Assembly Constitutional Amendment 6 (Brown and Salas)
Date: 04/07/16
Program: Property Taxes
Sponsor: Author (Pistachio Trees and Spouse-Base Year Value Transfers)
California Assessors' Association (Disabled Child)
California Constitution Article XIII, Section 3 and Article XIII A, Section 2
Effective: November 9, 2016, if placed on the ballot and approved by voters on November 8, 2016

Michele Pielsticker (Chief) 916.322.2376
Rose Marie Kinnee (Analyst) 916.445.6777
Chris Butler (Revenue) 916.445.0840

Summary: Subject to voter approval, this constitutional amendment:

- Increases from 4 to 6 years the exemption period for newly planted pistachio trees.
- Allows base year value transfers from one home to another if a person buys or builds a new home to accommodate a disabled child's needs.
- In the case of a married couple, allows each spouse to receive a base year value transfer related to the statutorily imposed "one-time only" limitation for persons over the age of 55.

Summary of Amendments: With respect to the disabled child provisions, the amendments since the last analysis specify that the parent must be the parent or legal guardian of the disabled child and reside with that child. The amendments also restate the married couple base year value provisions without altering the bill's intended effect. Both amendments address issues raised in the BOE's analysis.

Fiscal Impact Summary:

- **Pistachio Trees:** Annual revenue loss of $2 million.
- **Disabled Child:** Unknown minor annual revenue loss of $1,335 per transfer.
- **Spouses:** Annual revenue loss of $333,750.

Pistachio Trees

California Constitution Article XII, Section 3

Purpose: To delay taxing pistachio trees until they produce nuts.

Existing Law: The California Constitution[1] exempts from property tax fruit and nut trees planted in orchard form until four years after the season first planted. Grapevines planted in vineyard form are exempt for three years. The land in which the trees and grapevines are planted remains subject to tax.

The Revenue and Taxation Code[2] restates the constitutional exemption provisions. Additionally, BOE regulations[3] provide that the exemption period also applies to individual trees or vines (1) when a tree or vine is newly planted within an existing orchard or vineyard (i.e., a replacement tree or vine) and (2) when a tree or vine that has reached commercial production is grafted to the extent that it causes another non-producing period before the tree or vine will bear fruit, nuts, or grapes.

For Proposition 13 purposes, once the exemption period expires and the trees or vines are subject to tax, the law[4] sets the initial base year value of the trees or vines at its full cash value as of January 1 on the first year they are taxable.

Proposed Law: Subject to voter approval, this measure increases from four to six years the exemption for pistachio trees.

---

[1] Article XIII, Section 3(i) of the California Constitution.
[2] Revenue and Taxation Code (RTC) Section 211.
[3] Property Tax Rule 131.
[4] RTC Section 53.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

In General:

Property Taxation: Non-Williamson Act Agricultural Land. Agricultural land is subject to Proposition 13's assessment provisions, in that it retains its base year value until new construction or a change in ownership occurs. Inflationary increases in assessment are limited to no more than 2% per year. Trees and vines are subject to property tax as "living improvements," and a base year value is established for them once the exemption period for new plantings ends. In addition to land preparation and planting costs, an investment in an orchard or vineyard may not realize any cash flow for several years. Both crops require several years to reach maturity, and the land is committed to that specific use with little flexibility. Thus, the law exempts fruit and nut bearing trees and grapevines from taxation during a portion of their immature life. The taxation of the trees and vines is synchronized with their ability to produce a sellable crop. The *land* on which the trees and vines are planted remains subject to taxation; only the *trees and vines* are temporarily exempt.

Property Taxation: California Land Conservation Act (Williamson Act). The Williamson Act[5] helps conserve agricultural and open-space lands. Under the Williamson Act, landowners may enter into contracts with participating cities and counties to restrict the land to agricultural or open-space uses. The contract must have a minimum 10-year term with automatic yearly extensions absent specific action to remove the property from the program, such as nonrenewal or immediate cancellation. In exchange for entering into these contracts, the assessor values the land and any living improvements (trees and vines) according to income earning potential. The law provides a formula to value the land.[6] The valuation method capitalizes the income derived from the land's agricultural use. The statute details how to determine income and specifies the appropriate capitalization rate.

