

*Common Sense and Taxes:
Rescuing California*

by

Danard Emanuelson

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Preface

A discussion of taxes between any two people evokes immediate emotional response ranging from anger to apathy to frustration or fear, encompassing a broad spectrum of prejudices and preconceived ideas. *Common Sense and Taxes* provides the reader with a rational and objective view of California's current tax revenue crisis.

Government offices are slow to publish annual statistics. The majority of data available for this essay was for 1990-1991. All of the statistics used are available in your county central library or the appropriate state and local government and special district offices. Contra Costa County examples are used because I have lived here for 42 years.

In January 1776, Thomas Paine published his pamphlet *Common Sense* which changed the course of the American Revolutionary War. I ask you to consider his opening remarks:

"In the following pages I offer nothing more than simple facts, plain arguments, and common sense; and have no other preliminaries to settle with the reader than that he will divest himself of prejudice and prepossession, and suffer his reason and his feelings to determine for themselves; that he will put on, or rather that he will not put off, the true character of a man, and generally enlarge his views beyond the present day."

*Danard Emanuelson
Walnut Creek, California*

Summary

California's special history and its land, from rocky shores and sandy beaches to golden hills and the High Sierras, kindles the spirit and fires the imagination of its people. They love it here. This cradle of creativity has been America's new frontier, spawning new ideas and riding high on the cutting edge of new technology. It's an exciting place to live. But I'm appalled and saddened by what is happening to our fascinating state. California's educational system is under fire, its schools deteriorating. Local governments are in deep financial difficulty. The state is suffering a revenue crisis and shifting property tax money from counties, cities, fire districts, and special districts to schools in order to offset the state's own financial deficit. Once America's frontier, California is financially disintegrating.

What has happened? How did we get into this mess? As I wound my way through the complex maze of the state's tax collections and distribution system I made a few startling discoveries. Politicians and some economist blame all our problems on the recession. In reality the recession was the final straw that overloaded an already failing tax revenue system. *California could have weathered this recession with a balanced tax revenue system.* But because of the unseen crumbling of the tax revenue system's foundation, *the property tax.*, the system failed.

California's troubles began nearly 15 years ago when the 1978 electorate voted for Proposition 13. The taxpaying electorate grabbed a tantalizing quick tax roll-back with its promised savings and a guarantee to curb government spending. In exchange the electorate accepted a tax revenue system bound to fail, gave up precious local government control, and disenfranchised themselves by requiring a 2/3 vote for future tax increases. This was done *in perpetuity*. Property taxpayers saved but *everybody* made up almost all of the loss when the state used surplus state tax funds to bailout victims of Proposition 13, the local governments and districts. In the end *the people* had to pay.

If there is an underlying weakness in the tax revenue system it is our state's low property tax rate, *46th in the nation*. In 1977 property tax was 46.3% of the total of the three main building block taxes, property tax, income tax, and sales tax. By 1990 it had crumbled to 34.4%. If the tax revenue system has failed and is strangling us, its time for a change. The state's power centers, power players, special interest groups, lobbyists, and the legislators seem willing to create more complexities and more bureaus and rob local governments rather than carefully examine and re-structure the current tax revenue system. They seem unwilling to give up financial control to local governments and school districts.

The authors of Proposition 13 *innovatively created* a tax revenue system destined to self destruct when sales tax, income tax, and the rest of state taxes could no longer be increased to offset lost revenue caused by a slowly crumbling foundation, *the property tax*.

In June 1991 a blue ribbon California Senate Commission developed a basis for restructuring our tax revenue system, fairly and equitably, in case Proposition 13 was overturned by the U. S. Supreme Court. Common sense tells us that there is an urgent need to restructure the tax revenue system. The Senate Commission's program of alternatives is ready to go. The next step is to reinstate the commission to develop an equitable tax revenue system and prepare a repeal of Proposition 13 and establish a second commission to develop rational spending limit legislation and prepare a repeal of Proposition 4. To get our state government slimmed down and in line with industry and the economy, the state should adopt a zero base budget system and the legislature should suspend all legislation, except for calamities or emergencies, while it studies and enacts legislation to restructure all activities of state government.

