by existing law because the straightforward computations of the simple or thorough remedies replace the complex, six-step computation used to allocate the annual tax increment. It is time that the legislative implementation of Proposition 13 follow the constitutional principles that have shaped local property taxation in California since the 19th century.

D. The Inadequacy of Recent Legislation

Despite the ease of reform, the Legislature has not corrected the constitutional problems with existing law. During the past two sessions, the legislature passed SB 709\(^{613}\) and AB 1197\(^{614}\) to increase the property tax allocations of the no-tax and low-tax cities whose taxpayers are fiscally disadvantaged by existing law.\(^{615}\) These cities receive greater property tax allocations, provided county government participates in the Trial Court Funding Act of 1985.\(^{616}\) SB 709 would have given eligible cities a ten cent tax rate per $100 of taxable assessed valuation, phased-in over ten years.\(^{617}\) AB 1197 substituted a seven cent tax rate for eligible cities, phased in over seven years.\(^{618}\)

Neither bill solved the constitutional problems with existing law. Eligible cities were not guaranteed their additional property tax allocations; county government must participate in the Trial Court Funding Act but can later opt out.\(^{619}\) The legislation ignored the plight of taxpayers in low-tax cities that receive more than the threshold rates defined in the law but nevertheless are victimized by the violations of tax situs and tax uniformity. Moreover, the legislation did not focus its attention on the relevant parties. Instead, it increased the tax allocations of fiscally disadvantaged cities by reducing the property tax allocation of county

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\(^{615}\) See Act approved Sept. 27, 1987, ch. 1211; Act approved Sept. 16, 1988, ch. 944 for statements of legislative intent.

\(^{616}\) Trial Court Funding Act of 1985, ch. 1607, 1985 Cal. Stat. 5992 (codified at CAL. GOV'T CODE § 77000 (West 1987)).


\(^{618}\) See Act approved Sept. 16, 1988, ch. 944, § 6, 1988 Cal. Stat. 5-8 (codified at CAL. REV. & TAX. CODE § 97.35 (West Supp. 1990)).

government, rather than the cities with the abnormally high effective tax allocation rates.\textsuperscript{620}

The fundamental problem with the recent legislation is simple. By failing to allocate property tax revenues among cities on the basis of taxable assessed valuation, the apportionment of property tax revenues continues to violate tax situs and tax uniformity. Implementing the proposed remedies can solve these problems, but \textit{ad hoc} changes in the apportionment formula, not guided by longstanding constitutional principles, solve nothing.

\textbf{CONCLUSION}

Proposition 13 illustrates the strengths and weaknesses of the initiative process. Proposition 13 allowed voters to address a fiscal problem that the Legislature had not squarely addressed: effective property tax relief without increased state taxes or local non-property taxes. However, poor draftsmanship resulted not only in extensive litigation to interpret its meaning but also in implementing legislation which, as shown above, is unconstitutional.

Without changing the intent of Proposition 13, the drafters could have explained how the proposed property tax limit would be integrated into the constitutional framework of local fiscal affairs. This could have been achieved by substituting a specific implementation plan in section 1(a) in place of the language "[t]he one percent (1\%) tax to be collected by the counties and apportioned according to law."\textsuperscript{621} Alternatively, a position paper could have been released outlining the different ways in which the tax limit could be implemented.\textsuperscript{622}

Proposition 13 cast the Legislature adrift in a political storm without guidance on how it could maneuver through the troubled fiscal waters brought about by the property tax revolt. Ultimately, the Legislature must take responsibility for its actions. It is time existing law

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\textsuperscript{620} As illustrated by the examination of the simple and thorough remedies, \textit{supra} notes 587-606 and accompanying text, county government can receive the same property tax allocation as provided by existing law. The key to correcting the problems with existing law involves allocating property tax revenues among local governments of the same type.

\textsuperscript{621} \textit{California Voter Pamphlet, supra} note 99, at 56.

