December 24, 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 constitutional amendment related to the University of California's employee retirement programs (A.G. File No. 08-0019).

Background

University of California (UC) and Its Retirement Programs. The UC employs over 170,000 faculty and staff at ten campuses and other facilities and is governed by the UC Regents, a 26-member board. The State Constitution gives the Regents substantial independence from the Legislature, Governor, and other state officials in the administration of the university. Among the areas in which the Regents have independence is the administration of employee benefit programs, such as pension and health programs benefiting retired UC employees, their families, and survivors. Like most public (government) employees in California, UC employees generally earn defined pension benefits, retiree health benefits, and other retirement benefits as part of their compensation for years of work. Pension benefits have been funded by UC over the years through contributions from employees, the state, and funds controlled by UC. The UC Treasurer, who reports to the Regents and UC's president, manages the investment of these contributions through the University of California Retirement Plan (UCRP). The UCRP is California's third-largest public employee pension system. As of September 30, 2008, UC pension and other retirement assets under management had a value of $47 billion.

Constitutional Provisions Concerning Pension Systems. The Constitution provides that boards of public employee pension systems have certain responsibilities to manage system investments and operations in the interest of participants and their beneficiaries. The Regents act as the board for the UCRP. This means that the Regents are responsible for prompt delivery of benefits and services to retirement program participants. The

Regents have established a panel—consisting of UC employees, appointees of UC officials, and the UC Treasurer—to advise them on employee retirement benefits.

Proposal

Establishes New UC Retirement Board of Trustees. This measure would replace the Regents as the governing board of the UCRP with a newly established, 13-member board of trustees. The trustees would be:

- Three members appointed by the Regents.
- The Lieutenant Governor.
- The Speaker of the Assembly.
- The Superintendent of Public Instruction.
- A UC retiree elected by all retirees who participate in the UCRP.
- Three current UC faculty or staff members who participate in the UCRP. These members would be elected by current faculty and staff who participate in the UCRP.
- One current member of UC's faculty elected by all faculty who participate in the UCRP.
- One current nonacademic staff member elected by all nonacademic staff who participate in the UCRP.
- One current unionized UC employee elected by all unionized UC employees who participate in the UCRP.

The trustees would govern all retirement programs established by the Regents, be responsible for investing UCRP funds, and conduct actuarial valuations on the adequacy of UCRP assets to pay future benefits, among other duties.

Requires UC Retirement Programs to Comply With State Law. The measure requires UC retirement benefit programs governed by the trustees to comply with requirements in statutes passed by the Legislature. Other provisions of the Constitution, however, would continue to prevent the Legislature from passing many measures that would restrict the ability of the trustees to invest UCRP assets, influence the trustees' actuarial valuations, or undermine the ability of the trustees to administer the UCRP in a manner that benefits system participants.

Fiscal Effect

Election Costs. Conducting elections for the trustees may result in added UCRP costs of up to a few million dollars every four years. These added costs for UCRP would tend over time to result in higher contribution requirements for UC, the state, and/or UC employees.

Trustee Administrative Staff. If voters approve this measure, the Regents, the trustees, and/or the Legislature may have to determine which UC staff currently working on retirement programs would be redirected to work instead for the trustees. It is most likely that the vast majority of staff needed to administer UC retirement benefits and investments already work for the Regents. In addition, certain contracted services costs now paid by the Regents would instead be paid by the trustees. Accordingly, for these staff and contract costs, there would be no net additional public costs under this measure. It is, however, likely that some additional staff would be needed to support the work of the trustees and provide additional services. Additional UCRP costs for these added staff could be up to several million dollars per year, which over time would be passed on to UC, the state, and/or UC employees.

UC Contributions to UCRP and Investment Returns. The trustees would likely make different decisions than would the Regents about the administration of UCRP, its investments, and its actuarial valuations. These decisions could have an effect on UCRP's investment earnings and costs, which, in turn, could increase or decrease costs of UC and the state. Any such increases or decreases, however, are unknown and impossible to estimate.

Fiscal Summary. This measure would have the following major fiscal effects:

- Increased costs of up to several million dollars per year for UC's retirement programs related to the election of retirement plan trustees and additional staff.

- Potential changes in investment earnings and costs for UC's retirement programs, which are unknown and impossible to estimate.

Sincerely,

Mac Taylor
Legislative Analyst

Michael C. Genest
Director of Finance