The 1993 electorate is stymied by the legacy of the 1978 electorate. Those folks back then gave up our local rights that we desperately need today and saddled us with a crumbling and messy tax system. It's time to repeal Proposition 13 and Proposition 4. It's time to regain local control. The question is, who will accept the challenge and get it done?

Property Tax: The Crumbling Foundation.

California's tax revenue system consists of three main building block taxes; local property tax and state sales and income tax. A remaining group of miscellaneous state taxes account for about 15% of the total of all tax revenue. Prior to Proposition 13 the tax revenue system's foundation, *the property tax*, was solid as a rock when property tax assessments were based on market value. It was tied to the economy which was reflected in market values. The system also allowed local agency taxing and financial control. The overriding advantage of a strong property tax base is its ability to carry the load during swings in the economy. When lightning strikes in the form of a recession, the government structures will weather the storm.

Proposition 13 placed a 1% cap on property tax based on acquisition cost and improvements with a 2% growth thereafter. California's tax revenue system immediately began to silently crumble because property tax revenues could never keep pace with either the consumer price index (CPI) or property market values. Just imagine a shopkeeper who earns 2%/year in revenues but expenses are climbing anywhere from 3%-10%/year. He couldn't last very long. It makes little sense to increase property taxes by 2%/year and expect to continue to effectively operate a government entity when costs and demands are rising at a faster rate. What saved California from financial collapse for a long period of time was: first, the massive bailout by the state using surplus treasury funds to offset the lost property tax revenue; second, the rapid growth of housing and industry together with a rapid growth in property and housing prices, adding more first time high property taxpayers; and third, state sales, income, and miscellaneous taxes were increased. When growth slowed, when sales and income tax dropped, all created by a recession, then the weakened and crumbling foundation, *property tax*, could not hold the tax revenue system together.

Since the tremendous shift of financial power to the state in 1979, California has dropped from 5th to 31st in the nation state in property tax collections per \$1000 of personal income between 1977 and 1989.

That's alarming! But even more startling is that California is 46th in property tax *rate* per \$1000 of assessed valuation. If that's not convincing enough, property tax has slipped from 46.3% to 34.4% of the total of the three main building blocks; income tax, sales tax, and property tax. California is the richest state in the nation. It is 1st in gross state product, 1st in personal income, 1st in retail trade, 1st in export related manufacturing employment, and 1st in manufacturing jobs. But the state is now insolvent because a sound tax revenue system was tampered with by *innovative creators* and the state is overspending.

Why didn't taxpayers save billions in 1978-79? Sure, everybody's property tax bill went down. County and local governments, schools, and special districts could have been crippled in 1978-79 had not the state come to their aid. The immediate state bailout that saved everyone from bankruptcy came from state surplus tax revenue *belonging to the very same Californians who voted for tax limits and reduced government spending with Prop 13*. That money should have been returned to the taxpayer directly. The record shows that all school, community colleges, counties, cities, and special district spending was reduced by a mere 6% in 1978-79 as a result of Proposition 13. Spending by those same groups was up by 11% the following year, 1979-1980. The 1978 property taxpayer saved, but the bailout money belonged to all the people, including property taxpayers. While Proposition 13 property taxpayers saved in subsequent years, all taxpayers paid more sales and income tax, and new property owners paid unequal and higher property taxes. On balance, the average California taxpayer saved little. In 1978, the state assumed financial responsibility for many programs previously paid for by the counties, etc. with property tax. This shift of financial responsibility and power to the state did not reduce the tax requirements to run governments. By 1980 all government entities were running successfully and state and local government spending was growing again.

In order to curb government spending the Proposition 13 authors promoted an unnecessary change in the property tax system that unbalanced the entire tax revenue structure. When they recognized their mistake, that Proposition 13 would not curb government spending because it did not control or limit all state and local tax revenue, they immediately went to work and introduced Proposition 4.

