

July 15, 2009

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 passage of the state budget and tax increases adopted as part of the budget (A.G. File No. 09-0016).

Background

Two-Thirds Vote Requirement for Budgets and Taxes. The State Constitution requires a two-thirds (67 percent) vote of each house of the Legislature for the passage of the annual budget bill, most General Fund appropriations (other than for public schools), bills to go into effect immediately, and bills that raise state taxes. The Constitution requires the Legislature to pass the budget bill by June 15 each year—in advance of the July 1 start of the state’s fiscal year. Certain budget actions (for example, a decision by the Legislature and the Governor to change the types of services that the state provides) require changing state law. Such changes in law often are included in “trailer bills” that accompany passage of the budget bill each year. In order for these trailer bills to take effect immediately rather than, as with most other bills, on January 1, they must be passed by a two-thirds vote of each house.

Proposal

Lowers the Vote Requirement to Pass the Budget Bill and Increase Taxes. This measure amends the Constitution to lower the vote requirement necessary to pass the budget bill and other General Fund appropriations from two-thirds to three-fifths (60 percent). The lower vote requirement would also apply to measures to increase state taxes.

Some Trailer Bills to Take Immediate Effect Would Still Require Two-Thirds Vote. This measure does not amend the section of the Constitution that requires a two-thirds

vote for bills to take effect immediately. Some trailer bills, therefore, would still be subject to the requirement for a two-thirds vote in order to take immediate effect.

Fiscal Effect

State Spending and Revenues Easier to Enact. This measure, by reducing the voting requirement from two-thirds to three-fifths, could make it easier to pass a state budget. In some years, this could affect the content of the budget and related appropriations. For instance, spending priorities in a given budget could be different. In addition, a reduction in the number of votes required to pass tax increases could make it easier to approve tax increases related to the budget. If the measure resulted in such tax increases, then the state would have greater tax revenues in some years. The extent of the impacts would depend on a number of factors—including the state's financial circumstances, the composition of the Legislature, and its future actions.

Some budget-related trailer bills would still be subject to the two-thirds vote in order to take effect immediately. In some recent years, budget actions by the Legislature have been passed with the minimum number of Senators or Assembly Members necessary for approval. If some proposed trailer bills were passed with only a three-fifths vote under this measure, these bills would not take effect until January 1. Therefore, budget actions addressed in these trailer bills could not take effect until halfway through the fiscal year.

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

- Unknown state fiscal impacts from lowering the legislative vote requirement for spending and tax increases. In some cases, the content of the annual state budget could change and/or state tax revenues could increase. Fiscal impact would depend on the composition and actions of future Legislatures.

Sincerely,

Mac Taylor
Legislative Analyst

Michael C. Genest
Director of Finance