

1992

## Property Tax Exemption.

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**160**

**Property Tax Exemption.  
Legislative Constitutional Amendment.**

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Official Title and Summary Prepared by the Attorney General

**PROPERTY TAX EXEMPTION.  
LEGISLATIVE CONSTITUTIONAL AMENDMENT.**

- Amends Constitution to permit Legislature to exempt from property taxation the home of a person or a person's spouse (including unmarried surviving spouse) who has died while on active duty in the military service as a result of service-connected injury or disease.
- Exemption may not be authorized by Legislature if the home is receiving another real property exemption.

**Summary of Legislative Analyst's  
Estimate of Net State and Local Government Fiscal Impact:**

- The measure would have no direct fiscal impact on state and local governments.
  - If the Legislature establishes a new exemption that is similar to the one now provided totally disabled veterans, the measure would reduce local property tax revenues by potentially millions of dollars annually.
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**Final Votes Cast by the Legislature on ACA 40 (Proposition 160)**

Assembly: Ayes 69	Senate: Ayes 32
Noes 0	Noes 0

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## Analysis by the Legislative Analyst

### Background

Homeowners pay local property taxes based on their home's assessed value. As long as a home has the same owner and there is no new construction, its assessed value remains the same each year, except for a small increase for inflation.

Current law allows some exceptions to this general approach. One of these exceptions covers homeowners with military-related disabilities. Specifically, for these homeowners a portion of the assessed value of their homes is exempt from property taxes. State law sets the amount of the exemption according to the disability and the income of the homeowner:

- For blind veterans and those who have lost the use of two or more limbs, the exempt amount is \$40,000.
- For totally disabled veterans, the exempt amount is \$100,000.
- If the veteran's household income is less than \$24,000 per year, these exempt amounts increase to \$60,000 and \$150,000, respectively.

State law also allows an unmarried surviving spouse of a disabled veteran to claim the exemption.

### Proposal

This measure permits the Legislature to expand the current disabled veterans' property tax exemption to include the homes of unmarried surviving spouses of persons who died while on active military duty as a result of a service-related injury or disease.

### Fiscal Effect

The measure would have no direct fiscal impact because it merely *allows* the Legislature to create a new property tax exemption. However, if the Legislature creates the new exemption, and the exempt amount is the same as now provided totally disabled veterans, it will reduce local property tax revenues by potentially millions of dollars annually. Cities, counties, school districts, and special districts all would share in these losses.

Existing provisions of the State Constitution could require the state to replace property tax revenues lost by school districts, which receive about one-third of the revenue from property taxes. Whether this occurs in any year depends upon the formula used to determine the state funding "guarantee" for public schools and community colleges.

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For text of Proposition 160 see page 68

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## Argument in Favor of Proposition 160

Existing law allows the Legislature to exempt from property tax the home of a veteran who is disabled as a result of an injury or disease incurred while on active military service. The exemption is also provided for the unmarried surviving widow or widower of this veteran.

Proposition 160 amends the Constitution to allow the same tax equity to a widow or widower of those individuals who were killed or died while on active military service.

**JAMES L. BRULTE**  
*Assemblyman, 65th District*

**GARY D. VILLALBA**  
*President, California Association of County Veterans Service Officers, Inc.*

**ARTHUR F. KRAUSE**  
*Colonel USAF (Ret.)  
Legislative Advocate  
California Association of County Veterans Service Officers, Inc.*

## Rebuttal to Argument in Favor of Proposition 160

First, let me correct a statement contained in my ARGUMENT AGAINST PROPOSITION 160 (on the next page). I had 45 minutes to prepare and submit the argument. Proposition 160 would NOT permit the Legislature to exempt from taxation the home of a widow or widower whose spouse died "of old age" while in the military. The death must have been "as a result of a service-connected injury or disease."

Even so, Proposition 160 is irrational, unfair and not the solution to California's crazy property tax system.

Please consider:

(1) Widows and widowers of persons who died of any service-connected injury or disease AFTER being discharged from active duty would not be eligible for the exemption. The person must have "died while on active duty in the military."

