

No. C061011

COPY

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT

PROFESSIONAL ENGINEERS IN CALIFORNIA
GOVERNMENT et al.,

Plaintiffs and Appellants,

v.

JOHN CHIANG, as State Controller, etc.,

Defendant and Appellant;

ARNOLD SCHWARZENEGGER, as Governor, etc., et al.,

Defendants and Respondents.

On Appeal of an Order and Judgment
by the Sacramento County Superior Court,
Case No. 34-2009-80000126-CU-WM-GDS,
The Honorable Patrick Marlette

FILED

JUL 21 2009

**APPELLANT STATE CONTROLLER'S
REQUEST FOR JUDICIAL NOTICE;
DECLARATION OF JEFFREY BALL**

COURT OF APPEAL - THIRD DISTRICT
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REQUEST FOR JUDICIAL NOTICE

Pursuant to California Rule of Court 8.252 and California Evidence Code sections 459 and 452, appellant State Controller John Chiang hereby requests that the Court take judicial notice of the following:

1. March 2, 2004 Primary Election Voter Information Guide materials for Proposition 58, attached hereto as Exhibit A to the Declaration of Jeffrey Ball.
2. Minute Order issued by Judge Marlette on March 12, 2009 in *Schwarzenegger v. Chiang*, Case No. 34-2009-80000158, in the Sacramento Superior Court, attached hereto as Exhibit B to the Declaration of Jeffrey Ball.
3. Section 3.90 of California Senate Bill 2, Third Extraordinary Session (SBX3 2), chaptered February 20, 2009, attached hereto as Exhibit C to the Declaration of Jeffrey Ball.
4. Section 3.90 of Senate Bill 1, Third Extraordinary Session (SBX3 1), chaptered February 20, 2009, attached hereto as Exhibit D to the Declaration of Jeffrey Ball.
5. California Governor Arnold Schwarzenegger's Executive Order S-13-09, issued on July 1, 2009, attached hereto as Exhibit E to the Declaration of Jeffrey Ball.
6. Sections 33 and 76 of Assembly Bill 1389, chaptered September 30, 2008, attached hereto as Exhibit F to the Declaration of Jeffrey Ball.
7. May 19, 2009 Special Election Voter Information Guide, Analysis by the Legislative Analyst for Proposition 1A, attached hereto as Exhibit G to the Declaration of Jeffrey Ball.

8. General Enactment History of Assembly Bill 1464 from the Legislative History of California Statutes of 1955, Chapter 1787, Assembly Bill 1464, attached hereto as Exhibit H to the Declaration of Jeffrey Ball.

9. General Enactment History and Assembly Policy Committee analysis of Assembly Bill 3436 from the Legislative History of California Statutes of 1974, Chapter 1368, Assembly Bill 3436, attached hereto as Exhibit I to the Declaration of Jeffrey Ball.

10. November 3, 1992 California General Election Ballot Pamphlet materials for Proposition 165, attached hereto as Exhibit J to the Declaration of Jeffrey Ball.

Exhibits A, G and J are Voter Information Guides and Ballot Pamphlets and are the proper subject of judicial notice under Evidence Code section 452(a) and (c). Courts may take judicial notice of legislative history and ballot pamphlet materials. (*Edelstein v. City and County of San Francisco* (2002) 29 Cal.4th 164, 171, fn. 3 [taking judicial notice of ballot pamphlet materials for initiatives]; *People v. Snyder* (2000) 22 Cal.4th 304, 309, fn. 5 [same].) Exhibit A is relevant because it delineates the scope of the Governor's authority to deal with a mid-year fiscal crisis, which is at issue in this appeal. Exhibit G is relevant because it provides information concerning the voters' intent in rejecting legislation that would have broadened the Director of Finance's authority to reduce certain appropriations. Exhibit J is relevant because it demonstrates that a previous California Governor sought legislative approval to furlough state employees.

Exhibit B is the proper subject of judicial notice because it is an official act and record of the judiciary under California Evidence Code

section 452(c) and (d). California Evidence Code section 452(d)(1) permits the court to take judicial notice of records of any court of this state.