\textsuperscript{622} This latter approach, for example, was taken just one year later in 1979 by the drafters of Proposition 4, the "Gann" limits on spending by state and local governments. \textit{See also} Spirit of 13 (unpublished paper, Center for the Study of Law Structures, now the Lowe Institute of Political Economy, Claremont McKenna College). This document provides an extensive interpretation of the provisions of the limits and addresses questions about their implementation. Unfortunately, this document was not released until after the voters had approved Proposition 4. It has served as a reference document for practitioners.
conformed with long-standing constitutional principles governing local fiscal affairs in California.
### APPENDIX

#### TABLE 1

**THE PROBLEM WITH THE APPORTIONMENT OF PROPERTY TAX REVENUES IN FY 1978-79**

<table>
<thead>
<tr>
<th>Local Government</th>
<th>Jones</th>
<th></th>
<th>Smith</th>
<th></th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Tax Rate (percent)</td>
<td>Amount Paid</td>
<td>Received by Entity</td>
<td>Tax Rate (percent)</td>
</tr>
<tr>
<td>County</td>
<td>4.00</td>
<td>1,000</td>
<td>1,000</td>
<td>4.00</td>
</tr>
<tr>
<td>City</td>
<td>2.56</td>
<td>640</td>
<td>640</td>
<td>0.64</td>
</tr>
<tr>
<td>Schools</td>
<td>2.24</td>
<td>560</td>
<td>560</td>
<td>1.76</td>
</tr>
<tr>
<td>Districts</td>
<td>0.20</td>
<td>50</td>
<td>50</td>
<td>0.60</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>9.00</td>
<td>2,250</td>
<td>2,250</td>
<td>7.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Local Government</th>
<th>Jones</th>
<th></th>
<th>Smith</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Tax Rate (percent)</td>
<td>Amount Paid</td>
<td>Received by Entity</td>
<td>Tax Rate (percent)</td>
</tr>
<tr>
<td>County</td>
<td>n.l.</td>
<td>n.l.</td>
<td>500</td>
<td>n.l.</td>
</tr>
<tr>
<td>City</td>
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<td>n.l.</td>
<td>320</td>
<td>n.l.</td>
</tr>
<tr>
<td>Schools</td>
<td>n.l.</td>
<td>n.l.</td>
<td>280</td>
<td>n.l.</td>
</tr>
<tr>
<td>Districts</td>
<td>n.l.</td>
<td>n.l.</td>
<td>25</td>
<td>n.l.</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>4.00</td>
<td>1,000</td>
<td>1,125</td>
<td>4.00</td>
</tr>
</tbody>
</table>

---

**Notes**

1. Jones and Smith have properties with identical market values of $100,000 and assessed valuations of $25,000.
2. n.l. means not listed on taxpayer bills after Proposition 13.
3. Attribution factors defined by Government Code:
   - Local Agency Share = .75
   - Local Agency Factors: School Entity Factors:
     - County = .667
     - Jones' City = .213
     - Smith's City = .053
   - Jones' Districts = .017
   - Smith's Districts = .050
4. Distribution of Countywide Property Tax Revenues Among Local Governments (%):

<table>
<thead>
<tr>
<th>Period</th>
<th>County</th>
<th>Cities</th>
<th>Schools</th>
<th>Districts</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-Proposition 13</td>
<td>Jones</td>
<td>Smith</td>
<td>Jones</td>
<td>Smith</td>
<td>Jones</td>
</tr>
<tr>
<td>FY 1978-79</td>
<td>50.00</td>
<td>16.00</td>
<td>4.00</td>
<td>14.00</td>
<td>11.00</td>
</tr>
</tbody>
</table>

---
### Table 2

**Taxpayer’s Gain from Violation of Tax Situs in FY 1978-79**  
(Percent of Property Tax Payments)

<table>
<thead>
<tr>
<th>Relative Tax Rate</th>
<th>Relative Growth Factor</th>
<th>0.80</th>
<th>0.90</th>
<th>1.00</th>
<th>1.10</th>
<th>1.20</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.20</td>
<td>50.00</td>
<td>33.33</td>
<td>20.00</td>
<td>9.09</td>
<td>0.00</td>
<td></td>
</tr>
<tr>
<td>1.10</td>
<td>37.50</td>
<td>22.22</td>
<td>10.00</td>
<td>0.00</td>
<td>-8.33</td>
<td></td>
</tr>
<tr>
<td>1.00</td>
<td>25.00</td>
<td>11.11</td>
<td>0.00</td>
<td>-9.09</td>
<td>-16.67</td>
<td></td>
</tr>
<tr>
<td>0.90</td>
<td>12.50</td>
<td>0.00</td>
<td>-10.00</td>
<td>-18.18</td>
<td>-25.00</td>
<td></td>
</tr>
<tr>
<td>0.80</td>
<td>0.00</td>
<td>-11.11</td>
<td>-20.00</td>
<td>-27.27</td>
<td>-33.33</td>
<td></td>
</tr>
</tbody>
</table>