(2) Widows and widowers who re-marry would not be eligible—even if re-marrying did not improve their financial status. The exemption could only be given to "an unmarried surviving spouse."

(3) Widows and widowers of persons who served in dangerous, non-military positions, such as police officers and firefighters, would not be eligible.

The solution to California's crazy property tax system is NOT to provide another special exemption for some—but to overhaul the system and make it fair for everyone.

Indeed, our entire political system and economy should be overhauled—beginning, I think, with campaign finance reform.

**GARY B. WESLEY**  
*Attorney at Law*

# Property Tax Exemption. Legislative Constitutional Amendment.

160

## Argument Against Proposition 160

Proposition 160 would amend the California Constitution to authorize the Legislature to exempt from property taxation the home of a person whose spouse "*died while on active duty in military service, unless the home is receiving another real property exemption.*"

A great rise in property taxation led to the passage of Proposition 13 in 1978. Under Proposition 13 (now Article XIII A of the California Constitution), assessed property values generally are frozen at their 1975 levels; however, property is reassessed and higher property taxes are imposed each time the property is "*purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment.*"

Proposition 13 has had the beneficial effect of holding down property taxes—particularly for persons who have owned their property since 1975. However, the automatic reassessment provision in Proposition 13 has resulted in new homeowners paying far more in property taxes than their neighbors whose property has the same value but was purchased earlier when property was less expensive.

In addition, this automatic reassessment provision has caused a gradual but massive shift of the overall property tax burden *from* owners of commercial and industrial property *to* owners (and renters) of residential property.

Instead of offering voters a constitutional amendment which would correct these inequities, the Legislature has

proposed a series of exemptions for certain persons and businesses.

Proposition 160 would permit the Legislature to exempt certain persons from all property taxation on their home. The persons singled out this time are spouses of persons who "*died while on active duty in military service.*"

Proposition 160 would not confine the Legislature to exempting from taxation homes owned by spouses of persons who died in combat. The persons may have died of a disease or old age.

Certainly, we as Americans are proud of the men and women who join the military—especially those men and women who put their lives on the line in a combat zone. Proposition 160, however, would authorize the Legislature to exempt homes owned by persons whose spouses happened to die while serving in the military. The persons receiving the exemption might be rich or poor, deserving or not particularly deserving.

Proposition 160 goes too far. Surviving spouses of police officers and firefighters who die in the line of duty should not face sky-high property taxes. What we need is a comprehensive change in the property tax system so that it is fair for everyone.

GARY B. WESLEY  
*Attorney at Law*

## Rebuttal to Argument Against Proposition 160

The arguments submitted in opposition are completely misleading and irrelevant in their attempt to tie Proposition 160 to Proposition 13 of 1978.

Article XIII, Section 4(a) of the Constitution was enacted *prior* to Proposition 13. It authorized the Legislature to give a property tax exemption for the home of a 100% disabled veteran or their unmarried surviving widow or widower. This disability had to be the result of an injury or disease incurred while on *active* military service. Obviously, this does not include "dying of old age" as the opposition has erroneously stated.

Proposition 160 simply modifies the Constitution to give a surviving widow or widower of a person who was killed or who died of a service related injury or disease *the same property tax exemption* as one whose spouse had become disabled. Should the surviving spouse ever remarry, this exemption would no longer apply. This is an *equity* issue to balance the Constitution to assure no distinction is made between benefits granted to

surviving spouses of disabled veterans and surviving spouses of those who died while on active duty.

Proposition 160 corrects what must have been an oversight when this section of the tax code was originally written. It recognizes the ultimate sacrifices made by the gallant men and women who have served this great country by protecting our precious freedom and liberty.