(*People v. Hill* (1998) 17 Cal.4th 800, 847, fn. 9 [taking judicial notice of unpublished opinion].) Exhibit B, which relates to proceedings occurring after the judgment that is the subject of this appeal, is relevant because it demonstrates that a trial court in a related matter ordered the Controller to comply with the Governor's furlough order as applied to state employees who work in offices headed by constitutional officers. The trial court's order has been stayed on appeal.

Exhibits C, D and F are properly subject to judicial notice under Evidence Code section 452(a) and (c), which permit the Court to take judicial notice of California statutory law and the legislative enactments of the California Legislature. (*See, e.g., Assembly v. Public Utilities Com.* (1995) 12 Cal.4th 87, 97, fn. 6 [taking judicial notice of legislative enactments].) Exhibits C and D, which relate to proceedings occurring after the judgment that is the subject of this appeal, are relevant to this appeal because they set forth the Legislature's approach to furlough issues addressed in this appeal. Exhibit F is relevant because it demonstrates some of the statutory limits on the executive branch's power to reduce various appropriations.

Exhibit E is properly the subject of judicial notice under Evidence Code section 452(c), which permits the Court to take judicial notice of the official acts of the executive department of the State and the records of government agencies. (*Pearson v. State Social Welfare Bd.* (1960) 54 Cal.2d 184, 210.) Exhibit E, which relates to proceedings occurring after the judgment that is the subject of this appeal, is relevant because it establishes that the Governor has enlarged the furlough program

at issue in this case to include a third furlough day each month for state employees.

Exhibits H and I are properly the subject of judicial notice under California Evidence Code section 452(c). Exhibits H and I contain the general enactment history of California Government Code section 18020, the predecessor to Government Code section 19851. The Court may take judicial notice of California statutory law and the legislative enactments of the California Legislature. (*See, e.g., Assembly v. Public Utilities Com.* (1995) 12 Cal.4th 87, 97, fn. 6 [taking judicial notice of legislative enactments].) The Court also may take judicial notice of different versions of a bill. (*See, e.g., Quintano v. Mercury Casualty Co.* (1995) 11 Cal.4th 1049, 1062, fn. 5.)

Additionally, Exhibit I is properly the subject of judicial notice under California Evidence Code section 452(c). Exhibit I contains an analysis by the Assembly Committee on Employment and Public Employees of legislation leading to the enactment of section 18020 of the Government Code in 1974. As an official analysis from an Assembly committee, this exhibit constitutes cognizable legislative history and is therefore an official act of the Legislature and properly the subject of judicial notice under Evidence Code section 452(c). The courts have long recognized policy committees' analyses as evidence of legislative intent. (*See, e.g., Hutnick v. U.S. Fidelity and Guaranty Co.* (1988) 47 Cal.3d 456, 465, fn. 7.)

Exhibits H and I are part of the legislative record for AB 1464 and AB 3436 respectively, as compiled by Legislative Research, Incorporated, which is a firm specializing in historical California legislative research. Attached at the beginning of Exhibits H and I are the declarations

of Legislative Research, Incorporated's Research Director, Lisa Hampton, stating that "[t]hese documents were obtained by the staff of Legislative Research, Incorporated and are true and correct copies of the originals obtained from the designated official, public sources in California" Legislative Research, Incorporated (formerly Legislative Research Institute) has been cited as a source of records relied upon by courts. (*See Redlands Community Hospital v. New England Mutual Life Ins. Co.* (1994) 23 Cal.App.4th 899, 906.) Exhibits H and I are relevant because they provide legislative history for Government Code section 19851, a statute that served as a basis for the superior court's decision challenged in this appeal.

The Controller does not believe that any of these exhibits were presented to the superior court.

Based upon the above authorities appellant requests that the Court take judicial notice of Exhibits A through J attached to the Declaration of Jeffrey Ball.

Dated: July 20, 2009

Respectfully submitted,

OFFICE OF THE STATE CONTROLLER

REMCHO, JOHANSEN & PURCELL, LLP

By: 
Robin B. Johansen

Attorneys for Defendant and Appellant
State Controller John Chiang

IT IS SO ORDERED that the Court shall take judicial notice of the above-listed documents.

DATED:

PRESIDING JUSTICE

(00085549-7)

DECLARATION OF JEFFREY BALL

I, Jeffrey Ball, declare under penalty of perjury as follows:

1. I am a paralegal at Remcho, Johansen & Purcell, LLP, attorneys for appellant State Controller John Chiang. I submit this declaration in support of Appellant State Controller's Opening Brief.