**Notes**

1. *Relative tax rate* equals the ratio of taxpayer’s pre-Proposition 13 property tax rate to (assessed value weighted) average of property tax rates paid countywide.
2. *Relative Growth Factor* equals ratio of one plus growth rate of taxable assessed valuation of taxpayer’s property to one plus growth rate of countywide assessed valuation.
<table>
<thead>
<tr>
<th>Fiscal Year Ending</th>
<th>City Revenue</th>
<th>School Revenue</th>
<th>District Revenue</th>
<th>Tax Rate Area Revenue</th>
<th>Taxes Paid</th>
<th>Tax Situs</th>
<th>Non-Uniform Taxation</th>
<th>Total Loss</th>
<th>Loss as % Taxes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1979</td>
<td>80.00</td>
<td>220.00</td>
<td>75.00</td>
<td>875.00</td>
<td>1,000.00</td>
<td>(125.00)</td>
<td>0.00</td>
<td>(125.00)</td>
<td>(12.50)</td>
</tr>
<tr>
<td>1980</td>
<td>88.61</td>
<td>243.68</td>
<td>83.07</td>
<td>969.17</td>
<td>1,094.17</td>
<td>(125.00)</td>
<td>(5.98)</td>
<td>(130.98)</td>
<td>(11.97)</td>
</tr>
<tr>
<td>1981</td>
<td>98.03</td>
<td>269.59</td>
<td>91.90</td>
<td>1,072.22</td>
<td>1,197.22</td>
<td>(125.00)</td>
<td>(12.52)</td>
<td>(137.52)</td>
<td>(11.49)</td>
</tr>
<tr>
<td>1982</td>
<td>108.34</td>
<td>297.93</td>
<td>101.57</td>
<td>1,184.96</td>
<td>1,309.96</td>
<td>(125.00)</td>
<td>(19.68)</td>
<td>(144.68)</td>
<td>(11.04)</td>
</tr>
<tr>
<td>1983</td>
<td>119.62</td>
<td>328.95</td>
<td>112.14</td>
<td>1,308.33</td>
<td>1,433.33</td>
<td>(125.00)</td>
<td>(27.51)</td>
<td>(152.51)</td>
<td>(10.64)</td>
</tr>
<tr>
<td>1984</td>
<td>131.96</td>
<td>362.89</td>
<td>123.71</td>
<td>1,443.31</td>
<td>1,568.31</td>
<td>(125.00)</td>
<td>(36.08)</td>
<td>(161.08)</td>
<td>(10.27)</td>
</tr>
<tr>
<td>1985</td>
<td>145.46</td>
<td>400.02</td>
<td>136.37</td>
<td>1,591.01</td>
<td>1,716.01</td>
<td>(125.00)</td>
<td>(45.46)</td>
<td>(170.46)</td>
<td>(9.93)</td>
</tr>
<tr>
<td>1986</td>
<td>160.24</td>
<td>440.66</td>
<td>150.22</td>
<td>1,752.61</td>
<td>1,877.61</td>
<td>(125.00)</td>
<td>(55.72)</td>
<td>(180.72)</td>
<td>(9.63)</td>
</tr>
<tr>
<td>1987</td>
<td>176.41</td>
<td>485.11</td>
<td>165.38</td>
<td>1,929.43</td>
<td>2,054.43</td>
<td>(125.00)</td>
<td>(66.95)</td>
<td>(191.95)</td>
<td>(9.34)</td>
</tr>
<tr>
<td>1988</td>
<td>194.09</td>
<td>533.76</td>
<td>181.96</td>
<td>2,122.91</td>
<td>2,247.91</td>
<td>(125.00)</td>
<td>(79.23)</td>
<td>(204.23)</td>
<td>(9.09)</td>
</tr>
<tr>
<td>1989</td>
<td>213.45</td>
<td>586.99</td>
<td>200.11</td>
<td>2,334.60</td>
<td>2,459.60</td>
<td>(125.00)</td>
<td>(92.67)</td>
<td>(217.67)</td>
<td>(8.85)</td>
</tr>
<tr>
<td>1990</td>
<td>234.63</td>
<td>645.22</td>
<td>219.96</td>
<td>2,566.23</td>
<td>2,691.23</td>
<td>(125.00)</td>
<td>(107.38)</td>
<td>(232.38)</td>
<td>(8.63)</td>
</tr>
<tr>
<td>1991</td>
<td>257.80</td>
<td>708.95</td>
<td>241.69</td>
<td>2,819.68</td>
<td>2,944.68</td>
<td>(125.00)</td>
<td>(123.47)</td>
<td>(248.47)</td>
<td>(8.44)</td>
</tr>
<tr>
<td>1992</td>
<td>283.15</td>
<td>778.67</td>
<td>265.46</td>
<td>3,096.99</td>
<td>3,221.99</td>
<td>(125.00)</td>
<td>(141.08)</td>
<td>(266.08)</td>
<td>(8.26)</td>
</tr>
<tr>
<td>1993</td>
<td>310.90</td>
<td>854.96</td>
<td>291.46</td>
<td>3,400.42</td>
<td>3,525.42</td>
<td>(125.00)</td>
<td>(160.34)</td>
<td>(285.34)</td>
<td>(8.09)</td>
</tr>
<tr>
<td>1994</td>
<td>341.25</td>
<td>938.44</td>
<td>319.92</td>
<td>3,732.43</td>
<td>3,857.43</td>
<td>(125.00)</td>
<td>(181.42)</td>
<td>(306.42)</td>
<td>(7.94)</td>
</tr>
<tr>
<td>1995</td>
<td>374.46</td>
<td>1,029.77</td>
<td>351.06</td>
<td>4,095.70</td>
<td>4,220.70</td>
<td>(125.00)</td>
<td>(204.49)</td>
<td>(329.49)</td>
<td>(7.81)</td>
</tr>
<tr>
<td>1996</td>
<td>410.80</td>
<td>1,129.71</td>
<td>385.13</td>
<td>4,493.18</td>
<td>4,618.18</td>
<td>(125.00)</td>
<td>(229.73)</td>
<td>(354.73)</td>
<td>(7.68)</td>
</tr>
<tr>
<td>1997</td>
<td>450.57</td>
<td>1,239.06</td>
<td>422.41</td>
<td>4,928.09</td>
<td>5,053.09</td>
<td>(125.00)</td>
<td>(257.34)</td>
<td>(382.34)</td>
<td>(7.57)</td>
</tr>
<tr>
<td>1998</td>
<td>494.08</td>
<td>1,358.71</td>
<td>463.20</td>
<td>5,403.96</td>
<td>5,528.96</td>
<td>(125.00)</td>
<td>(287.55)</td>
<td>(412.55)</td>
<td>(7.46)</td>
</tr>
</tbody>
</table>