**WE URGE YOU TO VOTE YES ON PROPOSITION 160.**

JAMES L. BRULTE  
*State Assemblyman*

GARY D. VILLALBA  
*President, California Association of County Veterans Service Officers, Inc.*

ARTHUR F. KRAUSE  
*Colonel USAF (Ret.)  
Legislative Advocate  
California Association of County Veterans Service Officers, Inc.*

## Proposition 160: Text of Proposed Law

This amendment proposed by Assembly Constitutional Amendment 40 (Statutes of 1992, Resolution Chapter 49) expressly amends the Constitution by amending a section thereof; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED AMENDMENT TO SUBDIVISION (a) OF SECTION 4 OF ARTICLE XIII

(a) The home of a person or a person's spouse, including an unmarried surviving spouse, if the person, because of injury incurred in military service, is blind in both eyes, has lost the use of 2 or more limbs, or is totally disabled, or if the person has, as a result of a service-connected injury or disease, died while on active duty in military service, unless the home is receiving another real property exemption.

## Proposition 161: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 6 of the Constitution.

This initiative measure adds a title to the Civil Code, and amends a section of the Penal Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED LAW

SEC. 1. Title 10.5 (commencing with Section 2525) is added to Part 4 of Division 3 of the Civil Code, to read:

#### TITLE 10.5. DEATH WITH DIGNITY ACT

##### 2525. TITLE

*This title shall be known and may be cited as the Death With Dignity Act.*

##### 2525.1. DECLARATION OF PURPOSE.

*The people of California declare:*

*Current state laws do not adequately protect the rights of terminally ill patients. The purpose of this Act is to provide mentally competent terminally ill adults the legal right to voluntarily request and receive physician aid-in-dying. This Act protects physicians who voluntarily comply with the request and provides strong safeguards against abuse. The Act requires the signing of a witnessed revocable Directive in advance and then requires a terminally ill patient to communicate his or her request directly to the treating physician.*

*Self-determination is the most basic of freedoms. The right to choose to eliminate pain and suffering, and to die with dignity at the time and place of our own choosing when we are terminally ill is an integral part of our right to control our own destinies. That right is hereby established in law, but limited to ensure that the rights of others are not affected. The right should include the ability to make a conscious and informed choice to enlist the assistance of the medical profession in making death as painless, humane, and dignified as possible.*

*Modern medical technology has made possible the artificial prolongation of human life beyond natural limits. This prolongation of life for persons with terminal conditions may cause loss of patient dignity and unnecessary pain and suffering, for both the patient and the family, while providing nothing medically necessary or beneficial to the patient.*

*In recognition of the dignity which patients have a right to expect, the State of California recognizes the right of mentally competent terminally ill adults to make a voluntary revocable written Directive instructing their physician to administer aid-in-dying to end their life in a painless, humane and dignified manner.*

*The Act is voluntary. Accordingly, no one shall be required to take advantage of this legal right or to participate if they are religiously, morally, or ethically opposed.*

##### 2525.2. DEFINITIONS

*The following definitions shall govern the construction of this title:*

(a) *"Attending physician" means the physician selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient.*

(b) *"Directive" means a revocable written document voluntarily executed by the declarant in accordance with the requirements of Section 2525.3 in substantially the form set forth in Section 2525.24.*

(c) *"Declarant" means a person who executes a Directive, in accordance with this title.*

(d) *"Life-sustaining procedure" means any medical procedure or intervention which utilizes mechanical or other artificial means to sustain, restore, or supplant a vital function, including nourishment and hydration which, when applied to a qualified patient, would serve only to prolong artificially the moment of death. "Life-sustaining procedure" shall not include the administration of medication or the performance of any medical procedure deemed necessary to alleviate pain or reverse any condition.*

(e) *"Physician" means a physician and surgeon licensed by the Medical Board of California.*

(f) *"Health care provider" and "Health care professional" mean a person or facility or employee of a health care facility licensed, certified, or otherwise authorized by the law of this state to administer health care in the ordinary course of business or practice of a profession.*

(g) *"Community care facility" means a community care facility as defined in Section 1502 of the Health and Safety Code.*

(h) *"Qualified patient" means a mentally competent adult patient who has voluntarily executed a currently valid revocable Directive as defined in this section, who has been diagnosed and certified in writing by two physicians to be afflicted with a terminal condition, and who has expressed an enduring request for aid-in-dying. One of said physicians shall be the attending physician as defined in subdivision (a). Both physicians shall have personally examined the patient.*

