Ballot measure analysis: Proposition 30

Overview

This article provides a pro/con analysis of Proposition 30, "Tax on Income Above $2 Million for Zero-Emissions Vehicles and Wildfire Prevention Initiative," on the November 2022 ballot. New tax measures like this always raise questions about whether new taxes are needed. Those questions are especially acute when the proposed new taxes are tied to a specific policy goal. Proposition 30 does so: it will increase the tax on personal income above $2 million by 1.75%, pushing the top-earner rate to 15.05%. The revenues would be allocated to the following three sub-funds: Zero-Emission Vehicle Infrastructure Investment Plan Sub-Fund (35% of revenue), Zero-Emission Vehicle and Clean Mobility Sub-Fund (45% of revenue), and Wildfire Green House Gas Emissions Reduction Sub-Fund (20% of revenue). These sub-funds would fund zero-emission vehicles, charging stations, infrastructure, and additional hiring and training for firefighters. The additional tax would take effect in 2023 and end in either 2043 or after three consecutive calendar years after January 1, 2030 of statewide emissions reduced by 80% of 1990 levels (whichever comes earliest).

Analysis

Proposition 30 is intended to tackle climate change, one of the world's greatest threats. Although raising taxes is one way to encourage reduced emissions, this measure has some serious revenue and feasibility issues.

Supporting and opposing views summarized

Lyft is the lead proponent of Proposition 30 and has already spent over $15 million supporting it. Other proponents include the California Democratic Party, Climate Health Now, and CAL FIRE Local 2881. Assembly member Kevin McCarty (D) argues, "our air quality is the worst in the nation and among the worst in the world, and our consecutive years of devastating wildfires are poisoning our air, threatening lives and exhausting our brave firefighters. With Proposition 30, we have the opportunity to reduce air pollution, curb clime change, and build a bold, long-range plan to fund both our acceleration to EVs and firefighting resources."

The face of the opposition is California Governor Gavin Newsom. He has called Proposition 30 "a Trojan horse that puts corporate welfare above the fiscal welfare of our entire state." Newsom and other opponents argue the measure is a way for Lyft to publicly subsidize its responsibilities as California moves to require rideshare drivers to do the majority of their miles in electric vehicles by 2030. And the California Teachers Association disagrees with the structure of the revenue spending, arguing that Proposition 30 evades a California constitutional guarantee that a portion of funds from state income taxes will go to fund public education. The teachers say that any new tax revenue should support transitional kindergarten, public schools, and community colleges rather than subsidizing Lyft's transition to electric vehicles.

Revenue concerns

California already has high taxes, with the highest statewide sales tax rate at 7.25% and the highest personal income tax rate for its wealthiest residents — 9.3% for those making $53,000 to $269,000 and 13.3% for those making $1 million or more. Measured by either a percentage of personal income or a share of economic output, California's state and local taxes are the fifth highest of any state. California has a progressive tax system, where a person's tax burden increases as their income grows. A progressive tax system is based on the concept of ability to pay, so it takes a larger percentage of income from high-income groups than from low-income groups. In California, the high-income group includes almost 100,000 taxpayers with incomes above $1 million. They represent only about .5% of all tax returns filed in the state, but this group collectively pays about 40% of all California personal income taxes.

Proposition 30 would raise the tax rate on these 100,000 taxpayers to 15.05%. This may not seem like a problem for the other 99% of Californians not in that tax bracket. But this tax hike may exacerbate existing problems in the current system that will disproportionately affect those in the middle- and lower-income households.

That's because of California's income-tax-dependent revenue system, and its fluctuating population.

California's reliance on personal income in its tax system contributes to its variable "boom or bust" revenues. Given that over 50% of the state's general fund revenue comes from personal income taxes, California is vulnerable to revenue volatility. The state taxes capital gains, partnership income and dividends, interest and rent — which are both where the highest-income taxpayers derive most of their money, and also the sectors that fluctuate most with the economy. With California's existing clean-vehicle rebate programs suffering from insufficient and inconsistent funding, proponents of Proposition 30 argue it will provide a long-term and more stable funding source. But relying on personal income tax for this revenue would only amplify the existing funding issues, given the volatility of this personal income tax revenue.

And California is facing a population exodus. For the first time in 170 years, California experienced a net loss in population from recent outwards migration. During the COVID-19 pandemic, the San Francisco Chronicle found that 39,000 San Franciscans who had filed federal tax returns for 2019 had moved out of the city before filing 2020 returns, a drop of 4.5% and a loss of $10.6 billion in income. San Francisco's net out-migration (the number of people moving out minus the number of people moving in) nearly tripled in one year. The people who moved to the city during that period reported just $3.8 billion in income, a net loss of almost $7 billion in one year.

