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January 21, 2004

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 9005, we reviewed the proposed initiative entitled "Local Taxpayers and Public Safety Protection Act" (File No. SA2003RF0067).

MAJOR PROVISIONS OF THE INITIATIVE

This measure amends the California Constitution to reduce the Legislature's authority over local government finances and program operations. Specifically, the measure requires the Legislature to place before the state's voters for approval any legislative measure that would reduce major local government revenues. This measure also expands existing constitutional provisions requiring the state to reimburse local agencies for implementing state requirements—and authorizes local agencies to suspend compliance with these state requirements if the Legislature does not provide timely reimbursement.

Provisions Relating to State Authority Over Local Finance

Existing law and the Constitution give the Legislature broad authority over most major local tax revenues, including the property tax, Bradley-Burns sales tax, and the vehicle license fee (VLF). For example, the Legislature may change (1) the allocation of property taxes among local recipient agencies (schools, cities, counties, and special districts) and (2) the rate and allocation methodology for the sales tax and VLF.

As part of the 2003-04 budget package, the state enacted a measure that temporarily reduces the local Bradley-Burns sales tax rate by 0.5 percent, but offsets the associated city and county sales tax losses by redirecting to them a greater share of property taxes. (These property taxes otherwise would go to schools.) The 2003-04 budget package also delays payment to cities and counties of about $1 billion of VLF "backfill" revenues, monies that offset the fiscal impact on local governments of previous state laws that reduced the VLF rate. State law specifies that local governments will receive these VLF backfill revenues by August 2006.

This measure requires the Legislature to approve by a two-thirds vote of its Members and submit for approval by a majority of the statewide electorate any measure that (1) reduces, suspends, or delays a city, county, or special district's revenues from the property tax, sales tax, or VLF; (2) fails to reinstate the 0.5 percent Bradley-Burns sales tax rate as scheduled in current law; or (3) reduces or delays payment of the VLF backfill revenues.

The measure provides two exceptions to the voter-approval requirement. Specifically, the Legislature may:

- Reallocate property taxes among *consenting* local governments.
- Reduce local government revenues from the VLF if the Legislature appropriates monies to local governments to fully offset the reduction.

Retroactive Provisions. This measure places on the subsequent ballot for statewide approval any statute enacted by the Legislature after November 1, 2003, that would have required voter approval under the terms of this measure. Pending the outcome of this election, the measure suspends the applicable state laws, unless the Legislature reimburses local governments for their revenues losses.

Provisions Relating to Local Program Operations

The Constitution requires the state to reimburse local agencies (cities, counties, special districts, and K-14 school and community college districts) for the cost of implementing a state mandated "new program" or "higher level of service," unless the mandate pertains to a crime or infraction or other conditions apply. This measure expands the circumstances under which the state must provide reimbursement to local agencies. While the range of requirements that would require reimbursement under this measure is not clear, it would include state laws or other requirements that transferred, from the state to a local agency, an increased share of costs for a jointly financed program.

Under existing law, local agencies must implement state-mandated requirements when the state's reimbursement is delayed. With certain exceptions, this measure authorizes local agencies to suspend performance of state laws or regulations if the state does not provide timely reimbursement.

FISCAL EFFECT

We estimate that this measure would have the following fiscal effects on local and state governments.

Local Governments

The Constitution grants the Legislature significant authority over local taxes. Over the years, the Legislature has used this authority to: (1) alter the balance of resources available between local and state programs, (2) reduce overall taxation in California, and (3) reallocate resources among local governments. During the last 15 years, the Legislature enacted many laws that would not have been permissible under this measure—without also securing approval by the state's electorate. For example, during this period, the Legislature enacted laws that:

- Annually transfer over $5 billion of property taxes from cities, counties, and special districts to K-14 districts. The increased school property taxes, in turn, reduce the state's K-14 spending obligations by a commensurate amount.
- Delay city and county receipt, in 2003-04, of about $1 billion of VLF replacement revenues.
- Alter the allocation of property taxes and VLFs among some cities and counties.

Given the frequency, magnitude, and nature of these past state actions affecting local finance, restricting the Legislature's authority to enact such measures in the future would have potentially major fiscal effects on local governments. Specifically, the state's voters may not approve some legislative measures that reduce local government revenues—or the Legislature may modify a measure's fiscal provisions to avoid the requirement that it be placed before the state's voters. In these cases, this measure would result in local government revenues being more stable—and higher—than otherwise would be the case. The magnitude of the fiscal effect on local revenues is unknown and would depend on future actions by the Legislature and the state's voters. Given past actions by the state, however, the level of local government revenues affected by this measure could be in the billions of dollars annually.

State Government

In general, the measure's effect on state finances would mirror its effect on local finances. Specifically, because the state's voters may not approve some proposals placed before it by the Legislature—or the Legislature may modify provisions of a proposal to avoid the need to place it before the state's voters—this measure could result in lower resources being available for state programs than otherwise would be the case. This reduction, in turn, would affect state spending and/or taxes. For example, if the state's voters rejected a proposal to use local government property taxes or VLF revenues as part of the state's budget solution, the Legislature would need to take *alternative* actions to resolve the state's budget difficulties—such as increasing state taxes or decreasing spending on other state programs. While the magnitude of the fiscal effect on the state would depend on future actions by the Legislature and the state's voters, given past actions, the total fiscal effect also could be in the billions of dollars annually.

Increased Reimbursement Costs. Because the measure expands the circumstances under which the state is required to reimburse local agencies, the measure may increase future state costs or alter future state actions regarding local or shared state-local programs. While it is not possible to determine the cost to reimburse local agencies for potential future state actions, our review of state measures enacted in the past suggests that, over time, increased state reimbursement costs could exceed a hundred million dollars annually. In the case of state education spending, any increase in reimbursement to K-14 school districts probably would be offset by decreases in other forms of state education support.

Increased Election Costs. By subjecting some measures to a statewide vote, this measure would increase election costs. Because most of these measures probably could be placed before the state's voters during regularly scheduled elections, the additional costs associated with this requirement probably would not be significant.

Summary

The initiative would have the following fiscal effects, the magnitude of which would depend on future actions by the Legislature and state voters:

- Higher and more stable local government revenues than otherwise would have been the case, potentially several billion dollars annually.
- Significant changes to state finance, potentially including higher state taxes or lower spending on state programs than otherwise would have been the case. The state fiscal effect would be commensurate with the measure's impact on local governments.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

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Director of Finance