

July 22, 2005

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 cited as the "California Evans Child Protection Act" (File No. SA2005RF0087). This measure increases penalties for certain sex offenders and establishes a fund for the benefit of victims of sex crimes, financed through a new tax on alcoholic beverages.

Background

Victims Programs. Under current law, crime victims may receive restitution for financial losses suffered as a direct result of criminal acts through the Victims of Crime program, which is administered by the California Victim Compensation and Government Claims Board. This program is primarily supported by court-imposed fines and penalties. In addition, state and local governments administer a variety of law enforcement, prosecution, and social service programs to address sex crimes.

Alcohol Taxes. Currently, alcoholic beverages are subject to California's alcoholic beverage tax which is an excise tax levied on a per-gallon basis. The tax rates are 20 cents/gallon for beer and most wine, 30 cents/gallon for certain other wine, and \$3.30/gallon for distilled spirits. The alcohol beverage tax is estimated to raise \$315 million in 2005-06. In addition, the sales tax is levied on the sale of alcoholic beverages. The excise tax is included in the tax base on which the sales tax is calculated. The excise tax revenues go to the General Fund while the sales tax revenues are distributed among the General Fund, state special funds, and localities, in proportion to their sales tax rates.

Sex Offenses. Under current law, a person convicted of a sex offense for the first time may be sentenced for up to 12 years, depending on the specific offense. As with most other felonies, offenders may earn credits, which reduce the amount of time served in prison by participating in rehabilitation programs. The "Three Strikes and You're Out"

law provides longer prison sentences for new offenses committed by persons who previously were convicted of a violent or serious offense. In addition, persons convicted of violent offenses must serve at least 85 percent of their sentence before they can be released (most other offenders must serve at least 50 percent of their sentence).

Proposal

Sex Crime Victims Trust Fund. This measure establishes a "Sex Crime Victims Trust Fund" which would be administered by the Attorney General. This fund would be funded through a surtax of 25 cents imposed on the retail sale of each can, container, or bottle of beer, malted beverages, wine, and hard liquor. In addition, the 25 cent surtax would be imposed on every serving of these types of alcohol sold in a variety of locations, including restaurants, hotels, bars, and sporting events. The measure authorizes the Attorney General to use these revenues for the Sex Crime Victims Trust Fund to serve the needs of children and adult victims of sex crimes. These activities could include financial support for sex crime victims, law enforcement training, and grants to local governments to provide services to the designated population.

Increased Penalties for Sex Offenses. The measure also increases penalties for certain sex offenses committed against minors or adult females. These offenses include child pornography, rape, and sexual assault. Specifically, the commission of these sex offenses against a minor would carry a mandatory sentence of 50 years in state prison without the possibility of parole. The commission of the offenses against an adult female would carry a mandatory sentence of 25 years in state prison without the possibility of parole. In addition, these offenders would not earn credits toward a reduction in the actual time served. Individuals arrested for any of the specified offenses would also not be eligible to be released on bail unless a judge or magistrate makes an individual determination of bail.

Fiscal Effect

New Revenues to the Sex Crime Victims Trust Fund. The measure would levy a 25 cent surtax on individual servings or containers of alcohol purchased. For 2006-07, the tax would result in revenues of approximately \$1 billion (partial-year effect). In 2007-08, the revenues generated by this tax are likely to be in the range of \$2 billion (full-year effect), and result in increasing annual amounts thereafter, for the new Sex Crime Victims Trust Fund.

Other Revenue Effects. The measure would likely reduce alcohol-related General Fund excise tax revenues due to reducing the quantity of alcoholic beverages sold. It would also likely increase sales taxes to the General Fund, state special funds, and localities, since the sales tax base will increase as the surtax raises product prices. The net effect of these increases and reductions would likely be a General Fund revenue

decrease of about \$10 million annually, while both state special funds and localities will experience increases of a few million dollars annually.

State Prison Costs. This measure would increase state General Fund costs primarily as a result of longer prison terms for the sex offenses specified by the measure. The state would not begin incurring significant increased costs until about 2009-10. The California Department of Corrections and Rehabilitation estimates that the measure would result in increasing annual operating costs which would reach about \$550 million from the General Fund by 2024-25, increasing to about \$1.5 billion by mid-century, when its full effect would be realized. In addition, the measure would result in onetime prison construction costs of about \$3 billion from the General Fund by 2049-50.

Tax Administration Costs. The costs to the State Board of Equalization for administering the proposed surtax are unknown, but could potentially range up to several million dollars annually. The measure is silent regarding the funding source for these costs.

Summary of Fiscal Effects

We estimate that this measure would result in:

- Increased state revenues from a new alcoholic beverage tax of approximately \$2 billion annually, and comparatively modest other state and local revenue effects.
- Increased prison costs by mid-century of about \$1.5 billion annually for state operations and about \$3 billion for capital outlay.
- Increased tax administration costs potentially ranging up to several million dollars annually.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Tom Campbell
Director of Finance