

February 29, 2012

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

Attention: Ms. Dawn McFarland  
Initiative Coordinator

Dear Attorney General Harris:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional initiative related to corporate rights in California (A.G. File No. 12-0003).

### **Background**

The United States and California Constitutions contain provisions prohibiting governments from making laws that suppress free speech or limit certain other rights. The U.S. Supreme Court has ruled that some rights granted to people under the U.S. Constitution (for example, freedom of speech) extend to corporations. Under the U.S. Constitution, states may not pass laws that limit the rights granted under the U.S. Constitution.

### **Proposal**

The measure amends the California Constitution to specify that “a corporation is not a person, and corporations are not due constitutional rights which human beings are naturally due.” This provision eliminates corporate constitutional rights that stem from their being treated like a person under the California, but not U.S., Constitution.

### **Fiscal Effect**

The fiscal effect of this change is difficult to determine, as it would depend on subsequent interpretation by the courts. Under current law, however, all or most rights that corporations have under the California Constitution also are guaranteed under the U.S. Constitution. Thus, the fiscal effect of this measure probably would not be significant.

*Fiscal Summary.* This measure would have the following fiscal impact:

- Probably no significant fiscal effect on state or local government.

Sincerely,

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Mac Taylor  
Legislative Analyst

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Ana J. Matosantos  
Director of Finance