The Imaginary Spending Limits

Even as the election for Proposition 13 was coming to a close its authors realized their basic error; that Proposition 13 would not control government spending as long as the other building block taxes had no cap. The authors rushed to the drawing board and *innovatively created* Proposition 4, the Gann spending limit initiative which passed in 1979. Proposition 4 set “appropriations limits” that included all the building block taxes and neither the state nor local taxing entities could exceed them. These new formulas were not clearly understood and for nearly ten years calculations were done differently throughout the state. Contra Costa County did not begin to publish its “appropriations limit” calculations until the 1988-89 budget year.

Each time the Proposition 4 spending limit has been reached by the state, methods were innovatively created to reset the limit! This happened in 1986-87 and again in 1990 with Proposition 111. A good example of this is Contra Costa’s appropriations limit. In 1988-89 the gap between the county’s appropriations limit and appropriations subject to the limit had narrowed to just 11%. Some parts of the state were at the limit. Proposition 111 relieved the pressure and today Contra Costa’s gap has widened to a whopping 63%. What was *innovatively created* in 1979 to control government spending doesn’t work and has created untold hours of unnecessary government expense.

In 1979, school districts were controlled by spending limits already imposed in 1972. Schools, which account for 30% of the state and local revenue, have enjoyed privileged status. Each time it has been necessary to exceed the limits a way has been found to do so. Today, Contra Costa County school districts exceed Proposition 4 appropriation limits collectively by 51%.

The spending limit initiative hasn’t worked. We don’t need more *innovative creativity* we need to *return to basics*, repeal Proposition 4, and substitute a plan that will work.

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What if Proposition 13 Had Failed to Pass in 1978?

Recognizing that the *innovative creators* have failed in their quest for government spending control we should consider what might have happened if the market value assessment property tax system had been left alone.

What if property taxes had remained at 46.3% of the total of the three building blocks, sales tax, income tax and property tax instead of sliding to 32.4%. Based on 1990-1991 actual expenditures there would have been an additional \$10.4 billion dollars available! The effect would have been to cut existing tax rates and still have money left over to survive the recession!

What if the market value assessment property tax system had been left alone *except that the tax rate of 1% on market value had been established in 1978*. The current assessed valuation for all of California is \$1.67 trillion. If the property values had followed the median cost of housing since Prop 13, assessed valuation would be \$2.49 trillion. The increase in property tax revenue would be \$8.2 billion!

The State of California would have had somewhere between \$8 and \$10 billion additional budget money (or taxes could have been cut) depending on how the market value system performed. If an effective method of controlling expenditures had been introduced, the current deficit would be nonexistent and tax rates could be lower.

What would have happened in Contra Costa County if we had retained a property tax revenue tied to market value assessment *except that the tax rate of 1% on market value had been established in 1978*? The county's 1992-1993 net assessed valuation is \$60.1 billion. Without Proposition 13 the net assessed valuation in Contra Costa County today would be \$84.69 billion based on the rise in median cost of housing in

California since 1978. The county could be collecting \$847 million versus \$601 million, a difference of \$246 million! If Contra Costans would have maintained rigid spending controls for its districts and governments, the current tax rate could have been cut!

Without Propositions 13, the financial health of our schools, our local governments and districts, and the state would have vastly improved. The incredible prospect of continued financial failure created by Propositions 13 is frightening indeed. A solid tax foundation, the *property tax*, provides a stable tax revenue system and, coupled with government fiscal responsibility, results in lower tax rates for the other building block taxes.

The Case for Repeal of Proposition 13

Fear, greed, and disgust are three reasons discouraging the repeal of Propositions 13. Fear by those on fixed or low income who are afraid of being taxed out of their home. Greed or apathy, or fear of too much tax, by those homeowners who pay a low property tax because of Proposition 13, but who recognize it is unfair to higher paying neighbors. Greed by business and industry who enjoy the fourth lowest property tax rate in the country. And disgust by all taxpayers who know that, given half the chance and more money, government tends to grow unchecked.

Before the U.S. Supreme Court was to hear and render an opinion on the constitutionality of Proposition 13, the California State Senate, in an unprecedented move, authorized a blue ribbon commission to evaluate the property tax revenue system and make recommendations for a new system in the event the Supreme Court overturned Proposition 13.

