

“Property tax: new construction exclusion: seismic retrofitting”

January 2010

Board Recommendation:

SUPPORT

Rationale:

In 1984, SDCTA supported Prop 23 which authorized the Legislature to exclude unreinforced masonry buildings from property tax reassessments for 15 years. In 1990, however, SDCTA opposed Prop 127, which excluded seismic retrofitting and earthquake hazard mitigation technologies from assessment for all buildings except for unreinforced masonry buildings. The rationale for it was as follows:

“This is a further erosion of Prop 13 and we believe it is unfair for taxpayers to subsidize improvements that add value to property. Millions of dollars per year will be lost to cities, counties, special districts, and schools if this measure is passed.”

SCA 4 attempts to rectify inconsistencies (and inequities) with property tax exclusions for seismic retrofitting that have stemmed from these two past propositions. By doing so, it creates a widespread standard that makes it easier to determine what justifies a reassessment. The measure also incentivizes property owners to voluntarily employ seismic standards. The impact of this measure is likely to have a “negligible” fiscal impact.

Background:

Currently, the California Constitution generally limits ad valorem property taxes to 1% of the full cash value of property—defined as the real property value as shown on the 1975-1976 tax bill or thereafter when reassessed for purchase, new construction, or a change in ownership (see SDCTA review on Proposition 13). Unless the California Constitution specifically excludes classifications, all property is taxable. By law, assessors are required to determine the value of new construction and apply that added value to a property assessment.

Current Law

Under current California law, the following items are not considered as new construction for purposes of assessment (see Figure 1):

1. “Improvements to buildings with unreinforced masonry bearing walls (those without steel reinforcing bars) made to comply with a local ordinance on seismic safety and completed on or after January 1, 1984 [Proposition 23 (1984)]; and,
2. Any qualified construction (seismic retrofitting improvements and improvements utilizing earthquake hazard mitigation technologies) other than work for unreinforced masonry bearing walls. There is no requirement that qualified construction be required by local ordinance or mandate. This exclusion applies to construction completed on or after January 1, 1991. [Proposition 127 (1990)].

Title: “Property tax: new construction exclusion: seismic retrofitting”

Description: Prohibits tax assessors from reassessing seismic retrofitting for *all* buildings, for an unlimited duration.

Jurisdiction: State

Type: Constitutional amendment

Vote: simple majority

Proponents: Passed unanimously in the Assembly and Senate; California Assessors’ Association

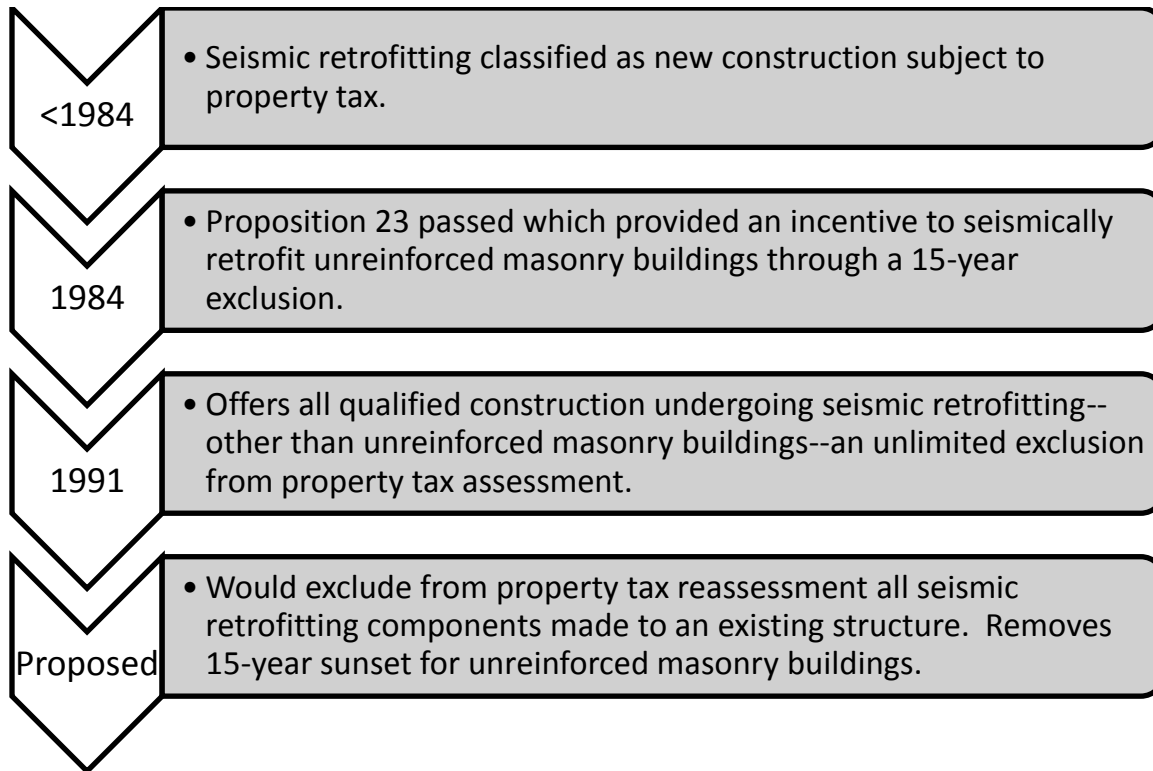
Opponents: California School Employees Association

