

December 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 "Three Strikes Reform Act of 2006" (File No. SA2005RF0125).

Three Strikes Law

The Three Strikes measure, adopted in 1994, imposed longer prison sentences upon an offender who had prior convictions for crimes classified as either violent or serious. The law specifically requires that an offender who has *one* prior serious or violent felony conviction shall receive a prison sentence that is *twice* the term otherwise required by law for a conviction of *any* new felony offense. These offenders are sometimes referred to as "second-strikers." If the offender has *two or more* previous serious or violent felony convictions, the mandatory prison sentence upon conviction for *any* new felony is *at least 25 years to life*. These offenders are sometimes referred to as "third-strikers."

Proposal

The proposed initiative amends the Three Strikes law to require that second- and third-strike offenses must be for serious or violent crimes. The initiative also requires re-sentencing of some third-strikers who are currently serving life sentences for nonserious, nonviolent offenses. Each of these changes is described below.

New Crime Must Be Violent or Serious. This measure amends the Three Strikes law to provide that an offender would be subject to the longer sentences mandated under the Three Strikes law only if the conviction for the new crime was for a violent or serious felony.

Change in Felony Considered Violent or Serious. This measure changes one offense currently considered to be serious or violent under the Three Strikes law. Specifically, first degree burglary would be considered a serious or violent offense only when the inhabitation was occupied at the time of the offense.

Resentencing of Offenders. This measure requires that, no later than 180 days after the initiative takes effect, third-strikers serving indeterminate life terms for nonserious, nonviolent offenses be resentenced to twice the usual term for that offense. The resentencing requirement will result in reduced prison sentences for some inmates and release from prison for others. The measure bars some third-strikers with specified prior crimes from being eligible for re-sentencing, as well as requires some resentenced third-strikers to receive approval by the state parole board before release.

Fiscal Effect

This measure would have significant fiscal effects on both state and county governments. These effects are discussed below.

State Prison System. This measure makes several changes which would result in reductions in state prison operating costs potentially ranging from the low tens of millions of dollars in the first couple of years, growing to as much as a few hundred million dollars annually. The lower prison population resulting from this measure would potentially result in capital outlay savings associated with prison construction and renovations that would otherwise be needed. The magnitude of these savings is unknown, but could be as much as several hundred million dollars in the long term. The amount of savings would depend on a number of factors, including the growth in the inmate population and amount of prison construction that would occur in the absence of the measure.

The provisions resulting in these savings include the following. The provision allowing the resentencing of some inmates would result in some offenders being released to the community or resentenced to jail terms, thereby resulting in a reduction in the inmate population and associated prison operating costs. In addition, the requirement that second and third strikes must be serious or violent will result in fewer inmates receiving Three Strikes sentence enhancements. As a result, these individuals will serve shorter prison terms than they would otherwise. Finally, the provision limiting the situations in which first degree burglary is considered a serious offense will likely result in a reduction in sentence length served by some offenders with prior convictions for this offense.

State Parole Supervision. Due to the shorter sentences served by some inmates, this measure would accelerate the release of state prisoners to parole, thereby adding to the parole caseload. The parole costs associated with this increase are unknown, but potentially up to about \$10 million annually when the full impact of the measure is realized. The actual amount would vary depending upon the number of offenders eligible for direct discharge from prison, as well as the number of parolees who return to prison as a result of new offenses.

Court-Related Activities and County Jails. This measure would result in additional state and local costs for the courts and county jails. Two factors primarily account for the increased costs. First, the resentencing provision would increase court caseloads and local jails would likely house inmates during the proceedings. Second, it is likely that some

offenders released from prison because of this measure will be subsequently prosecuted and convicted for new crimes. We estimate these additional costs could potentially be in the low tens of millions of dollars annually when the full impact of the measure is realized. These costs would be split between state and local governments.

Other Impacts on State and Local Governments. There could be other costs to the extent that offenders released from prison because of this measure require other government services, or commit additional crimes that result in victim-related government costs, such as government-paid health care for persons without insurance. Alternatively, there could be offsetting revenue to the extent that offenders released from prisons become taxpaying citizens. The extent and magnitude of these impacts is unknown.

Summary of Fiscal Effect

This measure would have the following fiscal effects:

- Net state savings—to prison operations—potentially in the low tens of millions of dollars initially, increasing to a few hundred million dollars annually.
- Unknown state savings for capital outlay associated with prison construction that would otherwise be needed, potentially as much as several hundred million dollars in the long term.
- Increased county costs potentially in the low tens of millions of dollars annually for jail and court-related costs.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Michael C. Genest
Director of Finance