(i) *"Enduring request" means a request for aid-in-dying, expressed on more than one occasion.*

(j) *"Terminal condition" means an incurable or irreversible condition which will, in the opinion of two certifying physicians exercising reasonable medical judgment, result in death within six months or less. One of said physicians shall be the attending physician as defined in subdivision (a).*

(k) *"Aid-in-dying" means a medical procedure that will terminate the life of the qualified patient in a painless, humane and dignified manner whether administered by the physician at the patient's choice or direction or whether the physician provides means to the patient for self-administration.*

##### 2525.3. WITNESSED DIRECTIVE

*A mentally competent adult individual may at any time voluntarily execute a revocable Directive governing the administration of aid-in-dying. The Directive shall be signed by the declarant and witnessed by two adults who at the time of witnessing, meet the following requirements:*

(a) *Are not related to the declarant by blood or marriage, or adoption.*

(b) *Are not entitled to any portion of the estate of the declarant upon his or her death under any will of the declarant or codicil thereto then existing, or, at the time of the Directive, by operation of law then existing.*

(c) *Have no creditor's claim against the declarant, or anticipate making such claim against any portion of the estate of the declarant upon his or her death.*

(d) *Are not the attending physician, an employee of the attending physician, a health care provider, or an employee of a health care provider.*

(e) *Are not the operator of a community care facility or an employee of a community care facility.*

*The Directive shall be substantially in the form contained in Section 2525.24.*

##### 2525.4. SKILLED NURSING FACILITIES

*A Directive shall have no force or effect if the declarant is a patient in a skilled nursing facility as defined in subdivision (c) of Section 1250 of the Health and Safety Code and intermediate care facility or community care facility at the time the Directive is executed unless one of the two witnesses to the Directive is a Patient Advocate or Ombudsman designated by the Department of Aging for this purpose pursuant to any other applicable provision of law. The Patient Advocate or Ombudsman shall have the same qualifications as a witness under Section 2525.3.*

*The intent of this paragraph is to recognize that some patients in skilled nursing facilities may be so insulated from a voluntary decision-making role, by virtue of the custodial nature of their care, as to require special assurance that they are capable of willingly and voluntarily executing a Directive.*

##### 2525.5. REVOCATION

*A Directive may be revoked at any time by the declarant, without regard to his or her mental state or competency, by any of the following methods:*

(a) *By being canceled, defaced, obliterated, burned, torn, or otherwise destroyed by or at the direction of the declarant with the intent to revoke the Directive.*

(b) *By a written revocation of the declarant expressing his or her intent to revoke the Directive, signed and dated by the declarant. If the declarant is in a health care facility and under the care and management of a physician, the physician shall record in the patient's medical record the time and date when he or she received notification of the written revocation.*

(c) *By a verbal expression by the declarant of his or her intent to revoke the Directive. The revocation shall become effective only upon communication to the attending physician by the declarant. The attending physician shall confirm with the patient that he or she wishes to revoke, and shall record in the patient's medical record the time, date and place of the revocation.*

*There shall be no criminal, civil, or administrative liability on the part of any health care provider for following a Directive that has been revoked unless that person has actual knowledge of the revocation.*

##### 2525.6. TERM OF DIRECTIVE

*A Directive shall be effective unless and until revoked in the manner prescribed in Section 2525.5. This title shall not prevent a declarant from re-executing a Directive at any time in accordance with Section 2525.3, including re-execution subsequent to a diagnosis of a terminal condition.*

##### 2525.7. ADMINISTRATION OF AID-IN-DYING

*When, and only when, a qualified patient determines that the time for physician aid-in-dying has arrived and has made an enduring request, the patient will communicate that determination directly to the attending physician who will administer aid-in-dying in accordance with this Act.*

##### 2525.8. NO COMPULSION

*Nothing herein requires a physician to administer aid-in-dying, or a licensed health care professional, such as a nurse, to participate in administering aid-in-dying under the direction of a physician, if he or she is religiously,*