The U.S. Supreme Court did not overturn Proposition 13 because of a point of law. Proposition 13 is Article XIII A of the state constitution. The court decided that the state constitution gives all people equal opportunity to buy and pay taxes based on 1% of acquisition cost; or they have a choice not to buy. The fact that time and inflation causes new buyers to pay higher property taxes is not a factor. The Supreme Court did not rule on whether or not California's tax revenue system is dysfunctional due to Proposition 13. It wasn't asked.

The commission's June 1991 "Report of the Senate Commission on Property Tax Equity and Revenue to the California State Senate," was a straight-forward, problem-solving evaluation of the tax revenue system with recommendations for a change-over that would protect homeowners and provide "revenue neutrality" while converting back to a market value system. This is a plan that contains the elements to prepare for and implement the repeal of Proposition 13.

The Senate Commission's June 1991 report concluded: "The Commission concludes that, on balance, a market valuation system is more reasonable than an acquisition cost system provided sufficient safeguards are in place to assure that homeownership is protected." The commission went on to make nine specific recommendations that would allow conversion to a market valuation system while protecting the homeowner from overloaded property taxes.

When *innovative creativity* fails, its time to make a change. The elements of a change from Proposition 13 have been established by an intelligent and impartial commission. If we Californians want our great state to survive and thrive economically in the future, we must act now without fear of the future. It has been said that California leads the nation economically. When California regains its financial health the nation will follow. So, Californians, let's get on with it! Repeal Proposition 13.

The Next Step

The next step is for the legislature to develop programs to repeal Proposition 13 and Proposition 4 and programs to reduce state government spending. There are people in California who would willingly pay their fair share to equalize property taxes. There are people who will go down fighting to preserve the only tax break anyone ever gave them. It is their small victory over uncontrolled government spending, even if they recognize that the revenue system is in trouble because of those 1978 tax breaks; and even though they recognize they are not paying their fair share.

Those who are willing to equalize property tax *will not do so* until there is some sign that government spending can be controlled in a reasonable fashion. It is unsettling to hear, during these days of budget crisis, three state senators suggest that there is \$1 billion in non-essential government department spending that should be eliminated. Not the \$150 million the governor suggested he cut (which is a lowly 0.3% of the budget!), but 2.0% of the state budget which is at least a start in the right direction. One wonders why these non-essential jobs were created in the first place.

How can Proposition 13 and Proposition 4 be repealed with any assurance that homeownership is protected and government spending is controlled in a reasonable fashion? First, the senate should create two blue-ribbon commissions:

- Reinststate the exact same Senate Commission on tax equity that produced the June 1991 report to the senate, but expand it by five more members, two from business, two from homeowners associations, and one from the public at large. Their mandate: To develop the method of converting to a market value property tax system and prepare the program, a substitute for Proposition 13, for presentation to the voters.
- Establish a blue ribbon Senate Commission for the purpose of developing a workable spending limit program and repeal-

ing Proposition 4. The commission should study the lessons of Proposition 4 so that spending controls are not dependent on complex and unrealistic formulas with loopholes.

a) Include methods of establishing local financial control and return local control to local government.

Second, the legislature should overhaul the state government:

- Adopt a Zero Base Budget. This requires junking the present budget system and starting from scratch, a zero base. Under this regimen, each department or branch of the state government develops a new budget based on what is minimally required to operate and provide the required service; not present a new budget based on last year's budget plus 10%.

- Suspend all legislation except calamity, emergency, or public safety legislation while the legislature:

a) Restructures government and agency operations in accordance with the concepts presented by the Legislative Analyst in her recent report, "The 1993-1994 Budget: Perspectives and Issues."

b) Re-examines all legislation passed in the last 50 years to eliminate that which is unnecessary, to combine that which can be combined, and to modify that which require modification to bring up to date.

c) Re-examines the state constitution and all its amendments and prepare to eliminate elements of the constitution that contribute a negative economic impact.

d) Eliminates all mandated programs that were passed without funding.

e) Re-examines all mandated programs passed with funding for cost benefit ratio.

