

RESOLUTION 16-050

**BEFORE THE BOARD OF EDUCATION OF THE
BERKELEY UNIFIED SCHOOL DISTRICT**

**RESOLUTION OF THE BOARD OF EDUCATION OF THE BERKELEY UNIFIED SCHOOL
DISTRICT OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, CALLING AN
ELECTION FOR APPROVAL OF AN EDUCATION PARCEL TAX, ESTABLISHING
SPECIFICATIONS OF THE ELECTION ORDER, AND REQUESTING CONSOLIDATION
WITH OTHER ELECTIONS OCCURRING ON NOVEMBER 8, 2016**

RESOLVED by the Board of Education ("Board") of the Berkeley Unified School District ("District"), a school district of the County of Alameda, State of California, that:

WHEREAS, the California State Legislature fails to provide adequate funding for schools, and as a result of this lack of financial support, California is ranked among the lowest in the nation for state education funding per student, and,

WHEREAS, the District is committed to offering a high-quality educational program to all students in the District, and due to inadequate state funding, increased local revenues are necessary to meet this goal; and,

WHEREAS, Berkeley voters have consistently supported necessary education parcel taxes and bonds as an investment in the future of children, as a reflection of the values of the Berkeley community, and as a significant reason that individuals, families, and organizations are attracted to live and work in Berkeley; and,

WHEREAS, on November 6, 2006 the voters of the District approved Measure A and authorized a parcel tax in support of Berkeley Public Schools, and that measure expires on June 30, 2017; and,

WHEREAS, the local revenues from Measure A of approximately \$25 million per year raise the District from the low funding provided by the State toward the national average for student funding; and,

WHEREAS, without a renewed and extended authorization by the voters of a parcel tax like Measure A, the District will lose 20% of its budget, with severe and negative effects on students, including layoffs of at least one-third of the teachers, increased class sizes, elimination or drastic reduction of school libraries and music programs and many essential programs and services for our students; and,

WHEREAS, in the recent court case of *Borikas v. Alameda Unified School District*, the California Court of Appeal ruled for the first time that school district voters lack the legal power to enact parcel tax measures with classification based tax structures like Measure A (which has different rates for residential and commercial parcels), but may continue to levy voter-approved parcel taxes which are levied at a uniform rate; and,

WHEREAS, in order to provide the level of programs and services currently supported by Measure A, the replacement education parcel tax rate for residential parcels must be increased to comply with the *Borikas* ruling as well as meet increased costs, including mandated expenses from the State; and,

WHEREAS, every dollar raised by this special tax will be used for benefit of the students of Berkeley schools, and cannot be taken away by the State; and,

WHEREAS, California Constitution, Article XIII A, section 4 and Government Code sections 50075 et seq. authorizes the District, upon approval of two thirds of the electorate, to levy qualified special taxes on property in the District for the purpose of providing quality educational programs in the District and other lawful purposes of the District; and

WHEREAS, in the judgment of this Board, following a public hearing and comment, it is advisable to request that the Alameda County Superintendent of Schools call an election and submit to the voters of the District the question of whether the District shall levy a special tax within the District, for the purpose of raising revenue for the District; and

WHEREAS, pursuant to the Education Code and Elections Code such election may be completely or partially consolidated with any other election held on the same day and in the same territory or territory that is in part the same.

NOW, THEREFORE, IT IS DETERMINED AND ORDERED as follows:

Section 1. Recitals. This Board hereby finds and determines that the foregoing recitals are true and correct.

Section 2. Resolution Constitutes Order of Election. This resolution shall constitute an order of election pursuant to the Education Code to the Alameda County Superintendent of Schools to call an election within the boundaries of the District on November 8, 2016.

Section 3. Date and Purpose of Measure. Pursuant to the California Constitution and Government Code, an election shall be held within the boundaries of the District on Tuesday, November 8, 2016, for the purpose of voting on a measure ("Measure") which will be presented to voters in substantially the form attached hereto as **Exhibit A**, containing the question of whether the District shall impose a special tax for the educational purposes stated therein. In addition, the full text of the Measure ("Full Ballot Text") shall appear in the ballot pamphlet in substantially the form attached hereto as **Exhibit B**. The authority for the specifications of this election order is contained in the Education Code, and the authority for ordering the election is contained in the Education Code, Elections Code, Government Code, and California Constitution.

Section 4. Very Low-Income Senior Exemption from the Special Tax. Pursuant to provisions of the Full Ballot Text, an exemption from the tax will be made available for any single-family residential parcel or multi-family dwelling unit owned and occupied by one or more very low-income senior citizens.

Section 5. Collection of the Tax. Pursuant to provisions of the Full Ballot Text, beginning July 1, 2017, if adopted by voters, the special tax shall be collected by the County Treasurer-Tax Collector, at the same time, in the same manner, and subject to the same penalties as *ad valorem* property taxes collected by the County Treasurer-Tax Collector. Unpaid special taxes shall bear interest at the same rate as the rate for unpaid *ad valorem* property taxes until paid.