Fiscal Impact: (Board of Equalization) “negligible” impact to revenues

- Allows the existing exclusion for improvements to unreinforced masonry buildings for 15 years. There is no term for exclusion of other qualified construction improvements for seismic safety. Both exclusions terminate with the change in ownership of the property.”¹

Unreinforced masonry buildings are those that are built with bricks, tiles, concrete blocks, hollow clay, stone, or adobe. These buildings are highly susceptible to damage in the case of an earthquake. The full definition of unreinforced masonry buildings varies by city; however, California law has prohibited the construction of these buildings since 1933—as a result of the 1933 Long Beach earthquake.

Figure 1: Current & Proposed Property Tax Laws Regarding Seismic Retrofitting



Proposed Law

Senate Constitutional Amendment No. 4 (SCA 4) (Ashburn), a legislatively-referred constitutional amendment initiative, would make changes to Section 2 of Article XIII of the California Constitution to exclude from the definition of newly constructed “the specific portion of construction or reconstruction of seismic retrofitting components on to an existing structure.”² This does not exclude from reassessment seismic standards applied to new structures as it only applies for seismic retrofitting of existing buildings. In addition, this amendment seeks to remove the existing exclusion for construction of unreinforced masonry.³

¹ Senate, Third Reading Analysis. Amended April 17, 2008. Available from http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_0001-0050/sca_4_cfa_20080809_140055_asm_floor.html. Accessed on December 15, 2009.

² Language taken from the text of SCA 4. Filed August 27, 2008.

³ It is important to note that it is widely accepted that unreinforced masonry is vulnerable in the case of an earthquake.

The purpose of this legislation is to encourage “property owners to install essential seismic safety technologies into any reconstruction or remodel of their buildings.”⁴

Analysis

This constitutional amendment (SCA 4) is aimed to rectify two previous constitutional amendments that conflict with one another: Proposition (Prop) 23 and Proposition 127.

- Prop 23 (1984): Authorized the Legislature to award a 15-year exclusion for un-reinforced masonry buildings from property tax reassessment as a way to encourage seismic improvements that were necessary to comply with local ordinances. After this time period, all improvements, including the seismic retrofitting done to comply with this, is reassessed.
- Prop 127 (1990): Allowed all buildings (for the exception of un-reinforced masonry) an unlimited exclusion for seismic retrofitting and earthquake hazard mitigation technologies—regardless of local ordinance compliance.

In practice, the implementation of Prop 23 and Prop 127 allows seismic retrofitting reassessment to occur differently. Those with un-reinforced masonry buildings that seismically retrofit receive a 15 year exclusion and all other existing buildings with seismic retrofitting receive unlimited exclusions.

The Board of Equalization stated that the existing 15-year exclusion for un-reinforced masonry buildings is an “administrative burden” that many counties do not track. For this reason, the fiscal impact of lost tax revenues is negligible.⁵

The author of the bill, Senator Ashburn states the following in support of this measure:

“Generally, the cost to install seismic retrofit components is expensive, especially newer seismic safety technologies. Current law penalizes owners of un-reinforced masonry buildings who ‘do the right thing’ by going beyond what is required by law and installing additional seismic retrofit technology into their buildings, especially owners of older, potentially historic buildings made of un-reinforced masonry.”⁶

Policy Implications

1. This measure may have several significant benefits. However, those with unreinforced masonry buildings nearing the expiration of the 15-year exclusion would benefit the most from this in the near immediate future.
2. The value-added is not assessed but will increase the fair market value of the property during real estate transactions.

⁴ Senate Revenue & Taxation Committee Floor Analyses. Hearing April 11, 2007. Available from http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_0001-0050/sca_4_cfa_20070409_131724_sen_comm.html. Accessed on December 13, 2009.

⁵ Senate, Third Reading Analysis. Amended April 17, 2008. Available from http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_0001-0050/sca_4_cfa_20080809_140055_asm_floor.html. Accessed on December 15, 2009.

⁶ Senate Revenue & Taxation Committee Floor Analyses. Hearing April 11, 2007. Available from http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_0001-0050/sca_4_cfa_20070409_131724_sen_comm.html. Accessed on December 13, 2009.

3. This initiative “would ensure equal treatment of property owners who incorporate seismic safety improvements into existing buildings, regardless of the type of the buildings.”⁷
4. Allowing an unlimited exclusion may further incentivize property owners to voluntarily employ seismic standards.

Proponents:

Passed unanimously in the Assembly and Senate; California Assessors’ Association

Opponents:

California School Employees Association

⁷ *ibid.*