Lowest of Three Values The law requires the assessor to value Williamson Act property at the lowest of three values: Williamson Act restricted value,[7] current fair market value,[8] or Proposition 13 factored base year value.[9] This guarantees that landowners participating in the Williamson Act program are never assessed at a greater value than noncontracted land.

Commentary:

1. **Increases the Exemption Period from Four to Six Years.** The American Pistachio Growers (APG) state that "according to the United States Department of Agriculture (USDA) and affirmed by pistachio industry's Federal Marketing Order (governed by the USDA), pistachio trees are not considered bearing until six years after the season in which they were planted." This bill is intended to delay the taxation of the trees for two more years.

2. **California Pistachios.** According to the Administrative Committee for Pistachios, which administers the federal market order for pistachios, California grows 98% of U.S. pistachios. Five counties account for 94% of California pistachios: Kern (36%), Fresno (24%), Madera (14%), Tulare (12%), and Kings (8%).

3. **Most Orchards Assessed Under the Williamson Act.** Most pistachio tree acres are located on land subject to the Williamson Act and assessed under its prescribed methodology, as that results in the lowest value for property tax purposes.

---

[5] Government Code Section 51200 et. seq
[6] RTC Section 423.
[7] RTC Section 423.
[8] RTC Section 110.
[9] RTC Section 110.1.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

Revenue Impact:

Based on the historical new plantings since 1979, staff estimates that 10,000 new pistachio tree acres will be planted per year.

Time Span	Years	Average New Acreage
Last Five	2011-2015	15,000
Last Ten	2006-2015	15,000
Last Fifteen	2001-2015	12,000
Historical	1979-2015	7,000

Based on a survey of County Assessors in the top five pistachio-producing counties, the average assessed value is estimated at $10,000 per acre.

The revenue impact at the basic 1% property tax rate is $1 million in the first year and $2 million annually thereafter.

Year	Acres	Assessed Value Per Acre	Total Assessed Value	Tax Rate	Revenue Loss
First	10,000	$10,000	$100,000,000	1%	$1,00,0000
Thereafter	20,000	$10,000	$200,000,000	1%	$2,000,000

Base Year Value Transfers – Disabled Child

California Constitution Article XIII A, Section 2

Purpose: To assist parents caring for disabled children avoid the costly legal process of adding a minor child to title to qualify for a base year value transfer.

Existing Law: The law requires real property to be reassessed from its Proposition 13 protected value (called the "base year value") to current market value whenever a change in ownership occurs.[10] Subject to many conditions, the law allows disabled homeowners to sell their home, buy or build a new one, and transfer the base year value.[11] To qualify, the new home must be of equal or lesser value and located in the same county.[12] The implementing statute requires the move to be for disability-related reasons. The base year value transfer allows property taxes to remain the same after the move.[13]

Proposed Law: If voter-approved, this constitutional amendment would authorize the Legislature to extend base year value transfers to homeowners who are the parent or legal guardian of a severely disabled child and reside with that child.

In General: **Property Tax System.** In 1978, voters changed California's property tax system with the approval of Proposition 13. Under this system, property is reassessed to its current market value only after a change in ownership or new construction. Generally, the sales price of a property is used to set the property's assessed value, and annual increases to that value are limited to the rate of inflation, not to exceed 2%.

[10] California Constitution Article XIII A, Sec. 2.
[11] California Constitution Article XIII A, Sec. 2 (a), Revenue and Taxation Code (RTC) Section 69.5.
[12] In addition, ten counties offer this property tax benefit to new county residents: Alameda, El Dorado, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Mateo, Santa Clara, and Ventura. Each county has the discretion to accept intercounty transfers and must first enact an enabling ordinance.
[13] The property tax payment will not be exactly the same because the tax rate and direct levies (special assessments, parcel taxes, etc.) varies by location.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

Base Year Values. At the time of the ownership change, the value for property tax purposes is redetermined based on current market value. This established value is described as the "base year value." Thereafter, the base year value is subject to annual increases for inflation limited to 2% per year. This value is described as the "factored base year value." This system, established by Proposition 13, can result in substantial property tax savings for long-term property owners.

Base Year Value Transfers. Voters have approved three constitutional amendments permitting persons to "transfer" their Proposition 13 base year value from one home to another that is of equal or lesser value. The base year value transfer avoids reassessment of the newly purchased home to its fair market value.