With respect to all general property tax matters within their respective jurisdictions, the Alameda County Assessor or the City of Berkeley shall make all final determinations of tax exemption or relief for any reason, and that decision shall be final and binding. With respect to matters specific to the levy of the special tax authorized by the Full Ballot Text, a District administrative review panel or the City of Berkeley, as the designated agency, shall make all necessary final determinations, and that decision shall be final and binding. The procedures

described herein, and any additional procedures established by the District shall be the exclusive claims procedure for claimants seeking an exemption, refund, reduction, or re-computation of the special tax authorized by the Full Ballot Text. Whether any particular claim is to be resolved by the District, City of Berkeley, or County of Alameda shall be determined by the District.

Section 6. Authority for Ordering Election. The authority for ordering the election is contained in the Education Code, Elections Code, Government Code, and California Constitution.

Section 7. Authority for Specifications. The authority for the specification of this election order is contained in the Education Code.

Section 8. Resolution to County Officials. The Secretary to the Board is hereby directed to cause certified copies of this Resolution and order to be delivered not later than August 10, 2016, to the County Superintendent, the Alameda County Registrar of Voters ("Registrar"), and the Clerk of the Board of Supervisors of Alameda County ("Board of Supervisors").

Section 9. Formal Notice. The County Superintendent is hereby requested to prepare and execute a Formal Notice of Parcel Tax Election and consolidation order in substantially the form attached hereto as **Exhibit C** (the "Formal Notice"), and to call the election by causing the Formal Notice to be posted in accordance with the applicable law no later than August 10, 2016, or to otherwise cause the notice to be published as permitted by law. The Secretary to the Board, on behalf of and as may be requested by the County Superintendent, is authorized to cause all notices required by law in connection herewith to be published and posted, as the case may be.

Section 10. Conduct of Election.

- (a) *Request to Registrar.* Pursuant to State law, the Registrar is requested to take all steps to hold the election on November 8, 2016, in accordance with law and these specifications. The election may be consolidated with another election as specified below, if such consolidation is feasible and appropriate.
- (b) *Voter Pamphlet.* The Registrar is hereby requested to reprint the Full Ballot Text in substantially the form attached hereto as **Exhibit B** in the voter information pamphlet to be distributed to voters pursuant to the Elections Code. In the event the Full Ballot Text will not be reprinted in the voter information pamphlet in its entirety, the Registrar is hereby requested to print, immediately below the impartial analysis of the Measure, in no less than 10-point boldface type, a legend substantially as follows:

"The above statement is an impartial analysis of Measure ___. If you desire a copy of the Measure, please call the Alameda County Registrar of Voters at 510-267-8683 and a copy will be mailed at no cost to you."

- (c) *Consolidation.* The County Superintendent and the Board of Supervisors are hereby requested to consolidate the election ordered hereby with any and all other elections as may be held on the same day in the same territory or in territory that is in part the same.
- (d) *Canvass and Declaration of Results.* The Board of Supervisors is authorized to canvass the returns of the election and declare the result pursuant to the Elections Code.

- (e) *Cost of Election.* The District will reimburse the Registrar and the County for costs associated with the election as required by law.

Section 11. Appropriations Limit. The Board shall provide in each year for an increase in the District's appropriations limit as shall be necessary to ensure that the proceeds of the special tax may be spent for its authorized purposes.

Section 12. Ballot Arguments. The Board President and/or her designees are hereby authorized to prepare and file with the Registrar any ballot argument prepared in connection with the election, including a rebuttal argument, each within the time established by the Registrar, which shall be considered the official ballot arguments of the Board as sponsor of the Measure and to take all necessary action to prevent inclusion of false and/or misleading information in ballot materials related to the Measure.

Section 13. Official Actions. The District Superintendent, Board President, or their designees are hereby authorized to execute any other document and to perform all acts necessary to place the Measure on the ballot, including making alterations to the Measure and Full Ballot Text stated in **Exhibits A and B** hereto, and to this Resolution to comply with requirements of law and election officials or which are, in the judgment of the Superintendent and/or Board President, in the best interests of the District.

Section 14. Effective Date. This Resolution shall take effect from and after its adoption.

The foregoing resolution was introduced by Karen Hemphill, who moved its adoption, seconded by Ty Alper, and adopted on May 18, 2016 by the following vote:

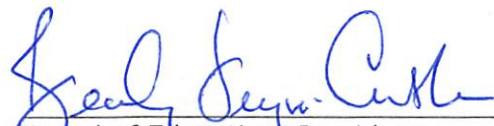
AYES: 6


NOES: 0

ABSENT: 1

WHEREUPON, the President declared the foregoing resolution adopted, and

SO ORDERED.


Board of Education, President


Board of Education, Clerk