January 18, 2012

Hon. Kamala D. Harris
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Ashley Johansson
Initiative Coordinator

Dear Attorney General Harris:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional initiative related to the California Legislature and the state's budget process (A.G. File No. 11-0095).

BACKGROUND

California Has Had a "Full-Time Legislature" for Four Decades. Prior to passage of Proposition 1A by the voters in 1966, the Legislature met in general session (at which all subjects could be considered) in odd-numbered years and in budget session (at which only state budget matters were considered) in even-numbered years. These general and budget sessions prior to 1966 were limited in duration, and therefore, California had what is known as a "part-time" Legislature. In 1966, Proposition 1A amended the State Constitution to allow the Legislature to meet in annual general sessions, which were less restricted as to their duration and as to the subjects that could be considered. This created what is known as a full-time Legislature.

Currently, Legislature Meets Regularly for Most of the Year. Today, the Legislature can convene its regular sessions throughout the year, with some restrictions on the types of bills it can pass at certain times. In most years, the Legislature meets regularly from January through August or September, although it typically recesses for a month in the summer. The Legislature also may hold hearings when it is out of session.

Legislative Expenses Limited by the Constitution. Currently, overall legislative expenses are restricted by the Constitution and can grow annually by a combination of inflation and population adjustments. The 2011-12 budget allows the Senate and the Assembly to spend $256 million of state funds for legislative expenses during the current fiscal year.

Legislative Salaries and Benefits Mainly Set by Independent Commission. Proposition 112—approved by voters in June 1990—amended the Constitution to create the California Citizens Compensation Commission (commission). The commission includes seven members appointed by the Governor, none of whom can be a current or former state officer or employee. The commission has control over legislators' salaries and some benefits received by legislators. Among the factors the commission must consider when adjusting the salary and certain benefits of legislators is the amount of time that they require to perform official duties, functions, and services.

The commission last voted to adjust legislators' and other state elected officials' salaries on May 20, 2009. At that time, the commission voted to decrease legislators' salaries by 18 percent for terms beginning after December 6, 2009. Pursuant to this action, nearly all Senators and Assembly Members are eligible to earn $95,291 per year. (Eight legislative leaders earn more than this amount. For example, under the commission's May 2009 action, the Speaker of the Assembly and the President pro Tempore of the Senate each will be eligible to earn $109,584 per year.)

Legislative Payments for Travel and Living Expenses. While the Constitution requires legislators to reside in their legislative districts, the duties of legislators require their presence in Sacramento during the legislative session. To compensate legislators for their additional living expenses during the legislative session, the Constitution authorizes legislators to receive "per diem" payments for the days during which the Legislature meets without a recess of more than three days. The state also reimburses legislators for travel costs and for other expenses incurred while carrying out legislative business during periods of legislative recess. In general, payments to legislators for travel and living expenses are at rates that are similar to or somewhat higher than those provided to state employees.

Limitations on Other Employment by Legislators. The Political Reform Act of 1974 (1) prohibits legislators from participating in government decisions in which they have a financial interest and (2) restricts legislators' post-governmental employment, including imposing a one-year prohibition on legislators being paid to represent others for the purpose of influencing legislative decisions. State law also prohibits legislators from holding two public offices simultaneously in certain cases, such as when there could be a conflict in the responsibilities of the two offices.

Annual State Budget Process. Under the Constitution, the Legislature has the power to appropriate state funds and make midyear adjustments to those appropriations. The annual state budget act is the Legislature's primary method of authorizing expenses for a particular fiscal year. The Constitution requires that (1) the Governor propose a balanced budget by January 10 for the next fiscal year (beginning July 1) and (2) the Legislature pass the annual budget act by June 15. The Governor may then either sign or veto the budget bill. The Governor also may reduce or eliminate specific appropriations items using his or her "line-item veto" power. The Legislature may override a veto with a two-thirds vote in each house.

PROPOSAL

Part-Time Legislature

Proposal Would Make the Legislature Part-Time. This measure amends the Constitution to limit when the Legislature may hold sessions. Specifically, the Legislature would be limited each year to holding regular sessions in (1) a 30-day period beginning on the first Monday in January and (2) a 60-day period beginning on the first Monday in May. In addition, the Legislature would be allowed to reconvene for up to five additional days to reconsider bills that were vetoed by the Governor. Accordingly, regular sessions of the Legislature would be limited to no more than 95 days per year. These sessions would be shortened beginning with the Legislature's 2013-14 regular session.