- **Intracounty.** In 1986, Proposition 60[14] amended the Constitution to allow persons over the age of 55 to sell a principal residence and transfer its base year value to a replacement principal residence within the same county.
- **Intercounty.** In 1988, Proposition 90[15] amended the Constitution to extend these provisions to a replacement residence located in another county on a county-optional basis. Currently, ten counties accept transfers from homes located in another county.
- **Disabled Persons**. In 1990, Proposition 110[16] amended the Constitution to extend these provisions to any severely and permanently disabled person regardless of age.

RTC Section 69.5 implements all three propositions.

The BOE's Assessors' Handbook Section 401 *Change in Ownership* Chapter 14 at page 106 provides more details, and the BOE's website includes FAQ's for both Proposition 60/90 and Proposition 110.

Background: As described below, it is possible to add a child to a property's title to qualify for a base year value transfer under existing law.

Minor Child. Related to a disabled child that is a minor, the BOE has previously opined in Property Tax Annotation 200.0076 that a minor may obtain the benefit of a base year value transfer indirectly if a guardianship or trust is created for the minor and the minor is placed on title to both homes. The annotation is reflected in Letter to Assessor's 2006/010, Question A6:

> **A6**: A couple's minor child recently became permanently disabled. As a consequence, the couple must sell their current two-story residence and purchase a single-story residence. Because of the child's disability, can the couple purchase a property and file a claim to transfer the base year value from their original property to the purchased property?
>
> Answer: Section 69.5(a) provides that any severely or permanently disabled person may transfer the base year value to any replacement dwelling. Subdivision (b)(3) provides that at the time of the sale of the original property, the claimant (or the claimant's spouse who resides with the claimant) must be severely and permanently disabled. Thus, the disabled child must be the claimant and must be on title in order to transfer the base year value.
>
> A minor may own real property or an interest therein, because the law presumes his acceptance of a beneficial grant (*Estate of Yano* (1922) 188 Cal. 645, 649), but may not convey or make contracts relating to real property, as any such contracts are void.[17] Through proceedings in the Superior Court, a guardian may be appointed for the person, estate, or person and estate of a minor, and real property owned by a minor can be dealt with through guardianship proceedings. Therefore, a minor may obtain the benefit of section 69.5 indirectly through a guardianship or trust. In order to do so, the minor, through his/her trust or estate, must be a beneficial owner (on record title) of both the original property and the replacement property. The act of adding

[14] Proposition 60, approved November 4, 1986.
[15] Proposition 90, approved November 8, 1988.
[16] Proposition 110, approved June 5, 1990.
[17] Family Code Section 6701.

the minor child on title to the original property can be excluded from change in ownership under the parent-child exclusion (assuming a timely claim is filed and the requirements of that exclusion are met).

Adult Child. In the case of an adult child, the child could be added to the title of both homes to qualify for the transfer.[18] However, there may be non-property tax related implications for adding a disabled adult child to the home's title.

Commentary:

1. **The April 7, 2016 amendments address two issues raised in the prior analysis specifying that the homeowner is the child's parent and both reside in the home.** First, as introduced, the constitutional amendment did not require that the disabled child reside in the home. It only required that the homeowner reside in the home and have a disabled child. If residency by the child was not a requirement, then homeowners could, for instance, move closer to a child who lives independently or in an assisted care facility, or allow a homeowner to buy or build a home that accommodates their disabled child's needs when they visit. The amendments specify that both the homeowner and the child must reside in the home.

   Second, as introduced, the constitutional amendment provisions applied to "homeowners *with* a severely disabled child." In the case of a minor child, it could have been interpreted to apply to persons other than parents of a disabled child. For example, any person that cares for the minor child, such as a relative or friend, may qualify for the base year value transfer. The amendments specify that base year value transfers are available to homeowners that are the parent or legal guardian of the disabled child.

2. **Currently in the case of a minor child, a base year value transfer is accomplished by adding a minor child to a home's legal title.** A parent may add a minor child to both homes' titles through a guardianship or irrevocable trust. Once the minor child is a record owner, the child becomes a qualified claimant, and the parent may file a claim on the child's behalf as the trustee or guardian. However, the CAA notes this is a complicated and costly legal process that takes time to complete. Further, some parents may be unaware of this possibility.

3. **This constitutional amendment would eliminate the need for parents to undertake these steps.** County assessors state that the law should be changed to allow a parent to claim the base year value transfer without any need to add the child to title. County assessors state that allowing these transfers under these limited circumstances is easily administrable.