If a government is not doing well, it's time to stop and take a long, hard look. If three state senators can offhandedly unearth \$1 billion in savings there is more beneath the rock. Therefore the legislature should engage hard-nosed business efficiency consultants (more than one company) to prepare a restructuring plan for the entire state government and monitor its implementation. If Boeing, Sears, IBM, GM, and many other corporations can cut fat and trim operations, so can the State of California.

The Case for Local Control

Our founding fathers tried hard to craft a central government that limited its interference in state and local government. It was states rights first and within the states, local rights and local control. Two hundred and seventeen years later in California, our rights to local control have eroded away .

The 1978 electorate gave away precious rights to local control that the 1993 electorate desperately needs. Property tax money was turned over to the legislature by Proposition 13 *forever*, or until the people change it. Proposition 13 also required a 2/3 vote for any increase in local property taxes.

When the 1978 electorate gave up their money to the legislature via Proposition 13, the legislature *innovatively created* Assembly Bill 8 (AB-8). AB-8 consists of a set of complex factors and formulas that determine how property tax money is to be split up among various local governments. The distribution has been termed highly unfair and out of date. For instance, Contra Costa County receives 25% of the property tax money it collects while the state average for all counties is 33% .

During the waning hours of the 1992-1993 state budget stalemate, the senate and the governor cut a deal to balance the budget. This has become known as the "AB-8 Shift." It is shifty indeed. It changed the AB-8 formulas to allow shifting property tax monies from cities, counties, and special districts to the schools with the explanation that the money was owed the state due to the bailout of 1978. In 1978-79 it had shifted money from the schools for the bailout of the cities, counties, and special districts. The state then assumed the responsibility of funding the schools first with surplus tax money in the treasury and later with increases in income and sales taxes. Now, 15 years later, they want to renounce their responsibility because they have a failing budget. The 1992-93 shift took away \$1.3 billion of local money throughout the state, \$40 million of it from Contra Costa County.

In the 1993-94 state budget the governor proposes another "AB-8 Shift" of \$2.6 billion of local money, including \$80 million from Contra Costa County. The surplus income tax and sales tax money used in the 1978-79 bailout belonged to the taxpayers and should have **been returned directly to them**. It was the 1978 taxpayer who built the surplus, not the State of California. Now they want the 1993 property taxpayer to pay it again when the taxpayers have already paid it once. That is double taxation. If the people of California want to put a stop to another sell out by the legislature they must twist the arms of their legislators and *insist that their legislators do not pass a 1993-94 budget with an AB-8 Shift clause in it*.

Contra Costans deserve their own local control. We are a wealthy community. The median income for joint tax returns was \$52, 544 in 1990 and for all returns \$28,647. There is no question that with our great commercial, agricultural, and industrial base we are a community that can stand on our own two feet, operate more efficiently than the state, and *cut our taxes*. What do we give the state? In 1990 we paid the state \$1.575 billion in sales tax, income tax, and miscellaneous taxes. The state returned, directly or indirectly, \$952 million to cities, schools, districts, and the county. The state kept \$623 million for state use. That was enough money to pay for 85% of the \$732 million cost of 1990 Legislative/Judicial/Executive branches of state government. Just think of what Contra Costa could do with that \$623 million.

Our safety is threatened, we are taxed unfairly, and the state passes on to us untold numbers of mandated programs with no way to pay for them. They keep more than \$623 million of our money each year; and are stealing \$120 million more. These are reasons enough for Contra Costans to take strong action.

The Contra Costa County Board of Supervisors should lead an attack to regain local control:

- First, insist that our county's legislators do not vote for a 1993-1994 state budget with an AB-8 Shift clause in it. Lobby other counties to do the same.

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- Second, regain local government control through the support of a repeal of Proposition 13, with its infamous AB-8.
 - Third, support a repeal of Proposition 4 and substitute a workable spending limit program for state and local governments, districts, and schools.
 - Fourth, pursue legal action to retrieve the \$40 million county funds “shifted” in 1992-93, in what was an obvious case of double taxation.

