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Reprinted from *Tax Notes State*, February 23, 2026, p. 607

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In this installment of Noonan's Notes, the authors examine California's Billionaire Tax Act ballot initiative.

In most states, laws are created by duly elected legislative bodies through a time-tested legislative process. Remember "How a Bill Becomes a Law," the *Schoolhouse Rock* video from seventh grade social studies class? This process requires legislative and executive branches to create new laws through a slow but steady process. The difficulty of this process is probably a feature, not a bug, because it at least should ensure that new laws don't arise willy-nilly (not a legal term) — in

other words, laws being enacted only after thought and consensus.

Sometimes, though, there are attempts to bypass this process. One such example has been the ill-fated efforts by states over the years to enact some version of a "wealth tax," seeking to tax high-net-worth individuals not just on their income, but on their overall wealth. A wealth tax is like an estate tax, with one difference: The taxpayer isn't dead. A few years ago, lawmakers from eight states — California, Connecticut, Hawaii, Illinois, Maryland, Minnesota, New York, and Washington — unveiled plans (or at least talked about unveiling plans) to target wealthy residents. The so-called Wealth-Tax Alliance had plenty of support from various progressive groups.¹ But cooler heads have always prevailed on these ideas. Even the bluest of governors from the bluest of states have rejected these efforts, with Gov. Gavin Newsom (D) saying in 2020 that "wealth tax proposals are going nowhere in California."²

While it seems as though the efforts to enact legislation by the states themselves have been tempered over time, that does not mean that similar ideas from the citizens of these states have equally subsided. And not all laws are created equally; some states allow a more grassroots approach to lawmaking, allowing citizens to enact legislation essentially by popular vote, so long as they can get enough signatures to get it on the ballot.

So guess what's happened? On October 22, 2025, the Service Employees International Union filed a proposed initiative called the "2026

¹ See The Editorial Board, "The State Wealth-Tax Alliance," *The Wall Street Journal*, Jan. 24, 2023.

² Evan Symon, "Gov. Gavin Newsom Announces Opposition to Wealth Tax Proposal," *The California Globe*, Feb. 18, 2023.

Billionaire Tax Act”³ with the California Office of the Attorney General.⁴ The Billionaire Tax Act would impose an allegedly “one-time 5 percent tax on California billionaires” in 2026.⁵ In order to make the November ballot, the initiative will need more than 900,000 signatures by June 25. If it makes the ballot, it will be enacted if it receives more than 50 percent of the votes. To add to the chaos, no fewer than five other competing ballot proposals have also been advanced, essentially acting as countermeasures to the billionaire tax proposal, possibly setting the stage for multiple ballot measures being put before California voters in November.⁶

We reviewed the original initiative, the amended initiative, and the competing — and effectively nullifying — proposed initiatives and summarize them in this article. In addition, we have some questions for the drafters of the proposed act, questions that may be better posed to a hypothetical court reviewing the act, if it ends up passing.

The Proposed Act

Here’s how the tax is supposed to work under the Billionaire Tax Act:

- Taxpayers must declare whether their net worth is more than \$1 billion;
- If yes, the taxpayer is required to submit a declaration of the amount of additional tax owed under the proposed act.
 - This declaration may also include forms created by the Franchise Tax Board, required appraisals, or other evidence of the fair market value of the taxpayer’s assets.

³ Initiative 25-0024 (Oct. 22, 2025).

⁴ *Id.*; see also Kristen Hwang, “Should Billionaires Pay More? California Unions Want Voters to Decide,” *CalMatters*, Oct. 24, 2025.

⁵ See Initiative 25-0024. On November 26, 2025, the Service Employees International Union filed an amended initiative. See Initiative 25-0024A1 (Nov. 26, 2025). The amendment did not change the timeline or requirements for enacting the law, but it did make substantial changes to the proposed act itself.

⁶ See “Attorney General Information: Initiative and Referendum Proposals Pending Review by Attorney General,” California Secretary of State (last visited Feb. 6, 2026). The tracking numbers for the five countermeasure proposals are: 25-0037A1, 250038A1, 25-0039A1, 25-0040A1, and 25-0041A1. The secretary of state lists February 11, 2026, as the approximate date for issuing a summary of each.

