

February 2, 2010

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 initiative relating to state approval requirements for taxes (A.G. File No. 09-0101).

BACKGROUND

State Tax Increases. The State Constitution requires a two-thirds vote of each house of the Legislature for measures that result in increases in revenues from imposing new state taxes or changing existing state taxes. This has been interpreted to allow measures that do not result in a net increase in state taxes to be adopted by majority vote. For example, a measure that results in higher taxes for some taxpayers but an equal (or larger) reduction in taxes levied on other taxpayers would not result in an aggregate increase in taxes. Under current practice, this type of measure could be passed by a majority vote.

State Taxes, Fees, and Assessments on Real Property. The Constitution prohibits the state from imposing new ad valorem taxes or sales taxes on real property. Although the state historically has not collected significant revenues from fees or assessments on real property, the Constitution does not prohibit the state from raising revenues from these sources. In recent years, some state fees and assessments on real property have been proposed. For example, the Legislature has considered proposals to impose state fees or assessments on property owners to pay for fire and flood protection services.

PROPOSAL

This measure amends the Constitution to constrain state authority to increase taxes or impose taxes, assessments, or fees on real property.

State Tax Increases

The measure specifies that any change in a state statute that results in *any* taxpayer paying a higher state tax requires (1) a two-thirds vote of the Legislature and (2) majority approval by the statewide electorate. (This would include statutes that do not impose a net

increase in revenues but only reallocate tax burdens.) The measure provides a waiver of the voter-approval requirement in cases of emergency as long as the tax expires by the next statewide election in the year after the emergency.

State Taxes, Fees, and Assessments on Real Property

The measure prohibits the Legislature from imposing any tax, fee, or assessment on real property, or on the sale or transfer of real property.

FISCAL EFFECTS

The measure makes two significant changes to state finance. First, the measure requires state statutes that increase or reallocate state taxes to be approved by two-thirds of the Legislature and a majority of the state's voters. Under current law, no statewide vote is required, and some of these measures (primarily those with no net revenue increase) can be passed by a majority vote of the Legislature. The measure also prohibits the Legislature from enacting certain revenue measures, such as assessments on real property.

The overall revenue impact of these changes would depend on future actions of the Legislature and voters. By making it more difficult to pass measures that increase revenues, it is likely that state revenues would be lower in the future than they would be otherwise. Given that state revenue measures frequently exceed tens of millions of dollars, the higher approval thresholds in the measure and constraints on state authority to impose fees and assessment on real property could result in major decreases in state revenues and spending.

Summary

The measure would have the following impacts on state government:

- Potentially major decrease in state revenues and spending in the future, depending upon actions of the Legislature and voters.

Sincerely,

Mac Taylor
Legislative Analyst

Ana J. Matosantos
Director of Finance