4. **Related Legislation.** AB 571 (Brown), as introduced, proposed statutory amendments to Section 69.5 to implement this provision. The provisions were amended out on May 4, 2015.

Administrative Costs: If approved, the BOE would incur absorbable costs to update claim forms, publications, and the website to reflect the law change as well as address ongoing implementation questions from counties and taxpayers related to the new base year value transfer authorization.

Revenue Impact:

Background, Methodology, and Assumptions. Predicting the number of additional transfers resulting from this constitutional amendment is difficult. Since 1990, a total of 1,916 disability related base year value transfers have been granted, which results in about 74 transfers per year. Based on information from county assessors, BOE staff estimates the number of transfers would be small. Furthermore, it is possible to qualify for a transfer under existing law by adding a minor child or an adult child to the home's title. Consequently, staff estimated the impact of a single transfer based on available data.

[18] If the child is added on as a joint tenant, no reassessment would occur. Additionally, if the child is added as a tenant in common, the parent-child change in ownership exclusion claim is filed to avoid reassessment.

According to the California Association of Realtors, the median California home price in December 2015 was $489,310. For the 2015-16 fiscal year, the average assessed value of a property receiving the homeowners' exemption was $355,819. Therefore, for each additional claim granted, the estimated assessed value difference is about $133,500 ($489,310 - $355,819) or $1,335 per transfer at the basic one percent property tax rate.

Revenue Summary. If approved, this constitutional amendment would reduce property tax revenues at the basic one percent tax rate by $1,335 per claim granted. This amount per claim could grow over time if assessed value differences also grow in relation to real estate market values.

Qualifying Remarks. Generally, eligibility for the described property tax relief requires a sale of the original property; i.e. a change in ownership subjecting the original property to reappraisal at its current fair market value. This revenue estimate does not account for the change in the assessed value to the original property.

This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.

Base Year Value Transfers – Spouses

California Constitution Article XIII A, Section 2

Purpose: To discontinue treating a married couple that buys a home as a single claimant and thereby allow every person, as an individual, the opportunity to receive a one-time base year value transfer.

Existing Law: The law requires real property to be reassessed from its Proposition 13 protected value (called the "base year value") to current market value whenever a change in ownership occurs.[19] Subject to many conditions, the law allows homeowners 55 years and older to sell their home, buy or build a new one, and transfer the base year value.[20] To qualify the new home must be of equal or lesser value and located in the same county.[21] The law provides the same benefit to homeowners without regard to age if the homeowner becomes severely and permanently disabled and the disability requires a move to a new home. The base year value transfer allows property taxes to remain essentially the same after the move.[22]

One-Time Benefit. The implementing statute, but not the California Constitution, limits to one time the property tax relief provided by a base year value transfer for persons over the age of 55 years. Specifically, to qualify the statute requires that the "claimant" cannot have previously received this "property tax relief."[23] The statute defines a claimant as any person claiming the property tax relief.[24] The statute specifies that a *spouse* who goes on title to the new home with the "claimant" (i.e., becomes a record owner of the new home) is also a "claimant."

Married Couples. With respect to the Constitution, it specifies that " '[a]ny person over the age of 55 years' includes a married couple one member of which is over the age of 55 years." It does not limit married couples to one transfer. Rather, it provides that if one person in a married couple is under the age of 55 years, the person would not be disqualified for that reason.

---

[19] California Constitution Article XIII A, Sec. 2.
[20] California Constitution Article XIII A, Sec. 2 (a), Revenue and Taxation Code (RTC) Section 69.5.
[21] In addition, ten counties offer this property tax benefit to new county residents: Alameda, El Dorado, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Mateo, Santa Clara, and Ventura. Each county has the discretion to accept intercounty transfers and must first enact an enabling ordinance.
[22] The property tax payment will not be exactly the same because the tax rate and direct levies (special assessments, parcel taxes, etc.) varies by location.
[23] RTC Section 69.5(b)(7). The law allows a second base year value transfer if the person previously granted a base year value transfer subsequently becomes disabled and files a disability-based claim.
[24] RTC Section 69.5(g)(9).

Proposed Law: This bill amends the Constitution to specify that "[a]ny person over the age of 55 years includes each individual member of a married couple who is over the age of 55 years." Therefore, if enacted, each member of the same married couple will be eligible to transfer a base year value. This constitutional amendment would override the current implementing statute that requires a married couple to be treated as one unit in certain instances.