- The tax would be imposed at the rate of 5 percent on the total value of the taxpayer’s assets.⁷

Other highlights of the act include:

Resident-based taxation. The Billionaire Tax Act applies only to individuals who are residents of California as of January 1, 2026. The original language attempted to include a retroactive (or more retroactive) provision that provided a 25 percent reduction for individuals who were residents as of January 1, 2025, but had moved out by January 1, 2026. This language was removed in the November 2025 amendment. The Billionaire Tax Act applies only to 2026 California residents, but by imposing the tax on California residents as of January 1, 2026, the proposed law would still be retroactive because it can’t even come into being until November. This is also probably why we saw various reports about taxpayers seeking to flee the state in late 2025.⁸ It’s possible that the number of billionaires — “around 200,” according to the text of the Billionaire Tax Act proposal — could be reduced by half once the law passes.⁹

Valuation. The Billionaire Tax Act includes lengthy sections on the calculation of an individual’s net worth, attempting to capture all forms of personal property and wealth. This calculation is to be run as of the “valuation date,” which is December 31, 2026.

The calculation of net worth excludes only three types of assets. First, interests in real estate held by the taxpayer or in a revocable trust are not included. Second, neither are qualified retirement plans, such as pensions or IRAs, including Roth IRAs — unless the aggregate value in Roth-type accounts exceed \$10 million in present value. Third, nonqualified deferred compensation and other promises of future payments are excluded unless the taxpayer has a legally binding right to receive the payment, granted before December 31, 2026, but has not and will not receive the payment before then. Other than these narrow exceptions,

⁷ Initiative 25-0024A1 and Initiative 25-0024.

⁸ See, e.g., Hugh Cameron, “California Wealth Tax: What Billionaires Have Said About Leaving State,” *Newsweek*, Jan. 14, 2026; Kristen Altus, “Billionaires Flee California ‘Within Seven Days’ Over Proposed Wealth Tax: Inside the Miami Migration,” *Fox Business*, Jan. 19, 2026.

⁹ See, e.g., “A 5 Percent Wealth Tax Would Drive Billionaires Out of California,” *The Economist*, Feb. 4, 2026.

the Billionaire Tax Act would include all other assets. For most of these assets, the act provides calculations that resemble fair market valuations, or the taxpayer is to use the FMV if the type of asset so allows. For other assets, or when there is a lack of information to provide a fair market calculation, the taxpayer must submit a certified appraisal — say, for example, the taxpayer’s interest in a business or private equity entity.

One particular aspect that poses an astronomical risk to billionaires, especially founders or early investors, is the Billionaire Tax Act’s method of evaluating business interests that confer voting rights in an entity. According to the text of the ballot initiative, “the percentage of the business entity owned by the taxpayer shall be presumed to be not less than the taxpayer’s percentage of the overall voting or other direct control rights.”¹⁰ This valuation method ties voting control to ownership stake, which is often not the case, especially with founders or early investors who hold nonpublic super-voting shares.

Imagine a scenario in which a father, wanting to believe in his daughter’s dream, provides seed capital for her startup business, which delivers flowers. In exchange, Dad decides to forgo compensation, and instead is granted a superblock of voting shares, not tradeable on the open market, which provides him with 50 percent voting control. The business is a huge success and, after an initial public offering, is valued at \$5 billion. Dad, who has never been a wealthy man or ever received a paycheck from his daughter’s company, will have a “net worth” of \$2.5 billion based on his voting interest. Keep in mind that these shares cannot be liquidated or transferred. Based on this alone, he will have a \$125 million tax bill under the proposed act.

Although some people — including proponents of the act — think it would be fine to impose extraneous tax burdens in such a manner on individuals who are known to the public as billionaires (that is, the Mark Zuckerbergs and Larry Ellisons), this example highlights the inequality of measuring wealth based on voting interest. While it may be easier to see the

unfairness when taken to the extreme, it does not become more fair simply because the taxpayer is “wealthy.” This imaginary scenario also illustrates the impossibility of conflating control with ownership, as well as imposing taxes on assets that are, by their very nature, illiquid.

