

November 9, 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 9005, we have reviewed a proposed constitutional amendment initiative relating to the use of tax revenues for public education (A.G. File No. 09-0046).

BACKGROUND

State and Local Revenues

Income and Sales Tax. The state collects billions of dollars in General Fund revenues annually and uses those funds to operate numerous state programs. The major sources of revenue to the General Fund are the state personal income tax, the sales and use tax, and the corporation tax. In 2008-09, the state received \$78 billion from these three sources, totaling 93 percent of all state General Fund revenues.

Local Property Tax. The California Constitution authorizes local governments to levy property taxes. These revenues are split among cities, counties, school districts, and community college districts, with distribution among the various entities varying by county. In 2008-09, roughly \$15.4 billion in local property tax revenues were provided to school and community college districts for general operations and administration. Local governments have the option to increase property tax rates, if needed, to pay for approved local facility bonds. Facility bonds for K-12 and community college districts require 55 percent approval from the voters, while all other bonds require two-thirds voter approval.

Other Property Taxes. Local governments have a number of additional property-related options for raising revenues. With a two-thirds vote, local governments can adopt a parcel tax, which is a flat fee charged for each parcel of land. In addition, local agencies (or a combination of agencies) can levy other property taxes by establishing

special facilities districts. A two-thirds vote is required to create the new special district and collect additional revenues.

State Educational Programs

Public Schools. The Constitution establishes a public school system, including elementary schools, secondary schools, technical schools, and state colleges. The Constitution also establishes the University of California (UC) as a public trust to be administered by the Board of Regents. In 2008-09, the state spent \$45 billion in General Fund monies for the operation of K-12 schools, the California Community Colleges, the California State University, and UC. In addition to General Fund monies, public education programs also receive funding from the federal government, the state lottery, local property taxes, and student fees.

Proposition 98. Adopted by the voters in 1988 and amended in 1990, Proposition 98 establishes a set of formulas that are used to annually calculate a minimum funding level for K-12 schools and the community colleges. This funding level is provided using state General Fund dollars and local property tax revenues. In 2008-09, K-12 schools and community colleges received a total of \$49 billion in Proposition 98 funding.

PROPOSAL

This measure prohibits the use of income, sales, or property taxes to pay for public schools or universities. (Because corporation taxes are based on the amount of income each corporation generates, the measure presumably also prohibits corporation taxes from being used for public education.) It also explicitly prohibits the use of these revenue sources to pay for textbooks in K-8 schools. Any funding for public schools and universities would need to be provided from other revenue sources.

FISCAL EFFECTS

The measure would have significant fiscal effects at both the state and local level.

Elimination of Most Existing Funding for Public Education. As a result of the restrictions specified in the measure, the vast majority of existing funding for education would be eliminated. State General Fund monies and local property taxes account for the bulk of education funding. The only remaining sources of revenue would be from the state lottery, student fees, and the federal government. Absent any new sources of revenues, public education programs would only be a fraction of their current size. However, the extent that the state or school districts developed new revenues allowable under the measure, public education funding could be replaced.

Unknown Use of Revenues. The measure does not specify the use of the tens of billions in annual revenues that could no longer be spent on education. These revenues generally could be redirected to other state and local government programs or returned

to taxpayers as tax relief. The likely result would be major shifts in state and local government budgeting.

Summary of Fiscal Effects

The measure would have the following major fiscal effect:

- Elimination of most existing state and local government funding for education programs. Likely major shifts in state and local government budgeting.

Sincerely,

Mac Taylor
Legislative Analyst

Michael C. Genest
Director of Finance