

ALBANY UNIFIED SCHOOL DISTRICT
ALAMEDA COUNTY, CALIFORNIA

RESOLUTION NO. 2013-14-16

RESOLUTION OF THE BOARD OF EDUCATION OF THE ALBANY UNIFIED
SCHOOL DISTRICT CALLING AN ELECTION FOR VOTER APPROVAL OF AN
EDUCATION PARCEL TAX, ESTABLISHING SPECIFICATIONS OF THE
ELECTION ORDER, AND REQUESTING CONSOLIDATION WITH
THE STATEWIDE GENERAL ELECTION ON NOVEMBER 4, 2014

WHEREAS, the California State Legislature fails to provide adequate and predictable funding for schools, and as a result of this lack of financial support, without renewal and extension of the existing parcel tax, the Albany Unified School District (the "District") would be forced to reduce or eliminate important programs and instructional staff beneficial and necessary to the children who attend the District's Schools; and

WHEREAS, on November 3, 2009 the voters of the District approved Measure I and authorized a parcel tax of \$149 per residential parcel per year, and \$0.03 per square foot of land area per parcel per year, or \$149, whichever is the greater, for non-residential parcels; and

WHEREAS, the taxes provided by Measure I amount to approximately \$1.3 million per year for the District's general fund budget; and

WHEREAS, Measure I expires on June 30, 2015; and

WHEREAS, without a renewed and extended authorization by the voters of a parcel tax like Measure I, a substantial reduction and elimination of education programs and services will be necessary when Measure I expires, which will have a severe and negative impact on the growing student population of the District; 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 mixed-rate tax structures like Measure I (which has differentiated rates for residential versus commercial parcels), but may continue to levy voter-approved parcel taxes at a uniform or flat rate on all non-exempt parcels; and

WHEREAS, implementing the *Borikas v. Alameda Unified School District* decision will mean the District's voters cannot replicate Measure I's cents per square foot tax rate on non-residential parcels and flat dollar amount on residential parcels, but must instead adopt a tax rate structure or amount that is uniform or flat as to all taxable parcels; and

WHEREAS, if the District's voters wish to replace the \$1.3 million in taxes raised by Measure I dollar for dollar, then the replacement education parcel tax's uniform or flat rate or amount per parcel per year must be increased above the Measure I level of \$149; and

WHEREAS, the voters of Albany have consistently supported the District's excellent education program by approving parcel taxes for school operations and bonds for school renovation and modernization; and

WHEREAS, a thorough and well-developed public education program delivers many long-lasting benefits and advantages to all the residents of our community; and a high quality, community-directed school system favorably impacts property values, which is vital to the overall well-being of the entire community; and

WHEREAS, Section 4 of Article XIII A of the California Constitution and Government Code Sections 50075, 50077, 50079 and 53720 et seq. authorize a school district to levy a parcel tax to raise funds for the purpose of conducting its business upon the approval by two-thirds of the votes cast; and

WHEREAS, the Board of Education of the District (the "Board") has conducted a noticed public hearing, as required by law, on the question of whether or not to request the District's voters to authorize funding to extend and renew parcel tax authorization for the purposes identified below.

NOW THEREFORE, THE BOARD OF EDUCATION OF THE ALBANY UNIFIED SCHOOL DISTRICT HEREBY RESOLVES, DETERMINES, AND ORDERS AS FOLLOWS:

1. **Recitals.** The foregoing recitals are true and correct.
2. **Order of Election; Authority.** This Resolution stands as the order to the Alameda County Registrar of Voters (the "County Registrar") to call and conduct an election within the District's boundaries on November 4, 2014 and submit to the District's voters the question of whether to adopt the local funding measure proposed herein. The authority for the specifications of this election order is contained in Sections 5304 and 5322 of the California Education Code and Section 50079 of the California Government Code.
3. **Specifications of Ballot Measure.** The purpose of the election is for the voters of the District to vote on a local funding ballot measure, a full copy of which is attached hereto as *Exhibit A*. As required by California Elections Code section 13247, the abbreviated form of the measure to appear on the ballot is attached hereto as *Exhibit B*.

4. **Transmittal of Resolution.** The Secretary of the Board is hereby authorized and directed to certify to the due adoption of this Resolution and to transmit or deliver a copy hereof so certified to the County Registrar and to file copies hereof so certified with the Alameda County Board of Supervisors (the "Board of Supervisors") and Alameda County Superintendent of Schools (the "County Superintendent"), so that the copies are received no later than August 8, 2014.

5. **County Superintendent.** The County Superintendent is hereby requested to prepare a Formal Notice of School Parcel Tax Election (the "Notice") containing the information specified in Section 5361 of the Education Code, in substantially the form attached hereto as *Exhibit C*, and to publish and/or post the Notice as required by law. The County Superintendent is hereby requested to perform the duties under Education Code Section 5302, to call the election, prepare recommendations, statements, or arguments for the election as required, and to receive petitions, as necessary. The District directs that the County Registrar publish the notice of election in a newspaper of general circulation that is regularly circulated in the District's territory.