Prospective. The constitutional amendment is prospective. It only applies to married couples that buy or build a new home after the Proposition passes. And it only applies to an individual member of a married couple who has not transferred a base value before the Proposition passes. In practical terms, this means that a person previously considered a "claimant" as a record owner-spouse and who has been entered into the BOE-maintained "one-time" tracking database remains ineligible.

In General: See "In General Discussion" above related to disabled child.

Background: **Statewide Tracking Database.** To monitor and enforce the one-time limitation statewide, the law[25] requires the BOE to maintain a database to track persons already granted a base year value transfer. When married persons receive a base year value transfer to a new home to which they share title, both their names and social security numbers are entered in the database. This ensures that neither person will be allowed a future transfer.

Spouses under 55. A married person under 55 years of age may transfer the base year value of a home that is their separate property, provided their spouse is 55 or older and also resided in that home.[26]

Nondisabled spouse. A person married to a disabled person may transfer the base year value of a home that is their separate property, provided their disabled spouse also resided in that home.

Divorce and Remarriage. BOE Annotation 200.0020 "Claimant (New Spouse)" describes how marriage to someone who previously received a transfer can disqualify a person from receiving a transfer. The annotation reads:

> Revenue and Taxation Code section 69.5(b)(7) provides that a claimant for property tax relief under section 69.5 may not have previously been granted such relief. In addition, section 69.5(g)(9) defines "claimant" for purposes of the section to include the spouse of a person who previously claimed relief under section 69.5 if that spouse is a record owner or co-owner of the replacement dwelling. Thus, if A and B are married and record owners of property which has received the benefits of section 69.5, then neither A nor B are eligible for future benefits under that section. Furthermore, if (1) A and B divorce, (2) A marries C and (3) A and C become co-owners of record of C's replacement dwelling, C will not be eligible for relief under the section with respect to that dwelling since A also would be a claimant for purposes of C's claim. C 8/26/1987.

Legislative Background: In 2015, the Governor vetoed, AB 1378 (Holden), sponsored by the Howard Jarvis Association. The Governor's veto message states:

> "This bill would allow each spouse in a marriage to submit a separate base-year property tax valuation transfer claim.
>
> I think this bill is too broad and allows an already generous property tax benefit to be allowed a second time on a larger scale.
>
> I do not believe that it would be prudent to authorize legislation such as this that would result in significant long-term costs to the General Fund."

[25] RTC Section 69.5(b)(7).
[26] RTC Section 69.5(b)(3) and (f)(1)(B).

AB 1378 would have done the following:

- **Spouses on Title.** Delete all statutory provisions that require a claimant's spouse to also be a claimant for a base year value transfer.[27] By not treating both spouses as "claimants," AB 1378 would have allowed each person the opportunity to make a separate, one-time claim.
- **Prospective Application.** The revision would have applied prospectively for claims filed on or after January 1, 2016.[28] Prior claimants' spouses already entered into the database would have remained ineligible. Since 1986, in the case of a married couple, the names of both spouses have been entered into the database to ensure that neither person is allowed a future base year value transfer. Each spouse was a "claimant" under the law when the claim was filed. This bill would have changed the "claimant" definition prospectively and applied to persons making first-time claims after January 1, 2016. Consequently, any person granted a base year value transfer and listed in the database, will be barred from making a second base year value transfer under the changes proposed by this bill.
- **Spouses under 55.** Deleted the provision that allows a person under age 55 who owns the home being sold as separate property to transfer the value of that home to the new jointly-owned home.[29] Thus, a person under the age of 55 would no longer be eligible to file a claim regardless of the age of his or her spouse. Under current law, a person who is under the age of 55 may be a claimant if he or she *resides* with a spouse who is over 55. The age-qualifying spouse need not be a current owner of record of either the original or replacement property. If enacted, residency by an over-55 spouse would have no longer sufficed to permit transfer of the base year value. To qualify, the over-55 spouse would have to file the claim and be a recorded owner of both homes.
- **Disabled persons.** Limit eligibility for a disability-based transfer to a disabled person who is on title to both homes. Currently, residing in both homes is the only requirement. Thus, a person who is married to a permanently disabled person would no longer have been eligible to file a disability transfer claim. Under current law, a non-disabled person who is under the age of 55 may be a claimant if he or she *resides* with a spouse who is permanently disabled; under these circumstances, the disability-qualifying spouse need not be an owner of record of either the original or replacement property. With this bill, residency by a disabled spouse would have no longer sufficed to permit transfer of the base year value. To qualify, the disabled-spouse must have filed the claim and been a record owner of both homes.

