

March 9, 2006

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

Attention: Ms. Patricia Galvan
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. SA2006RF0017, Amdt. #1-NS).

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 reduce the prison sentence earned under the Three Strikes law by third strikers whose current offenses are nonserious and nonviolent felonies. The initiative also requires resentencing of some third-strikers who are currently serving life sentences for nonserious, nonviolent offenses. Each of these changes is described below.

Shorter Sentences for Some New Third Strikers. The measure requires that, in most cases, an offender who has *two or more prior* serious or violent felony convictions and whose *new* offense is classified as a nonserious and nonviolent felony shall receive a prison sentence that is twice the usual term for the new offense, rather than 25 years to life as required under current law. The measure limits eligibility for these shorter sentences to third strikers who have not committed specified new or prior offenses, including murder, as well as some sex and drug offenses.

Resentencing of Current Third Strikers. This measure requires that, within two years after the initiative takes effect, third-strikers currently 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, including some who will be released without having to serve a parole term. The measure bars some third-strikers with specified current and prior crimes—such as murder or a sexually violent offense—from being eligible for resentencing.

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 reduced state prison operating costs potentially ranging from tens of millions of dollars in the first several years, growing to about one hundred million dollars annually within a decade. 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 requirement that the third strike be serious or violent will result in fewer inmates sentenced to a life term in prison. As a result, these offenders will serve shorter prison terms than they would under current law. In addition, the provision allowing the resentencing of some third strikers would result in some offenders being released to the community or resentenced to shorter prison terms, thereby resulting in a reduction in the inmate population and associated prison operating costs.

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 a million dollars annually when the full impact of the measure is realized. The actual amount would vary depending upon the extent to which prison sentences are shortened for offenders affected by this measure, the number of offenders eligible for release from prison without having to serve parole, 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 result in a one-time increase

in court caseloads, and local jails would likely house inmates during the proceedings. Second, it is likely that there will be ongoing costs because 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 several millions of dollars in the first few years, decreasing to less than one million 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 Effects

This measure would have the following fiscal effects:

- Net state savings—primarily to prison operations—potentially in the tens of millions of dollars initially, increasing to about one hundred million dollars annually within a decade.
- Unknown state savings for capital outlay associated with prison construction that would otherwise be needed, potentially as much as several hundreds of millions of dollars in the long term.
- Increased county costs of potentially several millions of dollars initially, decreasing significantly in subsequent years, for jail and court-related costs.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Michael C. Genest
Director of Finance