

March 11, 2008

Hon. Edmund G. Brown Jr.
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Krystal Paris
Initiative Coordinator

Dear Attorney General Brown:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative regarding embryonic research (A.G. File No. 08-0004). This measure would amend the State Constitution and state law to ban destructive research on a human embryo, as defined, and certain related activities.

Background

Stem Cell Research. A stem cell is a type of cell found in both animals and humans that has the potential to develop into many different types of specialized cells in the body. Scientists have conducted research on stem cells to better understand how humans develop and how healthy cells replace damaged cells. This research may lead to new medical treatments for diseases. Both embryonic stem cells—derived from embryos—and adult stem cells—obtained from organs and tissues—currently are used in research.

State Laws Regarding Stem Cell Research. The State Constitution and current state statutes include various provisions governing stem cell research activities. Proposition 71, enacted by California voters in 2004, amended the State Constitution to establish a right to conduct stem cell research, as defined. Current state law also permits stem cell research, including the generation and use of embryonic stem cells.

Funding for Stem Cell Research. Proposition 71 authorized the sale of a total of \$3 billion in state bonds over a multiyear period to fund stem cell research, research facilities, and related activities. Proposition 71 also provided that the state could benefit financially from any patents, royalties, or licenses resulting from research activities funded by the bond proceeds. At the time this analysis was prepared, grants totaling \$260 million had been awarded, and the state had sold \$250 million in bonds to fund Proposition 71 activities.

The University of California (UC) is engaged in stem cell research, but detailed information regarding the sources and exact amounts of funding for this research was unavailable at the time this analysis was prepared. However, available information from recent years suggests that total funds spent by the UC on stem cell research from non-Proposition 71 sources ranges between a few million dollars and tens of millions of dollars annually. To the extent that the UC receives Proposition 71 research funding, it can also use these funds to leverage matching funding from non-state sources for the same purposes, thereby increasing the overall amount of funding for stem cell research.

Proposal

This measure would amend the State Constitution to ban “destructive research” on a human embryo and the sale or transfer of a human embryo or other specified human cells with the knowledge that the material would be used in such research. The measure would also amend the State Constitution and state law to define “destructive research” to be “medical procedures, scientific or laboratory research, or other kinds of investigation that kill or injure the subject of such research.” The measure would exempt from the definition of destructive research in vitro fertilization procedures and diagnostic procedures that may benefit the embryo.

In addition to amending the State Constitution, the measure would also amend state law to:

- Make destructive research and the related sale or receipt of human embryos or other specified cells a crime.
- Establish various criminal, civil, and professional penalties for specified violations of the ban.

Fiscal Effects

Reduced Bond Costs. This measure’s ban would likely make illegal an unknown but potentially significant portion of the research that would otherwise be funded by Proposition 71 bond proceeds. To the extent that such research were illegal in California under this measure, the state may not sell some unknown portion of the bonds, resulting in potential savings annually to the state of up to the low hundreds of millions of dollars for principal and interest costs that would otherwise likely be incurred over the next few decades.

Revenue Resulting From Research Bonds. Reduced Proposition 71 funding for embryonic research could also lead to lower levels of research funding for the UC and potentially reduced revenue to the state and UC from possible patents, licenses, or royalties that may otherwise have resulted from the research. The amount of such lower funding or revenue is unknown.

Some Criminal Justice Costs Possible. This measure would establish state prison terms for certain violations of the ban. If such violations did occur and were prosecuted, some new costs related to court proceedings and incarceration could result for the state and local governments. We estimate that any such costs would be minor.

Additional Effects Possible. Reduced Proposition 71 funding could result in lost state and local revenue gains and cost savings, as follows. If research funded by Proposition 71 were to result in economic and other benefits that would not otherwise have occurred, it could produce unknown indirect state and local revenue gains and cost savings. Such effects could result, for example, if the added research activity and associated investments due to Proposition 71 funding generate net gains in jobs and taxable income, or if funded projects reduce the costs of health care to government employees and recipients of state services. The likelihood and magnitude of these and other potential indirect fiscal effects are unknown.

Summary

The initiative would have the following major fiscal effects:

- Potential state savings up to the low hundreds of millions of dollars annually over the next few decades resulting from reduced principal and interest costs for bonds to fund embryonic research.
- Unknown potential loss of state and local revenue gains and cost savings due to reduced research funding for embryonic research.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Michael C. Genest
Director of Finance