The general fund variability that results from tying state revenues to high earners and from migration is likely a long-term systemic problem. Many companies relaxed their work-from-home policies during the pandemic, which increased demand for larger homes in less-dense areas. And several big companies (Oracle, Palantir, and Hewlett-Packard Enterprise) are moving their operations and employees elsewhere. Unsurprisingly, the most popular states people are choosing (Florida, Texas, and Nevada) have no income tax. Between 2019 and 2020, Florida saw a net gain of over 20,000 high earners, while Texas gained over 5,000. Another reason for the exodus might be that under a 2017 federal tax overhaul, high-income earners can no longer deduct state and local taxes (SALT) over $10,000 on their federal tax returns. Now, high-income taxpayers feel the full brunt of state tax increases. An increase in taxes will only push more high-income earners (the ones California relies on so heavily for its budget) out of the state.

Worse, the nation is already in or heading towards a recession. A recent BCG survey reveals that nearly 80% of investors anticipate a recession within the next year and 50% predict one by the end of 2022. Not only is the U.S. economy slowing, the International Monetary Fund forecast a global recession at the end of July. The Federal Reserve increased interest rates by three-quarters of a percentage point in June and again on July 27, 2022. Inflation is currently at a 40-year high, reaching 9.1% in June, according to the U.S. Bureau of Labor Statistics. While there may never be an optimal time for raising taxes, the current landscape is especially dire.

On these numbers Proposition 30 raises a serious question about the merits of a tax that relies on high-income earners that have volatile returns and are already fleeing the state. Add in a global recession and the tax may do more harm than good for the state.

Feasibility concerns

California has long led the way on climate policy. In 2001, California established its first voluntary emissions reporting program. And in 2006 the state passed the Global Warming Solutions Act — its landmark climate legislation. More recently, in August 2022 California announced a ban on the sale of new gasoline vehicles by 2035. The state also adopted mandates to reduce planet-warming emissions 40% below 1990 levels by 2030 and achieve carbon neutrality by 2045. And California has ambitious forward-looking goals for its climate change policy.

The key to achieving these goals is transportation. California's transportation sector accounts for about 50% of the state's greenhouse gas emissions, nearly 80% of nitrogen oxide pollution, and 90% of diesel particulate matter pollution. Proposition 30 directly targets internal combustion vehicles to achieve California's broader carbon emission goals.

But to achieve those goals officials project that California will need about 30 times more electric vehicles on the road, six times more electric appliances in homes to replace gas appliances, 60 times more hydrogen supply, and four times more wind and solar generation capacity to reach its target. The upshot: California needs to invest in energy infrastructure in the state. This will require the state to expedite building new solar and wind infrastructure, improving existing power lines, and building battery storage capacity. Proposition 30 aims to do that by allocating 35% of its funds to the Zero-Emission Vehicle Infrastructure Investment Plan Sub-Fund. The money would be used to install and operate ZEV charging and fueling stations at places such as apartment buildings, single-family homes, and public locations.

But renewable energy infrastructure takes time to build: for example, offshore wind takes 15 years to permit and deploy. Wind farms produce electricity only when it's windy and solar farms only produce power when there's sun, leading to variability in the supply of energy. California's current power grid system is already strained and fragile. Increasing charging capacity will increase demand for energy, which is poised to outpace the improvements and expansions made to renewable energy. This will force California to keep relying on fossil fuels (particularly natural gas) to meet demand. As Rajinder Sahota, the Deputy Executive Officer of CARB conceded, "the plan is very, very aggressive in terms of the deployment of clean technology." Proposition 30 is projected to raise $3.5 billion to $5 billion annually, growing over time — money that may not matter, given these other issues in California's infrastructure.

Money and infrastructure aside, the key question is whether California's plan can succeed in lowering greenhouse gas emissions. New modeling from the nonpartisan energy policy firm Energy Innovation has quantified expected reductions, showing cumulative emissions dropping by 70 million metric tons of carbon dioxide equivalent. This represents a 16% decrease for the state's transportation sector, as compared with the current roughly 18.1 MMT CO2e. Yet when factoring in increases in electricity demand and emissions from the grid, that decrease shrinks by more than half, limiting the overall impact of the policy. The ballot analysis itself does not predict the reductions in emissions, so voters cannot know how much of an impact this bill will have. Again, more money may not matter here.

