CALIFORNIA DECIDES

PROPOSITION LAB | **Proposition 42**

PROP 42:
THE RETIREMENT AND PERSONAL SAVINGS PROTECTION ACT OF 2026

Summary

Proposition 42 would add a new article to the California Constitution with two main provisions:

- First, it would prohibit any new taxes on personal property—both tangible (i.e., personal belongings) and intangible (savings, retirement accounts, financial assets, business ownership, intellectual property, etc.)—while leaving existing property taxes untouched. In effect, this would require that the California legislature get voters' approval before creating any new property taxes.

- Second, it would prohibit new taxes that impose liability for past residency or conduct, with a narrow exception allowing taxes to reach back up to 365 days if tied to a governor-declared emergency and dedicated to addressing it.

Notably, if Prop 42 gets more votes than Proposition 40, it would nullify Prop 40 entirely. Given the two propositions fundamentally conflict, this kind of specificity is valuable to clearly determine what happens after the election. This is arguably the most relevant element of Prop 42, because Prop 40 could possibly allow future legislators to pass new taxes on personal property.

Fellows at the Hoover Institution have extensively researched Prop 40, Prop 42, and California's fiscal problems more generally.[1] The biggest fiscal challenge the state faces is an exuberance of spending beyond what even its rapidly increasing tax revenue can sustain.

Quick Facts

- **Official ballot title:** "Prohibits New State Personal Property Taxes and Certain Retroactive State Taxes. Initiative Constitutional Amendment."
- **Measure's own name:** The Retirement and Personal Savings Protection Act of 2026 (AG No. 25-0041A1)
- **Type:** Initiated constitutional amendment and statute
- **A vote YES means:** A prohibition on new state taxes on personal property, including financial assets. Retroactive taxes would be prohibited except during a state of emergency. If Proposition 42 outpolls Proposition 40, it would specifically void Prop 40 (see California Decides Proposition Lab, Prop 40: The Billionaire Tax Act).
- **A vote NO means:** The legislature would not be forbidden from passing new taxes on personal property, including financial assets. The legislature would not be forbidden from passing retroactive taxes. The lack of these restrictions is especially relevant if Proposition 40 passes, because Prop 40 arguably empowers future legislatures to pass new taxes on personal property and to create retroactive taxes.
- **Full legal text:** Initiative 25-0041A1, Office of the Attorney General (PDF)
- **LAO analysis:** Ballot analysis of Initiative 25-0041 (PDF)

HOOVER INSTITUTION

1. OVERVIEW

Proposition 42 would amend the California Constitution in two ways:

- First, it would prohibit *new* taxes on the ownership or control of all personal property, both tangible and intangible. This includes personal belongings, personal savings, retirement savings, financial assets, business ownership, and intellectual property. No personal property taxes or real property taxes in effect prior to January 1, 2026, would be affected.
- Second, it would prohibit any *new* tax that creates liability based on conduct, activities, or status (including residency) that existed before the tax took effect. It creates an exception for limited retroactive taxes (reaching back up to 365 days) to specifically address a governor-declared state of emergency but requires the tax revenue to be dedicated to addressing that emergency.

In addition, if Prop 42 outpolls Proposition 40, it would specifically void Prop 40. This is relevant because Prop 40 seemingly provides the legislature with broad authority to amend the taxes created by Prop 40 solely by legislative vote.2 In order to amend a statute created by ballot initiative, the legislature would normally have to put the proposed change up as another ballot initiative, in order to receive citizens' approval for the change. The authority provided by Prop 40 arguably means that the legislature could, at any time:

- Change Prop 40's tax rate
- Change the threshold at which it applies (for example, applying it to those who hold over $1 million in total assets, rather than $1 billion)[3]
- Change the tax from one-time to permanent (or re-implement it on another one-time basis)
- Create future personal property taxes (or perhaps even income taxes) that apply retroactively

If both Prop 40 and Prop 42 pass, and Prop 40 outpolls Prop 42, the way forward is murkier. This is because Prop 40 does not contain similar language nullifying Prop 42 entirely if both of them pass. Legal battles over which elements of Prop 42 would still be enforceable and to what extent they apply should probably be expected. The most likely conclusion would be that the Prop 40 wealth tax would take effect, but future taxes on personal property might require voter approval. However, this depends on how broadly courts interpret the amendment authority that Prop 40 gives the legislature.