Special Sessions Could Result in Additional Legislative Work Days. Special sessions of the Legislature are called by the Governor to address specific topics. The measure limits the length of special sessions to no more than 15 days.

Legislator Compensation and Employment

Commission Required to Reduce Salaries. The measure requires the commission to reduce the annual salaries of legislators to $1,500 per month ($18,000 per year) beginning in 2013. The commission could increase this salary to account for changes in the cost of living or, at its discretion, further reduce this salary.

Limits on Travel and Living Expenses. The measure specifies that legislators may receive reimbursement for travel and living expenses only during the times the Legislature is in session or when they are traveling on legislative business. The measure also limits the Legislature's travel reimbursements to the amounts provided to employees of state agencies and specifies that the Legislature shall not purchase or lease any vehicle for use by legislators.

Limits on Employment. The measure prohibits Members of the Legislature from concurrently receiving payment for employment by a state agency. In addition, for a five-year period following the end of a legislator's service in the Legislature, the measure prohibits legislators from receiving compensation for (1) any appointive state government position and (2) lobbying before the Legislature or any agency of state government.

State Budget

Establishes a Biennial Budget. The measure amends the Constitution to require the Legislature to adopt a biennial budget for the state beginning with the 2013-15 biennial fiscal cycle (running from July 1, 2013 to June 30, 2015). Under the measure, the Legislature would be required to pass the budget bill by June 15 of each odd-numbered year of the biennial fiscal cycle.

Modifies Balanced Budget Requirement. Current law prohibits the Legislature from approving and the Governor from signing a budget bill that appropriates more General Fund revenues than the state estimates it will have available during that fiscal year. The measure modifies this requirement to specify that it applies to the *biennial* fiscal cycle. It also establishes a role for the State Treasurer and State Controller in determining whether a proposed budget bill satisfies the Constitution's balance requirement. Specifically, the Governor may not sign a budget bill unless the State Treasurer and State Controller have issued a report certifying that it is in balance.

FISCAL EFFECT

Decrease in Costs for Legislators' Salaries. Assuming that the commission does not adjust legislative salaries between now and the date this measure takes effect, this proposal would reduce the annual salaries of each Senator and Assembly Member by at least $77,291 per year. Consequently, the measure would reduce state costs for salaries of Senators and Assembly Members by over $9.2 million annually.

Potential Decrease in Other Legislative Costs. By limiting the lengths of legislative sessions, the measure could result in the Legislature and the Governor acting to change various types of legislative expenses. For example, savings could result from reduced staff and operating expenses due to the limited number of days the Legislature could be in regular session. Additional savings could result from the measure's limitations on legislator reimbursement for travel and living expenses. Potential state savings from all of these changes could total tens of millions of dollars per year.

Net Savings Dependent on Future Actions of Legislature and Governor. Under current provisions of the Constitution, any savings resulting from this measure (such as the reduced costs for Senator and Assembly Member salaries) would be available—if approved by the Legislature and the Governor in the annual budget act—for other legislative expenditures, including costs for legislative staff and constituent services. Accordingly, the net amount of savings, if any, that would result from this measure is unknown and would depend on future actions of the Legislature and the Governor.

Potential Fiscal Effect Related to Changes in State Budget Process. In some years, the provisions of the measure prohibiting the Governor from signing a budget bill that the State Treasurer and State Controller do not agree is in balance could result in the state adopting budgets that have somewhat lower expenditures or higher revenues than otherwise would have been the case. These actions, in turn, would reduce the likelihood of the state (1) amending the budget during the course of the year to reduce state spending or raise revenues or (2) ending the fiscal year in a deficit and adopting a budget for the subsequent fiscal year with lower state spending or higher revenues than otherwise would have been the case. Over time, the net fiscal effect of this provision is unknown and would depend on future actions of the Legislature, Governor, State Treasurer, and State Controller.

Summary of Fiscal Effect

The measure would have the following fiscal effect:

- Reduction in state legislative expenses for Member salaries, travel and living expenses, and staff costs—potentially in the tens of millions of dollars per year. Actual reduction would depend on future actions of the Legislature and the Governor.
- Reduced state spending or increased state revenues in some years. Over time, the net fiscal effect of this provision is unknown and would depend on future actions of the Legislature, Governor, State Treasurer, and State Controller.

Sincerely,

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Mac Taylor
Legislative Analyst

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Ana J. Matosantos
Director of Finance