Although California transportation produces most of the state's carbon dioxide emissions, the other great contributor to emissions in California is wildfires. The

2020 California wildfires generated more than 91 million metric tons of CO_2, which is about 25% of the annual emissions from fossil fuels in the state. That year alone, California wildfires released more carbon dioxide than all industrial facilities statewide. During the 2021 summer fire season, California fires released more than 75 million metric tons of carbon dioxide. More money for electric car infrastructure won't stop trees from burning.

Given that, getting wildfires under control should be the state's number one priority. The severity of California's wildfires shows the need to improve forest health. But Proposition 30 only dedicates 20% of its funds to wildfire prevention. Instead, most of the revenue (45%) from Proposition 30 is subsidies to help households, businesses, and governments pay for part of the cost of new passenger ZEVs (such as cars, vans, and pick-up trucks). One of those businesses benefiting is Lyft, which has already contributed $15 million in support of the ballot initiative. Lyft's substantial support, coupled with the fact that Proposition 30 devotes double the money to rebates that benefit Lyft compared with its wildfires funds, raises *qui bono* concerns.

Legality of Proposition 30

The good news for Proposition 30 is that it likely will survive legal challenges. Using its police power California can tax certain groups (in this case, classes of wealth) at higher rates for a specific purpose. If it passes, the primary legal attacks on Proposition 30 likely will focus on the takings clause and infringement of a fundamental right.

Proposition 30 probably does not violate the takings clause. The California Supreme Court has only invalidated takings with an obvious discriminatory impact: "an arbitrarily conceived exaction will be nullified as a disguised attempt to take private property for public use without resort to eminent domain or as a mask for discriminatory taxation." Although Proposition 30 targets a specific class of individuals with a certain income, the California Supreme Court and the U.S. Supreme Court have consistently upheld such progressive tax systems even though they take more from high income-earners.[1] California courts likely will find this tax to be fair because it affects a broad range of individuals. There are over 1.14 million millionaire households in California with a ratio of 7.7% to total households. And although 15.05% would be the highest personal income tax rate in the country, it is still much lower than the 37% federal income tax. Proposition 30 probably survives a takings clause challenge in California.

Proposition 30 also probably does not violate a fundamental right. Targeting households above a certain income level discriminates against citizens on the basis of wealth, but not unlawfully. There is no violation of a fundamental right when Congress or California taxes an individual's income.[2] Under Article 16 of the U.S. Constitution, "the Congress shall have the power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration." And wealth is probably not a suspect class under California law.[3] Because Proposition 30 does not violate the takings clause or a fundamental right, it likely would be upheld in California courts.

Nor is Proposition 30 likely to violate the U.S. Constitution, because it is not a tax on interstate commerce and it is within the state's police power to tax income. California already has a personal income tax — Proposition 30 merely changes the rate. There should be no federal constitutional issues.

The upside

There are two good arguments for Proposition 30. First, the increased tax revenue will target different aspects of electric vehicles and create a multifaceted approach to the problem. The three different funds subsidize companies to create more EVs, help more residents (especially those from low-income communities) buy an electric vehicle, and expand the infrastructure needed to operate that vehicle. The result is increased funding for every stage of an electric vehicle's life. And the revenue addresses wildfire prevention, the other key issue plaguing California carbon emissions,

Second, Californians will see a tangible change in their daily living. California has the worst air pollution in the country, and 11 of the top 25 polluted cities in the country. Close to 98% of Californians live in a county impacted with poor air quality. By taking internal combustion cars off the roads, in theory Californians breathe easier, live healthier, and tackle climate change.

Conclusion

Proposition 30 presents choices between a new climate change policy (which may significantly reduce carbon emissions) versus imposing major new taxes (which will be a windfall for Lyft). It also may have significant repercussions for state revenue stability by exacerbating the variation in and reduction of income tax revenue from the highest earners. This uncertainty makes Proposition 30 and similar revenue-generating measures particularly difficult choices for the voters, who have limited information on the policy decision and no ability to respond quickly to observed effects. The only sure winner if Proposition 30 passes is Lyft, which will benefit from an effective subsidy for its transition to an electric fleet.

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Chloe Amarilla is a research fellow at the California Constitution Center. This article provides only informational analysis and does not advocate for a vote for or against the measure.

1. (1977) 19 Cal.3d 467; See *Bolens v. Frear* (Wis. 1912) 134 N.W. 673, 689–90 (holding that a progressive income tax was not so confiscatory as to violate basic principles of justice and equality). ↑
2. There is a fundamental rights issue when Congress or California takes an exorbitant amount of an individual's income, but that discussion falls under the takings clause. ↑
3. (1999) 70 Cal.App.4th 845, 849 n.6 (observing that whether wealth is a suspect classification "is less clear, but still doubtful, under California's equal protection clause"). ↑