In a real example discussed by the Tax Foundation, Zuckerberg owns about 13.6 percent of Meta, but he has 61 percent voting control.¹¹ Conflating voting control with ownership could saddle Zuckerberg with \$729.96 billion more in “assets” or taxable wealth than his true equity ownership interest in the business.¹²

A retroactive, voter-enacted, first-of-its-kind, “one time” wealth tax seems like terrible tax policy on its own, and the proposed act is fraught with legal risks and potential challenges. Adding “phantom wealth” generators like the “voting” shares provision takes the proposal to a whole new level.

Apportionment. The Billionaire Tax Act includes two different methods to apportion the wealth tax between multiple jurisdictions. In other words, if a taxpayer’s calculated net worth is based on assets within the tax jurisdiction of other states, as well as California, what percentage is attributable to California? Well, either the taxpayer pays 100 percent of the wealth tax, regardless of multiple jurisdictions where assets are located or where the taxpayer pays taxes, or the taxpayer files a petition, asking the California Franchise Tax Board to use an alternative apportionment method. According to the initiative, this alternative apportionment can be used only if the “standard” (100 percent) method “does not fairly represent the extent to which the taxpayer’s excessive wealth was accumulated in, or substantially sustained by, California.”¹³ So the taxpayer will have to show the unfairness of paying 100 percent to California in order to use a different method of calculation.

Trusts. The Billionaire Tax Act also looks to capture non-tax-exempt trusts within its scope. For purposes of the act, an individual’s net worth

¹⁰ Initiative 25-0024A1.

¹¹ See Jared Walczak, “The Proposed California Wealth Tax Is Far Higher Than 5 Percent,” Tax Foundation (Jan. 14, 2026).

¹² This calculation is based on the preceding percentages, compared with Meta’s market capitalization as of January 21, 2026 (\$1.54 trillion).

¹³ Initiative 25-0024A1.

includes the value held in any trust to which the individual transfers or has transferred property. If more than one individual has transferred property to the trust, the trust's value is apportioned to the individuals based on the value of their transfers. Alternatively, if a resident individual is subject to the Billionaire Tax Act tax and has transferred property to any trust, the trust itself may be subject to taxation. That being said, the proposal allows any individual already subject to taxation to claim the trust as a part of their net worth, in which case the trust shall not be separately taxed. Or a subject trust can elect to be separately taxed, holding its assets apart from the transferring individuals. The Billionaire Tax Act may also impose the wealth tax on certain trusts exceeding the \$1 billion threshold that have California resident beneficiaries.

Litigation. Perhaps revealing that the act's sponsors are aware that the act could lead to litigation, the Billionaire Tax Act includes a 60-day statute of limitations on challenges to the act's facial validity and provides a sole venue for these validation actions — the Sacramento County Superior Court. The original proposal did not include these aspects. The amended proposal also broadens standing for those wishing to bring a validation action; an individual is allowed to bring a facial challenge without first having paid the tax. This makes sense because any challengers must bring their action within 60 days of the act's approval by the voters. Payment of the tax would likely occur after April 15, 2027, and the 60-day deadline will expire January 2, 2027.

Competing Proposals

In California, when two or more initiatives are in conflict and on the same ballot, the one that receives the greater number of votes wins — meaning that the winning initiative overrides the conflicting provisions of the other. In December 2025 five other initiatives were filed with the California attorney general's office, and all five compete against the Billionaire Tax Act in some way:

- The Retirement and Personal Savings Protection Act of 2026 would protect "Californians' ability to save for their futures by prohibiting the imposition of new taxes on the ownership or accumulation of

retirement holdings, individually-owned assets, and other forms of personal savings as well as requiring all new taxes to only apply prospectively."¹⁴

- The California Government Efficiency Improvement Act of 2026 would prohibit "the imposition, collection, or enforcement of any new tax to fund specific programs or purposes unless those programs or purposes are also required to improve efficiency and cut wasteful spending."¹⁵
- The California Residency Rules Act would establish "bright-line rules for determining California residency for purposes of taxation, unemployment benefits, and Medi-Cal health care benefits."¹⁶
- The Protect Schools and Taxpayers Act of 2026 would reassert two California propositions so "that no new state taxes can be imposed, collected, or enforced unless they comply with these voter-enacted state spending rules."¹⁷
- The Budget Stability Act of 2026 intends to require a higher degree of consensus for statewide initiative measures "that complicate the state budget process by enacting one-time revenues, which are often nothing more than a ballot-box budgeting gimmick."¹⁸