The 1978 electorate was taken in when it bought the two year roll back in property taxes with a 1% cap. It knowingly or unknowingly turned over local control to the state and disenfranchised our tax vote. It's time to get back to basics and regain local control.

End Paper

I am a 65 year old native Californian, raised and educated in the San Francisco Bay Area, and a graduate of the University of California. I have lived and worked in Contra Costa County for 42 years. I retired in 1983 as an engineering executive for a local oil refinery. My second career as a writer includes the published action suspense novel *Assault on the Crown*. I consider myself a free-lance writer and a California Patriot. I do not belong to any political activist group. Printing of *Common Sense and Taxes* was at my own expense.

I love my state and it upsets me to see it deteriorate. I am certain that there are millions of Californians who are also upset by the mess we're in. I ask the reader to look to the future of California beyond its present financial crisis. It is essential that we Californians stick together and reconstruct our tax revenue system so that it is equitable and so that it will carry us through economic downturns. It is equally essential that state and local governments take a hard-nosed look at their respective operations and prove to the people of California that they are serving the people effectively and efficiently.

There are powerful interest groups in the state who will oppose repeal of Proposition 13. I offer only the logical analysis of *Common Sense and Taxes* as a defense. California is in economic crisis now and it will take time to recover. The recovery cannot succeed without an overhaul of the tax revenue system and an overhaul of our governments. I pray that there is one person, one more California Patriot, or group of California Patriots that will consider this strategy, accept the challenge, and get to work. Don't wait until it's too late.

Danard Emanuelson

Notable Quotes

“To make California taxes FAIR, EQUAL, and WITHIN THE ABILITY OF THE TAXPAYER TO PAY, vote YES on Proposition 13.” Howard Jarvis and Paul Gann from the Arguments in Favor of Proposition 13 of the June, 1978 California Ballot Pamphlet.

“This irresponsible initiative is not a solution. Proposition 13 goes too far. It is an invitation to poor community services, less local control and inequitable taxation for all Californians. Vote “no” on Proposition 13.” Houston I. Flourney, Tom Bradley and Gary Sirbu from Arguments Against Proposition 13 of the June, 1978 California Ballot Pamphlet.

“A permanent fiscal relief mechanism (Proposition 13 bailout), totaling roughly \$5 billion, adopted in 1979 had two major mechanisms. First, the State bought out a major portion of county health and welfare expenses. Second, the State shifted a substantial amount of remaining property tax revenue from K-14 school districts to cities, counties and special districts. With that shift, the State assumed a much larger share of the responsibility for funding local schools...“Accordingly, the Governor’s budget proposes eliminating the Post-Proposition 13 bailout of local agencies. This will be accompanied by shifting \$2.595 billion in property tax revenue from counties, cities, special districts and redevelopment agencies to school districts.” From the Governor’s proposed budget for 1993-1994.

“But public content, even happiness, with a law does not make that law necessarily fair, equitable, effective or reasonable. The commission finds three compelling reasons to reexamine the state’s property tax structure and to recommend changes to it.” From the Senate Commission report on Tax equity and Revenue, June 1991.

“Article XIII B (Proposition 4) is not yet an effective citizen’s tool. Because of its complexity, because a government’s closeness to the limit is not readily apparent, and because citizen awareness of the limit

depends on government's treatment of the limit,...There is no uniformity on calculation of the limit...There is no provision for monitoring or enforcement." From California Taxpayers Association's 1988 report. "Growth Within Limits, Reshaping Article XIII B" (Proposition 4), almost ten years after the limit was adopted.

"Between 1975 and 1987, the legislature enacted 4,464 bills affecting local government. Only 126 of these included money (from the state) to pay for implementing the mandated programs." From the Contra Costa County 1988-1989 budget.

"We recommend that the Legislature take action now on various fronts. First, it should start work on a fundamental restructuring of state and local government...Citizens observe declining levels and quality of services and find that they cannot hold any particular agency responsible. In short, we find that California's existing "system" of government is dysfunctional...we believe that a fundamental reorganization of state and local government responsibilities is required." From "The 1993-1994 Budget: Perspectives and Issues." The Legislative Analyst's Office.

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