Other bills to statutorily treat married couples as individuals previously before the Legislature include:

- In 2009, AB 321 (Niello), sponsored by the CAA, was held in the Assembly Appropriations Committee.
- In 2008, AB 2579 (Niello), sponsored by the CAA was held in the Senate Appropriations Committee.

Commentary:

1. **Effect of the measure**. In the case of a married couple, if enacted by voters and upon its effective date, this measure allows each spouse to receive a base year value transfer related to the statutorily imposed "one-time only" limitation for persons over the age of 55.
2. **The April 7, 2016 amendments restate the bill's language but not its effect.** As originally drafted, this constitutional amendment introduced statutory terms, phrases, and concepts ("property tax relief," "previously claimed," "granted," "a record owner," "spouse," and "deemed") that are not presently in the Constitution. Additionally, it introduced the one-time only premise into the Constitution. Consequently, if the Legislature wanted to modify the once-in-a-lifetime statutory

[27] RTC Section 69.5(b)(7), (f)(1)(A), and (g)(9).
[28] Proposed RTC Section 69.5(p).
[29] RTC Section 69.5 (b)(3) and (f)(1)(B).

limitation in the future, such as allowing a person unlimited base year transfers or allowing a person more than one base year value transfer, this could have precluded the Legislature's ability to make such statutory amendments and instead require another constitutional amendment. The amendments redraft the bill's provisions to eliminate the use of these statutory terms and phrases. Instead it provides that "[a]ny person over the age of 55 years includes each individual member of a married couple who is over the age of 55 years." The use of "each" and "individual" is intended to convey that in the case of a married couple, each member of that couple is entitled to their own transfer of base year value as an individual, so long as that person is over 55. If enacted, the constitution would preclude treating a married couple as a single unit as the statute currently requires.

3. **The April 7, 2016 amendments clarify that these provisions are prospective.** As originally drafted, it was unclear if a spouse was eligible who was a record owner of a replacement dwelling to which a base year value transfer was granted prior to the effective date of this constitutional amendment, but had filed a claim after the effective date of the constitutional amendment on another replacement property (making the provision retroactive). For persons already listed in the BOE database, it may not be possible to determine which person was listed as a spouse if the original paper claim has been destroyed. To continue to efficiently administer the BOE database, the amendments serve to clarify that any person who is currently listed in the database as a person who received a base year value transfer will remain barred from future base year value transfers. (However, in the case of a person that divorces and remarries and buys a home with a new spouse, the new spouse could be eligible.)

4. **This constitutional amendment addresses issues that are constrained by the implementing statute.** Related to married couples, the Constitution only specifies that for purposes of the age requirement, " 'any person over the age of 55 years' includes a married couple one member of which is over the age of 55 years." The Constitution ensures that being married to a person that is under 55 years of age is not a disqualifying factor to receiving a base year value transfer.

5. **The once-in-a-lifetime provision is a statutory limitation.** The Constitution does not limit the number of base year value transfers one person may receive. The ballot materials for the Constitutional amendment do not reference a one-time only limitation. The Legislature imposed this limit.[30]

6. **Treating both spouses as claimants is a statutory requirement.** The Constitution does not require both spouses to be claimants. But the Constitution does prohibit the Legislature from disallowing a base year value transfer due to a spouse that is under the age of 55.

7. **Statutory law treats married couples as a single claimant and limits them to one transfer (or bars them from a transfer if one spouse previously received a transfer).** Other co-owners are treated individually and can each get one transfer for a total of two transfers.

8. **The bill is intended to allow a married couple to move a base year value twice**. For example, a married couple could transfer their tax base from a larger family home to a smaller home and later to a condo. Existing statutory law allows unmarried co-owners and registered domestic partners to carry over the same tax base twice.[31] Current law does not require co-owners that are registered domestic partners or unmarried to both be listed on the transfer claim.