6. **Election Services.** The County Registrar and the Board of Supervisors are hereby requested to consolidate the election ordered hereby with any and all other elections to be held on November 4, 2014 within the District. Pursuant to Section 5303 of the Education Code, the County Registrar is hereby requested to take all steps incident to the preparation for and the holding of the election in accordance with law and these specifications. The Board requests that the County Registrar deliver a copy of all published notices to the Secretary of this Board pursuant to Section 12113 of the Elections Code. The Board of Supervisors is authorized to canvass the returns of the election pursuant to Section 10411 of the Elections Code. The District will reimburse the County of Alameda for the cost of election services as required by law.

7. **Collection of Taxes.** Subject to two-thirds approval of the voters voting on this local funding measure, the parcel tax that is the subject of this Resolution will be levied in the amount and in accordance with the procedures set forth in *Exhibit A* for 6 years beginning as of July 1, 2015, against all parcels of taxable real property located wholly or partly within the District's boundaries. Said parcel tax will be collected by the Alameda County Tax Collector at the same time as and along with, all other taxes and assessments on the County's property tax bills. The parcel tax will be subject to the same penalties as general *ad valorem* taxes collected by said Tax Collector. The tax and penalty will bear interest at the same rate as the rate for unpaid *ad valorem* property taxes until paid.

8. **Accountability Measures.** If this local funding measure is approved by the voters, then the members of the Board, the Superintendent of the District, and the other officers of the District are hereby requested and directed, individually and collectively, to provide accountability measures pursuant to Government Code Section 50075.1 that include, but are not limited to, all of the following: (a) A statement indicating the specific purposes of the parcel tax; (b) a requirement that the proceeds be applied only to the specific purposes identified pursuant

to subsection (a); (c) the creation of an account into which the proceeds must be deposited; and (d) an annual report pursuant to Section 50075.3 of the Government Code, as provided in paragraph 9 below.

9. Annual Report. If this local funding measure is approved by the voters, then pursuant to Section 50075.3 of the Government Code, the Board directs the chief fiscal officer of the District to file a report with the Board no later than January 1, 2016 and at least once a year thereafter. The annual report must contain both of the following: (a) The amount of funds collected and expended; and (b) the status of any project required or authorized to be funded as identified in *Exhibit A* hereof. The report may be combined or included with any other audit report of the District, as long as that report contains all of the information required by this paragraph 9.

10. Changes to Resolution or Measure. The District's Superintendent, and her designees, are hereby authorized and directed to make any changes to the text of the local funding measure described in this Resolution, or to the abbreviated form of the measure, or to the text of this Resolution, as may be convenient or necessary to comply with the intent of this Resolution, the requirements of elections officials, and requirements of law.

11. Effect on 2009 Parcel Tax Measure I. If approved by two thirds of the voters casting ballots on this measure, the special taxes so authorized will entirely supersede and replace the special taxes authorized by the District's voters with the approval of Measure I in 2009, effective July 1, 2015. If this measure is not so approved, then the special taxes approved by Measure I shall continue in effect only until June 30, 2015, at which time Measure I will cease to be in effect, in accordance with the terms of that measure.

12. Additional Actions. The members of the Board, the District Superintendent, and other District officers are hereby authorized and directed, individually and collectively, to do any and all things and to execute, deliver, and perform any and all agreements and documents that they deem necessary or advisable in order to effectuate the purposes of this Resolution, including, without limitation, to prepare and submit for inclusion in the voter information pamphlet an argument in favor of passage of the local funding ballot measure. All actions heretofore taken by the District's officers and agents that are in conformity with the purposes and intent of this Resolution are hereby ratified, confirmed, and approved in all respects.

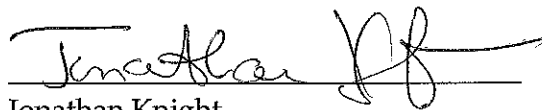
13. Severability. The Board hereby declares, and the voters by approving this local funding measure concur, that every section and part of this measure has independent value, and the Board and the voters would have adopted each provision hereof regardless of every other provision hereof. Upon approval of this measure by the voters, should any part of the measure or tax rates be found by a court of competent jurisdiction to be invalid for any reason, all remaining parts of the measure or tax rates will remain in full force and effect to the fullest extent allowed by law.