Notes
1. Assumes that Smith and countywide taxable assessed valuation grows at an annual rate of 9%.
### Table 4

**Gains and Losses from Violations of Tax Situs and Tax Uniformity**

**San Bernardino County (FY 1987-88)**

<table>
<thead>
<tr>
<th>City</th>
<th>1% Assessed Value</th>
<th>Attributed Revenues</th>
<th>Difference</th>
<th>Percent of Own Revenues</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rancho</td>
<td>26,754,251</td>
<td>23,793,890</td>
<td>-2,960,360</td>
<td>-16.02</td>
</tr>
<tr>
<td>Cucamonga</td>
<td>26,754,251</td>
<td>24,073,071</td>
<td>-2,681,180</td>
<td>-14.51</td>
</tr>
<tr>
<td>Redlands</td>
<td>14,946,094</td>
<td>15,447,832</td>
<td>501,738</td>
<td>2.20</td>
</tr>
<tr>
<td></td>
<td>14,946,094</td>
<td>15,648,648</td>
<td>702,553</td>
<td>3.07</td>
</tr>
</tbody>
</table>

Entries in boldface are computations including adjustment for Special District Augmentation Fund. Entries in regular typeface are computations without adjustment for Special District Augmentation Fund.

Difference equals attributed revenues less 1% assessed valuation. A positive number means that local agencies and schools receive more revenues than property taxes paid by residents. A negative number means that taxing agencies and schools serving residents receive less revenues than property taxes paid by residents.

Own revenues equals total revenues less operating revenues from city-owned enterprises, less state subventions and revenue transfers other than reimbursement for homeowners exemption, less federal transfers. Source: Financial Transactions Concerning Cities of California, Annual Report for FY 1986-87, Table 5.