2. Attached hereto as Exhibit A are the March 2, 2004 Voter Information Guide materials for Proposition 58. I printed a copy of these materials on July 15, 2009 from the California Secretary of State's website at http://primary2004.sos.ca.gov/voterguide/english_supp.pdf.

3. Attached hereto as Exhibit B is the Minute Order issued by Judge Marlette on March 12, 2008 in *Schwarzenegger v. Chiang*, Case No. 34-2009-80000158. I printed a copy of this order on July 15, 2009 from the Sacramento Superior Court's website at <https://services.saccourt.com/publicdms2/DefaultDMS.aspx>.

4. Attached hereto as Exhibit C is section 3.90 from California Senate Bill 2, Third Extraordinary Session (SBX3 2), chaptered February 20, 2009. I printed a copy of this legislation on July 15, 2009 from the official website for California Legislative information at http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0001-0050/sbx3_2_bill_20090220_chaptered.pdf.

5. Attached hereto as Exhibit D is section 3.90 from Senate Bill 1, Third Extraordinary Session (SBX3 1), chaptered February 20, 2009. I printed a copy of this legislation on July 15, 2009 from the official website for California Legislative information at http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0001-0050/sbx3_1_bill_20090220_chaptered.pdf.

6. Attached hereto as Exhibit E is Governor Arnold Schwarzenegger's July 1, 2009 Executive Order S-13-09. I printed a copy of this Executive Order on July 15, 2009 from the California Governor's website at <http://gov.ca.gov/index.php?/print-version/executive-order/12634/>.

7. Attached hereto as Exhibit F is Sections 33 and 76 from California Assembly Bill 1389, chaptered September 30, 2008. I printed a copy of this legislation on July 17, 2009 from the official website for California Legislative Information at http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_1351_1400/ab_1389_bill_20080930_chaptered.pdf.

8. Attached hereto as Exhibit G is the Analysis by the Legislative Analyst in the May 19, 2009 Special Election Voter Information Guide. I printed a copy from the California Secretary of State's website on July 17, 2009 at www.voterguide.sos.ca.gov.

9. Attached hereto as Exhibit H are excerpts from the Legislative History of California Statutes of 1955, Chapter 1787, Assembly Bill 1464, as prepared by Legislative Research, Incorporated in a report completed on June 22, 2009.

10. Attached hereto as Exhibit I are excerpts from the Legislative History of California Statutes of 1974, Chapter 1368, Assembly Bill 3436, as prepared by Legislative Research, Incorporated in a report completed on June 22, 2009.

11. Attached hereto as Exhibit J are the November 3, 1992 California Ballot Pamphlet materials for Proposition 165. I copied the materials from Remcho, Johansen & Purcell, LLP's file for Ballot Pamphlets.

I declare under penalty of perjury that the foregoing is true and correct, and if called upon to do so I could and would so testify.

Executed this 20th day of July, 2009, at San Leandro, California.



JEFFREY BALL

California

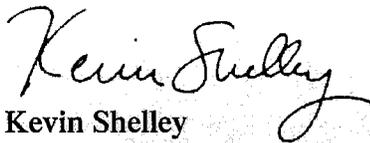
PRIMARY ELECTION

Tuesday, March 2, 2004

CERTIFICATE OF CORRECTNESS

I, Kevin Shelley, Secretary of State of the State of California, do hereby certify that the measures included herein will be submitted to the electors of the State of California at the Primary Election to be held throughout the State on March 2, 2004, and that this guide has been correctly prepared in accordance with the law.

Witness my hand and the Great Seal of the State in Sacramento, California, this 6th day of January, 2004.



Kevin Shelley
Secretary of State



Official Voter Information Guide

SUPPLEMENTAL

SECRETARY OF STATE

Dear Fellow Voter,

You may have already received the "regular" Voter Information Guide for the March 2, 2004, election. The regular Guide has a green cover.

We are sending you this Supplemental Voter Information Guide (blue cover) for the March 2, 2004, election in order to provide you with information on measures that qualified for the ballot too late to be included in the regular Guide.

This Supplemental Voter Information Guide includes information on Propositions 57 (The Economic Recovery Bond Act) and 58 (The California Balanced Budget Act).