2. THE LEGAL LANGUAGE

- **Full text:**
  Initiative 25-0041A1, Office of the Attorney General (PDF) (six pages, amended language filed January 12, 2026)[4]
- **Key language:**

  > "No state law and no provision of this Constitution enacted on or after January 1, 2026 may enact, create, impose, or authorize collection of a tax on the ownership or control of retirement holdings, individually-owned assets, and other forms of personal savings, whether held directly or indirectly."

- **What it amends:**
  Adds a new Article VIII to the California Constitution. Because it is a constitutional amendment, the legislature cannot repeal it, and only another vote of the people can undo it. The measure borrows the definition of "tax" from Article XIII A, Section 3, the Proposition 13 and Proposition 26 definition. It also includes a conflicting-measures clause that reaches other initiatives on the same ballot.

3. WHAT, WHERE, WHEN, WHY?

- **What?**
  A constitutional ban on new taxes on the ownership or control of personal property, from personal belongings and savings (including retirement accounts) to business interests and intellectual property. It would also prohibit most new retroactive state taxes, including taxes keyed to a past residency date.

- **Where?**
  Statewide, written into the state constitution.

- **When?**
  It would apply to taxes enacted or taking effect on or after January 1, 2026.

- **Why?**
  The proponents say California already ranks among the most heavily taxed states, that families struggle to save, and that politicians should not be able to tax the value of savings and assets people have already earned.

4. ANALYSIS AND ASSESSMENT

Proposition 42 would prohibit the legislature from enacting future taxes on personal property, broadly defined. This would be a negligible change to the status quo because the state does not currently levy taxes on tangible or intangible personal property. However, it would forestall future legislatures from taxing personal property without first getting approval from voters via ballot initiative.

The California Constitution currently permits the legislature, with a two-thirds vote, to levy taxes on all tangible and intangible personal property. The first sentence of Article XIII, Section 2, reads:

> The Legislature may provide for property taxation of all forms of tangible personal property, shares of capital stock, evidences of indebtedness, and any legal or equitable interest therein not exempt under any other provision of this article.[5]

This language reflects dormant tax policy going back to the 1879 California Constitution. In the 1930s, after years of controversy and litigation over taxes on intangible assets and a sharp decrease in property tax revenues caused by delinquencies during the Great Depression, the state pivoted to implement a sales tax and a personal income tax to stabilize state tax revenue.6 As part of the tax policy coordination, a 1933 constitutional amendment retained the language allowing the state to tax personal property but limited taxes on many financial assets to be at most 0.4 percent of the value of the asset. Today, California's Revenue and Taxation Code exempts all intangible assets from taxation.[7] However, the *income* from intangible assets like stocks and debt instruments is taxed as ordinary income.[8]

One argument against limiting what the legislature can tax is that the state's tax base is already narrowly dependent on personal income taxes (see California Decides FAQ: Who Pays for California's State Budget, and What Is It Spent On?). The personal income tax has grown to provide nearly 70 percent of General Fund tax revenue, compared to 38 percent for total state tax collections nationally. Research by Hoover Institution fellows Lanhee J. Chen, Lee Ohanian, and Joshua D. Rauh have described how this causes substantial volatility in the California state budget because most personal income tax revenue comes from high-income and high-net-worth households and tends to fluctuate with stock market performance.[9] For example:

- During the strong stock market returns in 2021 the top 10 percent of taxpayers paid almost *90 percent* of personal income tax revenue.[10]
- The top 1 percent of income tax filers typically pay 40–50 percent of personal income tax revenue.[11]
- The top 0.1 percent—just twenty-five thousand households—typically pay more than 20 percent of all personal income tax revenue.[12]

The problem with adding new state personal property taxes, especially on intangible financial assets, is that the impact will tend to be borne by the high-income and high-net-worth households. This means that creating new property taxes wouldn't expand the tax base—it would simply be tapping the same source of revenue that California already utilizes more than almost any other state.