### Table 5

**Growth in Revenue Transfers Under Existing Law in San Bernardino County**

<table>
<thead>
<tr>
<th>Fiscal Year Ending</th>
<th>Rancho</th>
<th>Cucamonga</th>
<th>Redlands</th>
</tr>
</thead>
<tbody>
<tr>
<td>1988</td>
<td>-2,960,360</td>
<td>501,737</td>
<td></td>
</tr>
<tr>
<td>1989</td>
<td>-3,239,150</td>
<td>548,988</td>
<td></td>
</tr>
<tr>
<td>1990</td>
<td>-3,544,194</td>
<td>600,688</td>
<td></td>
</tr>
<tr>
<td>1991</td>
<td>-3,877,966</td>
<td>657,258</td>
<td></td>
</tr>
<tr>
<td>1992</td>
<td>-4,243,171</td>
<td>719,155</td>
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</tr>
<tr>
<td>1993</td>
<td>-4,642,769</td>
<td>786,881</td>
<td></td>
</tr>
<tr>
<td>1994</td>
<td>-5,079,998</td>
<td>860,985</td>
<td></td>
</tr>
<tr>
<td>1995</td>
<td>-5,558,403</td>
<td>942,067</td>
<td></td>
</tr>
<tr>
<td>1996</td>
<td>-6,081,862</td>
<td>1,030,786</td>
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</tr>
<tr>
<td>1997</td>
<td>-6,654,617</td>
<td>1,127,859</td>
<td></td>
</tr>
<tr>
<td>1998</td>
<td>-7,281,311</td>
<td>1,234,075</td>
<td></td>
</tr>
</tbody>
</table>

Cumulative:

Total: -53,163,805  9,010,483
**Table 6**

**GAINS AND LOSSES FROM VIOLATIONS OF TAX SITUS AND TAX UNIFORMITY**

L.A. County (FY 1986-87)

<table>
<thead>
<tr>
<th>City</th>
<th>1% Assessed Value</th>
<th>Attributed Revenues</th>
<th>Difference</th>
<th>Percent of Own Revenues</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of L.A.</td>
<td>$1,138,308,198</td>
<td>1,208,888,864</td>
<td>70,580,666</td>
<td>3.69</td>
</tr>
<tr>
<td>Compton</td>
<td>14,908,963</td>
<td>14,766,439</td>
<td>-142,524</td>
<td>-0.40</td>
</tr>
<tr>
<td>El Segundo</td>
<td>41,720,218</td>
<td>31,426,094</td>
<td>-10,294,124</td>
<td>-55.42</td>
</tr>
<tr>
<td>Temple City</td>
<td>7,466,686</td>
<td>7,309,158</td>
<td>-157,529</td>
<td>-4.76</td>
</tr>
</tbody>
</table>

Entries in boldface are computations including adjustment for Special District Augmentation Fund. Entries in regular typeface are computations without adjustment for Special District Augmentation Fund.

b Difference equals attributed revenues less 1% assessed valuation. A positive number means that local agencies and schools receive more revenues than property taxes paid by residents. A negative number means that taxing agencies and schools serving residents receive less revenues than property taxes paid by residents.

c Own revenues equals total revenues less operating revenues from city-owned enterprises, less state subventions and revenue transfers other than reimbursement for homeowners exemption, less federal transfers. Source: Financial Transactions Concerning Cities of California, Annual Report for FY 1986-87, Tables 3, 4, 5 and 7.

