

March 14, 2012

Hon. Kamala D. Harris  
Attorney General  
1300 I Street, 17<sup>th</sup> 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 statutory initiative related to the regulation of medical marijuana (A.G. File No. 12-0005).

## Background

***State Law and Proposition 215.*** Under current state law, the possession, cultivation, or distribution of marijuana generally is illegal in California. Penalties for marijuana-related activities vary depending on the offense. For example, possession of one ounce or less of marijuana is an infraction punishable by a fine, while selling marijuana is a felony and may result in a jail or prison sentence.

In November 1996, voters approved Proposition 215, which made it legal under state law to cultivate and possess marijuana in California for medical purposes only. In 2003, the Legislature authorized the formation of medical marijuana cooperatives, which are nonprofit organizations of medical marijuana users that cultivate and distribute marijuana to their members through outlets known as dispensaries. While state law prohibits the establishment of facilities that distribute, sell, or cultivate medical marijuana within 600 feet of a school, it otherwise gives local cities and counties the discretion to regulate the location and operations of such facilities. Currently, local medical marijuana laws vary widely across the state, ranging from complete bans of such facilities in some cities and counties to no restrictions at all in other places. State and local governments currently collect sales tax on medicinal marijuana sales.

## Proposal

***Regulation of Medical Marijuana Cooperatives.*** The measure states that neither the state nor any regional government may prohibit the right of medical marijuana cooperatives to operate facilities that distribute, sell, or cultivate medical marijuana.

***Other Provisions.*** The measure also states that medical marijuana patients have a “property right” to own and possess medical marijuana. While the term property right is not defined in the measure, it is generally used to mean that an individual has the right to own and control an

economic resource. The measure also states that medical marijuana patients may recover “reasonable costs” incurred for cultivating, processing, and distributing medical marijuana when they sell medical marijuana to patients.

### **Fiscal Effects**

*Additional State and Local Sales Tax Revenues.* This measure prohibits state or regional governments from preventing medical marijuana cooperatives from operating facilities. It is unclear whether this provision would affect cities and counties, which enact most such prohibitions in California. If the courts determine that this provision applies to cities and counties, this could potentially result in an increase in the number of medical marijuana dispensaries established in California. To the extent that there is an increase in aggregate taxable sales due to additional medical marijuana dispensaries that are established as a result of the measure, there would be an increase in sales tax revenues for state and local governments. We estimate that the additional sales tax revenues collected could potentially be in the low tens of millions of dollars annually. The actual fiscal effects could be different, though, depending on how provisions of the measure are interpreted by the courts.

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

- Additional state and local tax revenues potentially in the low tens of millions of dollars annually from an increase in taxable sales of medical marijuana.

Sincerely,

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Mac Taylor  
Legislative Analyst

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Ana J. Matosantos  
Director of Finance