Questions

From what we know about the Billionaire Tax Act and its amended language, here are the most pressing questions:

- How can the act tax wealth created or valued through assets that are in other states or other countries and already subject to taxation in those locales?
- Is a 60-day statute of limitations on the facial validity of the act a reasonable period to challenge the act and its potential application, or is this an attempt to foreclose aggrieved parties from being able to

¹⁴ Initiative 25-0041 (Dec. 8, 2025).

¹⁵ Initiative 25-0040 (Dec. 8, 2025).

¹⁶ Initiative 25-0039 (Dec. 8, 2025).

¹⁷ Initiative 25-0038 (Dec. 8, 2025).

¹⁸ Initiative 25-0037 (Dec. 8, 2025).

challenge the act when the tax is due, three months after the statute of limitations has expired? Publicly proposing the act, and then the amended act, fewer than 90 days before the January 1, 2026, residency “measuring” date appears to intentionally provide potentially affected taxpayers as little notice as reasonably possible.

- Is the Sacramento County Superior Court a fair and convenient venue for all potential parties, or an attempt at forum shopping by the act’s drafters?
- The act wouldn’t be enacted until November but would be retroactive to January. Is the act’s purpose (to raise revenue for health care) a sufficient basis to allow for this retroactivity?
- Does classifying individuals based on their wealth and subjecting them to a 5 percent tax discriminate against them and therefore violate California’s equal protection clause, which is broader than the U.S. Constitution’s?
- Does the act’s net value calculation violate California’s uniformity clause by providing inclusions of certain liabilities and assets that other individuals and taxes do not include?
- And perhaps the biggest question, one we will leave for another day: Will there be any billionaires left in California by November?

What’s Next?

It is difficult to say what will happen next with precision. Enactment of the Billionaire Tax Act is far from guaranteed. The initiative requires nearly 900,000 signatures to even get on the November ballot, and there are powerful forces — including some from within California’s government — working to see that this doesn’t happen.¹⁹ And even if the act passes, the questions above — and others — will likely require judicial intervention.

But many of California’s billionaires are not waiting around to see what happens: They have

left or are leaving now.²⁰ Many realize that even if this act doesn’t go anywhere, the seed of a California wealth tax, which was planted years ago without success, has now been planted again, and may continue to be replanted again and again until it finally takes root.

And the Billionaire Wealth Tax Act is not just affecting the 299 (and dropping) California billionaires whom it targets. For example, the entrepreneurial community — for which California is known — has started migrating, showing that others understand the potential effects that the act may have on funding rounds.²¹ And even taxpayers in other states are reacting to the act, expressing concern that if something like this can happen in California, it may be coming to another blue state near them.

So even if the Billionaire Tax Act fails, the damage could already be done. And the main beneficiaries? States with more friendly tax regimes — such as Florida, Nevada, and Texas — that are less likely to enact a wealth tax and, of course, the tax practitioners who are helping their clients get there! ■

¹⁹ See Laurel Rosenhall, “Newsom Vows to Stop Proposed Billionaire Tax in California,” *The New York Times*, Jan. 13, 2026.

²⁰ See, e.g., Robert W. Wood, “Leaving California Taxes Behind Is Tricky, & Not Just for Billionaires,” *Forbes*, Jan. 27, 2026; Rogé Karma, “If You Tax Them, Will They Leave?” *The Atlantic*, Jan. 28, 2026; Elijah Nicholson-Messmer, “As Ultrarich Sweat, Advisors Tackle ‘Ripple Effects’ of Proposed Billionaire Tax,” *Financial Planning*, Feb. 6, 2026.

²¹ See Rya Jetha and Margaux MacColl, “‘Leave Before the B’: The Billionaire Tax Backlash Is Spreading Far Beyond Billionaires,” *The San Francisco Standard*, Jan. 17, 2026.