ADOPTED, SIGNED and APPROVED by the Board of Education of the Albany Unified School District at its meeting on May __, 2014, by the following vote:

AYES:

NOES:

ABSENTIONS:



Jonathan Knight
President of the Board of Education of the
Albany Unified School District

Attested to:



Marla Stephenson
Secretary of the Board of Education of the
Albany Unified School District

EXHIBIT A

**FULL BALLOT TEXT
OF THE MEASURE**

ALBANY UNIFIED SCHOOL DISTRICT

PRESERVE FUNDING FOR ALBANY SCHOOLS ACT OF 2014

This Proposition may be known and referred to as the **Albany Unified School District Preserve Funding for Albany Schools Act of 2014** or as **Measure ___** (*designation to be assigned by County registrar of Voters*).

FINDINGS

A superior and comprehensive education program delivers many long-lasting benefits and advantages to all the children and residents of a community.

The State's dire economic condition in recent years led the Governor and the California Legislature to make drastic cuts in education funding, which cuts have yet to be restored.

The direct impact of these State cuts on local Albany schools has meant eliminating teaching positions and student support staff.

While the recession may be over, Californians are still struggling to repay the debts incurred during that time. Despite promises from Sacramento, the full funding guarantee to schools enshrined in the California Constitution will not be realized for many years.

The District cannot rely upon the state to meet its needs. Without continuing to supplement State funding at the local level, Albany's school-age children will be negatively impacted by inadequate school funding.

An extension of Measure I, approved by Albany voters in 2009, and which expires on June 30, 2015, is necessary to protect the quality of education that Albany provides.

TERMS

Upon approval of two-thirds of those voting on this Proposition, the District shall be authorized to levy a qualified special tax (education parcel tax) for six years, beginning on July 1, 2015, at the rate of \$278 per year on each parcel of taxable real property located wholly or partly within the District.

To account for the impact of inflation on the cost of delivering the classroom programs and student services supported by the education parcel tax, the tax rate shall be adjusted annually as the Board of Education shall determine, commencing July 1, 2016, by no more than the average of the reported monthly or other periodic percentage changes in the Consumer Price Index-All Urban Consumers, San Francisco-Oakland-San Jose area (Series CUURA422SA0) over the prior twelve months, as of April 1 of each year, as published by the U.S. Bureau of Labor Statistics, rounded to the nearest dollar. If, in any given year, that index is not available, then the rate will be adjusted based on the changes in the Consumer Price Index – All Urban Consumers (CPI-U).

If approved, the special taxes so authorized will entirely supersede and replace the special taxes authorized by the District's voters with the approval of Measure I in 2009, effective July 1, 2015. If this measure is not so approved, then the special taxes approved by Measure I shall continue in effect only until June 30, 2015, at which point those special taxes shall cease to be in effect, in accordance with the terms of Measure I.

During its term, the education parcel tax authorized by this Proposition shall be in addition to any other existing parcel taxes or another tax enacted on the same date.

PURPOSES

Monies raised under this Preserve Funding for Albany Schools Act shall be authorized to be used to maintain programs and services at risk as a direct result of a reduction in State funding for schools, including but not limited to:

- Preserve funding for science, art, music, library services, and reading and math support;
- Attract and retain exceptional teachers and counselors;
- Maintain manageable class sizes;
- Keep schools safe and well maintained;
- Keep classroom technology and textbooks and instructional materials up-to-date

and to restore and preserve other academic programs, instructional equipment, materials and supplies from State budget cuts, to the extent of available funds.

EXEMPTIONS AND REBATES

The exemptions and rebate provided for below shall be available pursuant to procedures to be prescribed by the Board of Education or otherwise as required by law or by the Alameda County Tax Collector.

A. **Senior Exemption.** Any parcel owned and occupied by a person 65 years of age or older shall be exempt from the education parcel tax upon proper application to the District. Senior citizens with a current valid exemption from the District's education parcel taxes shall continue to be exempt from this new tax and not be required to reapply.

B. **Supplemental Security Income Exemption.** Any parcel owned and occupied by a person receiving Supplemental Security Income for a disability, regardless of age, shall be exempt from the education parcel tax upon proper application to the District.

C. **Social Security Disability Insurance Exemption.** Any parcel owned and occupied by a person receiving Social Security Disability Insurance benefits, regardless of age, whose yearly income does not exceed 250 percent of the 2012 federal poverty guidelines issued by the United States Department of Health and Human Services, shall be exempt from the education parcel tax upon proper application to the District.

ACCOUNTABILITY PROVISIONS

Annual Audit. Upon the levy and collection of the education parcel tax, the Board of Education shall cause an account to be established for deposit of the proceeds, pursuant to Government Code Section 50075.1. For so long as the tax is collected, the Superintendent of the District shall cause an independent financial auditor to prepare a report to be filed with the Board of Education no later than December 31 of each year, commencing December 31, 2016, stating (1) the amount collected and expended in such year, and (2) the status of any projects or description of any programs funded. The report may relate to the calendar year, fiscal year, or other appropriate annual period, as the Superintendent shall determine, and may be incorporated into or filed with the annual budget, audit, or other appropriate routine report to the Board of Education.