Dr. Rauh's California-specific research examining taxpayers' response to Proposition 30 (2012) shows that high-income and high-net-worth households exhibit the highest migration response to increased taxes, meaning that new state property taxes would potentially undermine the already-precarious tax base.[13] The departure of a significant portion of the tax base for Proposition 40's wealth tax, even before the tax is even in effect, provides further evidence of the sensitivity of high-income and high-net-worth taxpayers to increased tax rates.[14]

On the other hand, Proposition 42 would provide a credible commitment that the state would not create new property taxes, perhaps providing some degree of reassurance for the households most susceptible to migration, such that more will remain in the state than otherwise. That wouldn't necessarily expand the tax base, but it would at least help prevent further erosion. Prop 42's prohibition on retroactive taxes would likely have a similar effect.

A more relevant solution to California's financial woes would be budget reductions to counter the recent spending explosion, as well as better management of its existing revenue streams to weather the lean times. Research by Dr. Ohanian highlights that from 2019 to 2023 California's population declined by almost five hundred thousand people (a 1 percent decrease), but the state budget *increased* by more than 57 percent (31 percent after adjusting for inflation).[15]

State personal income tax revenues surged by 55 percent in 2021 due to a soaring stock market and federal support during COVID-19, but this was followed by a 35 percent drop in 2023.[16] The bust should have been expected given California's previous experience, but Governor Newsom's administration assumed that the increased revenue would be permanent and increased government spending commensurately, leading to a $175 billion swing from budget surplus to deficit just two years later.

The boom-bust nature of California's tax revenue shows the need for better methods to smooth revenues and spending over time. In particular, this will require restraining state policymakers, who have shown a proclivity for pursuing large projects and program expansions during the boom times, only to discover during the bust that discretion is the better part of spending. A comprehensive solution would require extensive tax structure reforms, but in the meantime state policymakers could reduce volatility by revisiting California's "rainy day fund" to ensure it is fit for purpose.

5. CONCLUSION

Proposition 42 doesn't change any current taxes. It effectively only adds the requirement that voters be consulted before the state creates any new property taxes. It also prohibits retroactive taxes and taxes keyed to a past residency date. This provides high-income and high-net-worth households a credible signal that California will not—without reasonable warning—tax the ownership of personal property, especially financial assets. This could help slow the out-migration that erodes the state's narrow, top-heavy tax base.

Prop 42 also contains a clause that if it outpolls Proposition 40, it will fully nullify Prop 40. This specificity is likely preferrable to having the courts attempt to determine which elements of Prop 40 (if any) still hold if Prop 42 has greater support.

Hoover Institution research shows that California's spending has risen far faster than inflation or population growth, and even faster than the surprising increases in tax revenue. This suggests that first California should solve its expenditures problem before trying to backfill tax revenue by tapping those households already responsible for the vast majority of income tax revenue.

ENDNOTES

[1] Joshua Rauh, "A California Ballot Collision: Wealth Tax vs. Savings Protections," Fiscal Reality Check (Substack), May 6, 2026, https://fiscalrealitycheck.substack.com/p/a-california-ballot-collision-wealth.

[2] More specifically, Proposition 40 reads: "The Legislature may amend the 2026 Billionaire Tax Act, by statute passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, if the statute is consistent with and furthers the purposes of the 2026 Billionaire Tax Act." Proposition 40, Section 3, lays out the purpose of the legislation being to "protect access to high quality, equitable health care, and to support funding for kindergarten through grade fourteen public education and food assistance programs, by raising revenue from a one-time tax on billionaire wealth." However, given that Prop 40 instructs courts to preserve the imposition of the tax to the greatest degree possible, it seems impossible to certify, prior to a legal challenge and court decision, which elements of the stated purpose would be considered the heart of the proposition, and which elements the courts may view as secondary and severable (such as the imposed tax being one-time versus permanent, or only applicable to billionaires, or even specifically required to be a wealth tax rather than an income tax). Initiative 25-0024A1, "Imposes One-Time Tax on Certain Taxpayers. Initiative Constitutional Amendment and Statute," November 24, 2025, California Office of the Attorney General: https://oag.ca.gov/system/files/initiatives/pdfs/25-0024A1%20%28Billionaire%20Tax%20%29.pdf.