**Table 7**

**GROWTH IN REVENUE TRANSFERS UNDER EXISTING LAW IN LOS ANGELES COUNTY**

<table>
<thead>
<tr>
<th>Fiscal Year Ending</th>
<th>Los Angeles</th>
<th>Carson</th>
<th>Compton</th>
<th>El Segundo</th>
<th>Temple City</th>
</tr>
</thead>
<tbody>
<tr>
<td>1987</td>
<td>70,580,666</td>
<td>-3,308,856</td>
<td>-142,524</td>
<td>-10,294,123</td>
<td>-157,528</td>
</tr>
<tr>
<td>1989</td>
<td>84,500,399</td>
<td>-3,961,420</td>
<td>-170,632</td>
<td>-12,324,303</td>
<td>-188,596</td>
</tr>
<tr>
<td>1990</td>
<td>92,458,163</td>
<td>-4,334,484</td>
<td>-186,701</td>
<td>-13,484,936</td>
<td>-206,357</td>
</tr>
<tr>
<td>1991</td>
<td>101,165,345</td>
<td>-4,742,681</td>
<td>-204,283</td>
<td>-14,754,870</td>
<td>-225,790</td>
</tr>
<tr>
<td>1992</td>
<td>110,692,519</td>
<td>-5,189,319</td>
<td>-223,522</td>
<td>-16,144,400</td>
<td>-247,054</td>
</tr>
<tr>
<td>1993</td>
<td>121,116,907</td>
<td>-5,678,020</td>
<td>-244,572</td>
<td>-17,664,787</td>
<td>-270,320</td>
</tr>
<tr>
<td>1994</td>
<td>132,523,005</td>
<td>-6,212,743</td>
<td>-267,604</td>
<td>-19,328,356</td>
<td>-295,777</td>
</tr>
<tr>
<td>1995</td>
<td>145,003,265</td>
<td>-6,797,824</td>
<td>-292,806</td>
<td>-21,148,590</td>
<td>-323,632</td>
</tr>
<tr>
<td>1998</td>
<td>189,949,122</td>
<td>-8,904,908</td>
<td>-383,565</td>
<td>-27,703,901</td>
<td>-423,946</td>
</tr>
</tbody>
</table>

Cumulative:

1989-98: 1,309,667,999 -61,397,879 -2,644,622 -191,013,848 -2,923,043

Total: 1,457,476,215 -68,327,200 -2,943,093 -212,571,538 -3,252,936
APPORTIONMENT OF PROPERTY TAXES

TABLE 8
THE SIMPLE REMEDY FOR THE JONES-SMITH ILLUSTRATION,
FY 1978-79

<table>
<thead>
<tr>
<th>Pre-Proposition 13:</th>
<th>Jones</th>
<th></th>
<th>Smith</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Amount</td>
<td>Amount</td>
<td>Amount</td>
</tr>
<tr>
<td></td>
<td>Local Government</td>
<td>Tax Rate</td>
<td>Amount</td>
</tr>
<tr>
<td>County</td>
<td>4.00</td>
<td>1,000</td>
<td>1,000</td>
</tr>
<tr>
<td>City</td>
<td>2.56</td>
<td>640</td>
<td>640</td>
</tr>
<tr>
<td>Schools</td>
<td>2.24</td>
<td>560</td>
<td>560</td>
</tr>
<tr>
<td>Districts</td>
<td>0.20</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>Total</td>
<td>9.00</td>
<td>2,250</td>
<td>2,250</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Post-Proposition 13:</th>
<th>Jones</th>
<th></th>
<th>Smith</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Amount</td>
<td>Amount</td>
<td>Amount</td>
</tr>
<tr>
<td></td>
<td>Local Government</td>
<td>Tax Rate</td>
<td>Amount</td>
</tr>
<tr>
<td>County</td>
<td>2.00</td>
<td>n.l.</td>
<td>500</td>
</tr>
<tr>
<td>City</td>
<td>0.80</td>
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</tr>
<tr>
<td>Schools</td>
<td>1.00</td>
<td>n.l.</td>
<td>250</td>
</tr>
<tr>
<td>Districts</td>
<td>0.20</td>
<td>n.l.</td>
<td>25</td>
</tr>
<tr>
<td>Total</td>
<td>4.00</td>
<td>1,000</td>
<td>1,000</td>
</tr>
</tbody>
</table>

Notes
1. Jones and Smith have properties with identical market values of $100,000 and assessed valuations of $25,000.
2. n.l. means not listed on taxpayer bills after Proposition 13. Tax rates for local governments are effective tax allocation rates implied by the allocation of property tax revenues by simple remedy.
3. Entity Allocation Factors Defined by Simple Remedy:
   - County = .50
   - Cities = .20
   - Schools = .25
   - Districts = 0.5
**Table 9**