Specific Purposes. All of the purposes named in this Proposition shall constitute the specific purposes of the education parcel tax, and proceeds thereof shall be applied only for such purposes.

LEVY AND COLLECTION

The education parcel tax shall be collected by the Alameda County Treasurer-Tax Collector at the same time and in the same manner and shall be subject to the same penalties as *ad valorem* property taxes collected by the Treasurer-Tax Collector. Unpaid taxes shall bear interest at the same rate as the rate for unpaid *ad valorem* property taxes until paid. Any tax levied will become a lien upon the properties against which taxes are assessed and collectible

The education parcel tax shall be due with respect to every parcel of real property in the District which receives a separate tax bill for *ad valorem* property taxes from the Alameda County Treasurer-Tax Collector's Office. All property which is otherwise exempt from or on which are levied no *ad valorem* property taxes in any year shall also be exempt from the education parcel tax in such year. In addition, parcels may be exempt from the education parcel tax as described above under "EXEMPTIONS AND REBATES".

The District shall annually provide a list of parcels to the Alameda County tax collection officials which the District has approved for an exemption in accordance with this Proposition. The Alameda County Assessor's determination of exemption or relief for any reason of any parcel from taxation, other than through either of said exemptions, shall be final and binding for the purposes of the education parcel tax. Taxpayers wishing to challenge the County Assessor's determination must do so under the procedures for correcting a misclassification of property pursuant to Section 4876.5 of the California Revenue and Taxation Code or other applicable procedures. Taxpayers seeking a refund of any tax paid shall follow the procedures applicable to property tax refunds pursuant to the California Revenue and Taxation Code.

The Board of Education may adopt such additional or supplemental procedures as it deems necessary or convenient for the administration of the education parcel tax.

PROTECTION OF FUNDING

In the event the Congress or State Legislature enacts any law, or the U.S. Department of Education, or the State Department of Education or State Board of Education adopts any rule, providing that other funding to which the District would otherwise be entitled will be reduced as a result of the District's income from the education parcel tax, the Board of Education may take action as soon as practicable to reduce the amount or rate of the education parcel tax such that the amount collected will not cause such other funding to be reduced.

SEVERABILITY

The Board of Education hereby declares, and the voters by approving this Proposition concur, that every section, paragraph, sentence and clause of this Proposition has independent value, and the Board of Education and the voters would have adopted each provision hereof regardless of every other provision hereof. Upon approval of this Proposition by the voters, should any part be found by a court of competent jurisdiction to be invalid for any reason, all remaining parts hereof shall remain in full force and effect to the fullest extent allowed by law.

EXHIBIT B

ABBREVIATED TEXT OF MEASURE

(This summarizes, in 75 words or less, the full text of the proposition which appears on Exhibit A above.)

“To maintain excellent schools; preserve funding for science, art, music, library services, and reading and math support; attract and retain exceptional teachers and counselors; limit class sizes; and keep schools safe and technology and textbooks up-to-date; shall Albany Unified School District replace an expiring \$159/year parcel tax with a temporary, six-year parcel tax of \$278/year, with senior and SSI/SSDI exemptions, adjustments for inflation, independent audits, and all funds staying local to benefit Albany students?”

Tax - Yes

Tax - No

EXHIBIT C

FORMAL NOTICE OF SCHOOL PARCEL TAX ELECTION

NOTICE IS HEREBY GIVEN to the qualified electors of the Albany Unified School District of Alameda County, California, that in accordance with the provisions of the Education Code of the State of California, an election will be held on November 4, 2014, at which election the following local funding measure shall be submitted to the qualified electors of the District and voted upon:

"To maintain excellent schools; preserve funding for science, art, music, library services, and reading and math support; attract and retain exceptional teachers and counselors; limit class sizes; and keep schools safe and technology and textbooks up-to-date; shall Albany Unified School District replace an expiring \$159/year parcel tax with a temporary, six-year parcel tax of \$278/year, with senior and SSI/SSDI exemptions, adjustments for inflation, independent audits, and all funds staying local to benefit Albany students?"

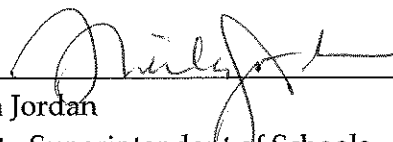
Tax - Yes

Tax - No

All of the purposes enumerated in the foregoing measure shall be united and voted upon as one single measure.

The County Superintendent of Schools of Alameda County, by this Notice of Election, has called the election pursuant to a Resolution of the Board of Education of the Albany Unified School District, adopted _____, 2014, in accordance with the provisions of Education Code Sections 5325 and 5361.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of JUNE, 2014.



Sheila Jordan
County Superintendent of Schools,
Alameda County, California