April 10, 2000

Hon. Bill Lockyer
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Tricia Knight
Initiative Coordinator

Dear Attorney General Lockyer:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative measure entitled "Smaller Classes, Safer Schools and Financial Accountability Act" (File No. SA2000RF0015). This initiative is virtually identical to Proposition 26, which was considered at the March 7, 2000 election, except the percentage of local voters required to pass a bond issue has been increased to 55 percent. As Section 9005 directs, our review addresses the fiscal impacts of the provisions of this measure on state and local government revenues and costs.

BACKGROUND

The Constitution currently limits property taxes to 1 percent of the value of the property. The taxes may exceed this limit to pay for (1) any local debt approved by the voters prior to July 1, 1978, or (2) bonds to buy or improve real property that receive two-thirds voter approval after July 1, 1978.

Recent Local School District Bond Elections. Since 1986, voters in local K-12 school jurisdictions have approved $17.5 billion of bonded indebtedness to repair, renovate, expand, and construct new school facilities. During the same period, nearly $13 billion in bonds received at least 55 percent—but less than two-thirds—voter approval and therefore were defeated. (This includes bonds that were submitted to the voters more than once.)

Since 1986, local community college bond measures totaling $235 million received the necessary two-thirds voter approval. By comparison, $530 million received at least 55 percent but less than two-thirds voter approval, and were defeated.

State Funding Programs. Over the years, the state has provided a significant portion of the funding for K-12 facilities through the state school facilities program. Since 1986, voters have approved $15.5 billion in state bonds to support this program. The state generally funds 50 percent of the cost of new schools and 80 percent of the cost to rehabilitate existing schools. In certain hardship cases, the state will pay 100 percent of the cost of these projects.

In recent years, most facilities for community colleges have been funded 100 percent by the state using state bonds. Since 1986, statewide voters have approved $5.8 billion in state bonds for higher education, a portion of which has been used for community colleges.

Charter School Facilities. Current law requires a school district in which a charter school operates to permit the charter school to use—at no charge—any unutilized facilities, provided the charter school assumes responsibility for facility maintenance.

MAJOR PROVISIONS

The constitutional amendments in the initiative provide that: (1) K-14 jurisdictions could incur bond debt for the construction, reconstruction, rehabilitation, or replacement of K-14 school facilities if approved by 55 percent of the local jurisdiction voters, and (2) property taxes could exceed the 1 percent limit to repay the bonds. Under the initiative, any measure submitted to the voters must include: (1) a provision that the bond proceeds will be used only to acquire school facilities and equipment; (2) a list of specific school facilities projects to be funded along with a certification of need by the school district; and (3) a requirement of annual independent financial and performance audits, until all of the proceeds have been used, to ensure proceeds are spent only on the projects listed in the local measure.

The Education Code amendments require each district with a charter school to accommodate all of the charter school's in-district students in facilities reasonably equivalent to the district schools the students would otherwise attend, and near where the charter school wishes to locate. This provision applies to charter schools with at least 80 in-district students. The district would not be required to use unrestricted General Fund revenues to rent, buy, or lease facilities for charter school students. In addition, it could charge the school a pro-rata share of the district's facilities costs.

FISCAL EFFECTS

Impacts on K-14 Jurisdictions

This initiative would make it easier for school bonds to be approved by local voters. Districts approving bond measures that would otherwise not have been approved would have increased debt costs to pay off the bonds. These costs would vary by district. The magnitude of these local costs on a *statewide* basis is unknown, but could be in the hundreds of millions of dollars annually within a decade.

Impacts on State Costs

The initiative's impact on state costs is less certain. In the near term, it could have varied effects on the demand for state bond funds. For instance, if more local bonds are approved, fewer local jurisdictions would qualify for hardship funding by the state. In this case, state funding would be reduced from 100 percent to 50 percent of the cost for a new school. On the other hand, there are over 500 school jurisdictions that do not currently participate in the state school facilities program. To the extent the reduced voter-approval requirement encourages some of these districts to participate in the state program, demand for state bond funds would increase.

In the longer run, the proposition could have a more significant impact on state costs. For instance, its approval could result in local districts assuming greater funding responsibility for school facilities. If this occurred, the state's debt service costs would decline over time.

The actual impact on state costs ultimately would depend on the level of state bonds placed on the ballot in future years by the Legislature and Governor, and voters' decisions on those bond measures.

Charter Schools

The requirement that K-12 school districts provide charter schools with comparable facilities could increase state and local costs. As discussed above, districts are currently required to provide facilities for charter schools only if unused district facilities are available. This initiative might lead many districts to increase the size of their bond issues somewhat to cover the cost of facilities for charter schools. This could also increase state costs to the extent districts apply for and receive state matching funds. The amount of this increase is unknown, as it would depend on the availability of existing facilities and the number and types of charter schools.

SUMMARY OF FISCAL EFFECTS

The initiative would result in the following major fiscal effects:

- Increased debt costs for many school districts, depending on local voter approval of future school bond issues and varying by individual district. Statewide, costs could be in the hundreds of millions of dollars each year within a decade.

- Unknown effect on state costs. Potential longer-term state savings to the extent local school districts assume greater responsibility for funding school facilities.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

B. Timothy Gage
Director of Finance