**Distribution of the Gains and Losses from Using Simple Remedy to Apportion Property Tax Revenues**

<table>
<thead>
<tr>
<th></th>
<th>Existing Law</th>
<th>Simple Remedy</th>
<th>Net Gain</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Tax Allocation Rate</td>
<td>Revenue Allocation</td>
<td>Tax Allocation Rate</td>
</tr>
<tr>
<td>Jones</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>County</td>
<td>2.00</td>
<td>500</td>
<td>2.00</td>
</tr>
<tr>
<td>City</td>
<td>1.28</td>
<td>320</td>
<td>0.80</td>
</tr>
<tr>
<td>Schools</td>
<td>1.12</td>
<td>280</td>
<td>1.00</td>
</tr>
<tr>
<td>Districts</td>
<td>0.10</td>
<td>25</td>
<td>0.20</td>
</tr>
<tr>
<td>Total</td>
<td>4.50</td>
<td>1,125</td>
<td>4.00</td>
</tr>
</tbody>
</table>

| Smith |               |               |           |               |               |
|County | 2.00 | 500 | 2.00 | 500 | 0 |
| City    | 0.32 | 80 | 0.80 | 200 | 120 |
| Schools | 0.88 | 220 | 1.00 | 250 | 30 |
| Districts | 0.30 | 75 | 0.20 | 50 | -25 |
| Total  | 3.50 | 875 | 4.00 | 1,000 | 125 |

**Table 10**

**Revenue Transfers Under Existing Law with Complex Structure of Local Government**

<table>
<thead>
<tr>
<th>County</th>
<th>City</th>
<th>Fire District</th>
<th>Schools</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pre-Proposition 13:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Taxpayer Rate Amount Rate Amount Rate Amount Rate Amount</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A</td>
<td>4.00</td>
<td>1,000.00</td>
<td>2.00</td>
<td>500.00</td>
</tr>
<tr>
<td>B</td>
<td>4.00</td>
<td>1,000.00</td>
<td>1.80</td>
<td>450.00</td>
</tr>
<tr>
<td>C</td>
<td>4.00</td>
<td>1,000.00</td>
<td>1.20</td>
<td>300.00</td>
</tr>
<tr>
<td>D</td>
<td>4.00</td>
<td>1,000.00</td>
<td>0.80</td>
<td>200.00</td>
</tr>
<tr>
<td>E</td>
<td>4.00</td>
<td>1,000.00</td>
<td>0.00</td>
<td>0.80</td>
</tr>
<tr>
<td>Total</td>
<td>5,000.00</td>
<td>1,450.00</td>
<td>400.00</td>
<td>7,875.00</td>
</tr>
</tbody>
</table>

| Post-Proposition 13: | | | | |
| Taxpayer Amount Amount Amount Amount Total Transfer | | | | |
| A | 339.56 | 169.78 | 0.00 | 594.23 | 1,103.57 | 103.57 |
| B | 339.56 | 152.80 | 0.00 | 636.67 | 1,129.03 | 129.03 |
| C | 339.56 | 101.87 | 67.91 | 509.34 | 1,018.68 | 18.68 |
| D | 339.56 | 67.91 | 0.00 | 509.34 | 916.81 | -83.19 |
| E | 339.56 | 0.00 | 67.91 | 424.45 | 831.92 | -168.08 |
| Total | 1,697.79 | 492.36 | 135.82 | 2,674.02 | 5,000.00 | 0.00 |

**Notes**

1. All five taxpayers own properties with identical market values of $100,000 and assessed valuations of $25,000.
2. Existing law transfers $251.27, or 25.1 percent of countywide property tax revenues.
### Table 11

**Property Tax Allocation under Simple and Thorough Remedies**

<table>
<thead>
<tr>
<th>Local Government</th>
<th>Simple Remedy</th>
<th>Thorough Remedy</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Taxpayer</td>
<td></td>
</tr>
<tr>
<td></td>
<td>County</td>
<td>City</td>
</tr>
<tr>
<td>A</td>
<td>339.56</td>
<td>98.47</td>
</tr>
<tr>
<td>B</td>
<td>339.56</td>
<td>98.47</td>
</tr>
<tr>
<td>C</td>
<td>339.56</td>
<td>98.47</td>
</tr>
<tr>
<td>D</td>
<td>339.56</td>
<td>98.47</td>
</tr>
<tr>
<td>E</td>
<td>339.56</td>
<td>98.47</td>
</tr>
<tr>
<td>Total</td>
<td>1,697.80</td>
<td>492.36</td>
</tr>
</tbody>
</table>

**Note**

Under simple remedy, $81.50, or 8.2 percent of countywide property tax revenues are transferred among taxpayers. These transfers are less than $\frac{1}{3}$ the size of the transfers under existing law.
Figure 1
GROWTH IN NON-UNIFORMITY OF EFFECTIVE TAX ALLOCATION RATE OF COUNTY GOVERNMENT

Percent

Fiscal Year Ending

60 58 56 54 52 50 48 46 44 42 40

Smith

Jones