9. **Additionally, this bill ensures that a person who marries a previously married person isn't barred from transfer.** For example, a person may marry someone who is remarrying after a death or divorce and the new couple may buy a new home together. But if the person purchased the home with a spouse that previously received a base year value transfer in a prior marriage, current law would not permit the transfer.

---

[30] For co-owners, registered domestic partners, and married couples that subsequently qualify as disabled and must move as a result, the same tax base could carry over up to four times.

[31] The same tax base need not be transferred; each person is eligible to receive a base year value transfer from any home they once owned.

10. **Supporters note that couples over the age of 55 move more frequently than prior generations.** They state this measure will help ensure that senior, married couples do not experience significant property tax increases during their retirement years.

11. **Base Year Value Transfer Example.** Base year value transfers allow eligible homeowners to preserve the Proposition 13 value of their prior residence by transferring it to the new residence. To qualify, a person must buy or build a home of equal or lesser value and sell the old home so it will be reassessed to its current value. For example, if Homeowner A sells House A for $400,000 ($250,000 tax base) and buys House B for $350,000, the following occurs:
    - House A is reassessed to $400,000
    - House B is reassessed to $250,000
    - Homeowner A pays the same base amount of taxes $2,500 ($250,000 x 1%) and avoids the $1,000 property tax increase to $3,500 ($350,000 x 1%).
    - House A's property tax increases by $1,500 ($400,000 – $250,000 x 1%)
    - House B's property tax could either increase or decrease as it depends upon the former owner's tax base.

12. **Generally, selling and buying a new home will result in a property tax increase.** Some homeowners do not move due to the property tax consequences. Other homeowners must move and cannot avoid the resulting property tax increase. For homeowners over the age of 55, and persons who become disabled, as long as the new home's value is equivalent, a base year value transfer negates the property tax consequences of moving within the same county, or to one of the ten other specified counties.

13. **How are these provisions intended to work in practical application? "**Married couple" means one set of the same two people. A person may have been part of one married couple, but if that person divorces and remarries, that person becomes part of different married couple.
    - In the case of a married couple, only one person will file a base year value transfer claim and that person's name will be entered into the database.
    - For a married couple who never previously transferred a base year value (neither name in database), the same set of two people will each be eligible to receive a base year value transfer in the future for a total of two transfers. One person would file a claim at a time.
    - For a married couple that has previously received a base year value transfer, (both names in database), this constitutional amendment will not allow another base year value transfer. But, this amendment does not prohibit the Legislature from lifting the one-time statutory limitation rendering the BOE database unnecessary.
    - For a person who marries someone who previously received a base year value transfer as part of another married couple, the spouse who is not in the database files the claim (name not in database).

14. **Prospective Application.** This measure only applies to future purchases of replacement homes. Additionally, the measure is not retroactive in that any name currently in the database remains ineligible.

15. **Other Constitutional Amendments.** SCA 9 (Beall) also proposes to amend Article XIII A, Section 2. Those provisions allow base year value transfers to homes of greater value. The amendments will conflict if voters approve both measures.

Administrative Costs: The BOE would incur absorbable costs to update claim forms, publications, and the website to reflect the law change.

Revenue Impact: BOE property tax statistics indicate that counties grant an average of 5,000 base year value transfer claims each year. It is difficult to determine this bill's immediate impact; however, a 5% increase would result in 250 additional qualified transfers annually (5,000 x 5%).

According to the California Association of Realtors, the median home price in December 2014 was $489,310. The 2015-16 average assessed value of a property receiving the homeowners' exemption was $355,819. Therefore, the estimated amount of assessed value difference per home after a base year transfer is about $133,500 ($489,310 - $355,819 = $133,491).

The total revenue loss is computed by multiplying the estimated number of qualified transfers by the assessed value difference at the basic 1% property tax rate:

250 qualified transfers x $133,500 x 1% = $333,750

This bill would reduce property tax revenues at the basic 1% tax rate by $333,750 annually. Assuming this bill is prospective and doesn't apply to anyone previously deemed to be a claimant because they were a spouse, this amount could grow over time as the number of potential claimants increases each year.

Qualifying Remarks. Generally, for a claimant to be eligible for the property tax relief described, there must be a transfer of the original property; i.e. a change in ownership subjecting the original property to reappraisal at its current fair market value. This revenue estimate does not account for the change in the assessed value to the original property.

The revenue impact may be greater to the extent that market values return to previous peak levels.

This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.