

**ALAMEDA UNIFIED SCHOOL DISTRICT**  
**Alameda, California**  
**Resolution**

November 8, 2022

Resolution No. 2022-2023.21

**Resolution to Propose Statutory Amendments to Clarify California Government Code Section 50079 to Avoid Future Litigation and Provide Needed Funding to District Students**

*WHEREAS*, state and federal funding for public education continues to lag behind the needs of our students and our employees, and local jurisdictions have no choice now but to rely on their communities to fund their classrooms via special taxes, and

*WHEREAS*, the Alameda community has consistently stood with AUSD and our students passing a number of special taxes to fund programs, the arts, technology, athletics, and fair wages for our employees; despite overwhelming community support, almost all of our special taxes based on per parcel rates have resulted in litigation challenging them in court, including our current parcel tax, Measure A; and

*WHEREAS*, Government Code section 50079 currently allows school districts to levy qualified special taxes within the district “that apply uniformly to all tax payers or all real property within the school district, except that unimproved property may be taxed at a lower rate than improved property” (Govt. Code section 50079, subsection (b)(1)), and

*WHEREAS*, school districts across California have used the authority provided by Section 50079 to adopt “qualified special taxes,” usually referred to as “parcel taxes,” with a variety of tax rate structures, and

*WHEREAS*, challengers have attacked some of these tax rate structures leading to costly litigation for public entities; there have been four repetitive challenges to AUSD’s parcel taxes, two challenges have been rejected by courts, and one is still pending, and

*WHEREAS*, two challenges to such taxes have reached the Court of Appeal, in Borikas v. Alameda Unified School District (2013) 214 Cal.App.4th 135, the court invalidated a special tax levied by AUSD that taxed residential and commercial properties differently while in Dondlinger v. Los Angeles County Regional Park (2019) 31 Cal.App.5th 994 the Court of Appeal upheld a parcel tax imposed on a square-footage basis, and

*WHEREAS*, statutory amendments explicitly clarifying the authority provided by Section 50079 would be in the best interest of AUSD, its students, voters, and taxpayers.

*NOW, THEREFORE BE IT RESOLVED*, the Alameda Board of Education respectfully requests our Legislative leaders clarify Government Code section 50079 by adding language to the statute explicitly recognizing that school districts across the state may levy qualified special taxes in their communities based on per parcel or square footage rates, including tax rates which include maximum amounts of tax, in order to avoid unnecessary litigation, support the pursuit of excellent public education; to support fair wages for our staff, and to fund our classrooms in the way our students deserve;

*AND BE IT FURTHER RESOLVED*, we respectfully submit amendments herein attached to Government Code section 50079 to achieve this goal.

PASSED AND ADOPTED by the following vote this 8<sup>th</sup> day of November, 2022:

AYES: \_\_\_\_\_ MEMBERS: \_\_\_\_\_

NOES: \_\_\_\_\_ MEMBERS: \_\_\_\_\_

ABSENT: \_\_\_\_\_ MEMBERS: \_\_\_\_\_

\_\_\_\_\_  
Jennifer Williams, President  
Board of Education  
Alameda Unified School District  
Alameda County, State of California

ATTEST:

By: \_\_\_\_\_

Pasquale Scuderi, Secretary  
Board of Education  
Alameda Unified School District  
Alameda County, State of California