[3] It is worth noting that legislation to create a California wealth tax that would affect households with $30 million or more in assets had already been introduced in 2020. Assemb. B. 2088, 2019–2020 Reg. Sess. (Cal. 2020), as amended August 13, 2020, California Legislative Information: https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB2088.

[4] Proposition 42, "Text of Proposed Laws: Prohibits New State Personal Property Taxes and Certain Retroactive State Taxes," California General Election Official Voter Information Guide, November 3, 2026, California Secretary of State: https://voterguide.sos.ca.gov/propositions/42/index.htm.

[5] Cal. Const. art. XIII, § 2.

[6] California State Board of Equalization, *Publication 216: 1879–1979, The First 100 Years* (State Board of Equalization, 1979), https://boe.ca.gov/info/pub216/revenue_crisis.html; David T. Beito, *Taxpayers in Revolt: Tax Resistance During the Great Depression* (University of North Carolina Press, 1989); California State Controller's Office, *A Brief History of Major Tax Changes in California, 1979–2015* (California Research Bureau, 2015), https://sco.ca.gov/Files-EO/Appendices_cea.pdf.

[7] Cal. Const. art. XIII, § 14 (1933) (amended and renumbered as § 2, 1974); Cal. Rev. & Tax. Code § 212 (2025), California Legislative Information: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=RTC&sectionNum=212.

[8] Cal. Rev. & Tax. Code §§ 17071–17307 (Division 2, Part 10, Chapter 3, "Computation of Taxable Income"), California Legislative Information: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=RTC&division=2.&part=10.&chapter=3.

[9] Joshua D. Rauh and Jillian Ludwig, "The California State Budget and Revenue Volatility: Fiscal Health in a Deficit Context," Hoover Institution, March 29, 2023, https://www.hoover.org/research/california-state-budget-and-revenue-volatility-fiscal-health-deficit-context; Lanhee J. Chen, "Can California Ever Escape Its Boom-and-Bust Budget Woes?," *Los Angeles Times*, January 27, 2026, https://www.latimes.com/opinion/story/2026-01-27/california-budget-deficit-surplus-spending-commitments.

[10] Lee Ohanian, "How Much Longer Will the Top 1 Percent Save California's Budget?," Hoover Institution, May 19, 2026, https://www.hoover.org/research/how-much-longer-will-top-1-percent-save-californias-budget.

[11] Ohanian, "How Much Longer Will the Top 1 Percent Save California's Budget?"

[12] Joshua D. Rauh and Benjamin Jaros, "Taxes, Revenues, and Net Migration in California" (working paper, December 21, 2022), SSRN: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4037764.

[13] Rauh and Jaros, "Taxes, Revenues, and Net Migration in California."

[14] Joshua Rauh, Benjamin Jaros, Gregory Kearney, and John Doran, "The Fiscal Losses from California's Billionaire Tax Act," Liberty Lens (Substack), March 5, 2026, https://libertylensecon.substack.com/p/california-wealth-tax-npv.

[15] Lee Ohanian, "After a $100 Billion Surplus, California Now Faces a $73 Billion Budget Deficit," Hoover Institution, March 26, 2024, https://www.hoover.org/research/after-100-billion-surplus-california-now-faces-73-billion-budget-deficit.

[16] Ohanian, "How Much Longer Will the Top 1 Percent Save California's Budget?"; Lee Ohanian, "How One Obvious Mistake Created California's Budget Crisis," Hoover Institution, May 21, 2024, https://www.hoover.org/research/how-one-obvious-mistake-created-californias-budget-crisis.