As always, I urge you to carefully review these materials. I hope you will also visit the Secretary of State's website at www.MyVoteCounts.org for more information concerning the March election.

Most importantly, do not forget to vote on March 2nd!

**myVote
COUNTS**
www.MyVoteCounts.org

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VOTER BILL OF RIGHTS

1. You have the right to cast a ballot if you are a valid registered voter.
A valid registered voter means a United States citizen who is a resident in this state, who is at least 18 years of age and not in prison or on parole for conviction of a felony, and who is registered to vote at his or her current residence address.
2. You have the right to cast a provisional ballot if your name is not listed on the voting rolls.
3. You have the right to cast a ballot if you are present and in line at the polling place prior to the close of the polls.
4. You have the right to cast a secret ballot free from intimidation.
5. You have the right to receive a new ballot if, prior to casting your ballot, you believe you made a mistake.
If at any time before you finally cast your ballot, you feel you have made a mistake, you have the right to exchange the spoiled ballot for a new ballot. Absentee voters may also request and receive a new ballot if they return their spoiled ballot to an elections official prior to the closing of the polls on Election Day.
6. You have the right to receive assistance in casting your ballot, if you are unable to vote without assistance.
7. You have the right to return a completed absentee ballot to any precinct in the county.
8. You have the right to election materials in another language, if there are sufficient residents in your precinct to warrant production.
9. You have the right to ask questions about election procedures and observe the elections process.
You have the right to ask questions of the precinct board and election officials regarding election procedures and to receive an answer or be directed to the appropriate official for an answer. However, if persistent questioning disrupts the execution of their duties, the board or election officials may discontinue responding to questions.
10. You have the right to report any illegal or fraudulent activity to a local elections official or to the Secretary of State's Office.

If you believe you have been denied any of these rights, or if you are aware of any election fraud or misconduct, please call the Secretary of State's confidential toll-free

VOTER PROTECTION HOTLINE

1-800-345-VOTE (8683)

Secretary of State | State of California

BALLOT MEASURE SUMMARY

**PROP
57**

The Economic Recovery Bond Act.

Bond Act
Put on the Ballot by the Legislature

Summary

One time bond of up to fifteen billion dollars (\$15,000,000,000) to retire deficit. Fiscal Impact: One-time increase, compared to previously authorized bond, of up to \$4 billion to reduce the state's budget shortfall and annual debt-service savings over the next few years. These effects would be offset by higher annual debt-service costs in subsequent years due to this bond's longer term and larger size.

What Your Vote Means

Yes

A **YES** vote on this measure means: The state would sell \$15 billion in bonds to pay existing budgetary obligations.

No

A **NO** vote on this measure means: The state would not sell \$15 billion in bonds, but could instead sell bonds previously authorized by the Legislature to pay a smaller level of existing budgetary obligations.

Arguments

Pro

For three years, state government spending has exceeded revenues, creating a deficit. This measure will consolidate the deficit and allow California to get its finances in order—without raising taxes. Proposition 57 will keep the state from running out of money and prevent drastic cuts in education and health care.

Con

Proposition 57 doesn't end our deficit. It postpones and then increases it. It plunges us \$15 billion deeper in debt—plus billions more in interest—costing more than \$2,000 per family. The recall told Sacramento: **NO NEW TAXES. NO on 57 will tell them: STOP BORROWING AND OVERSPENDING.**

For Additional Information

For

Tom Hiltachk
Join Arnold
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916-442-7757
info@joinarnold.com
www.joinarnold.com

Against

Senator Tom McClintock
1029 K Street, Suite 44
Sacramento, CA 95814
916-448-9321
http://tommcclintock.com

**PROP
58**

The California Balanced Budget Act.

Legislative Constitutional Amendment
Put on the Ballot by the Legislature

Summary

Requires the enactment of a balanced budget, addresses fiscal emergencies, and establishes a budget reserve. Fiscal Impact: Net state fiscal effects unknown and will vary by year, depending in part on actions of future legislatures. Reserve provisions may smooth state spending, with reductions during economic expansions and increases during downturns. Provisions requiring balanced budgets and limiting deficit borrowing could result in more immediate actions to correct budgetary shortfalls.

What Your Vote Means

Yes

A **YES** vote on this measure means: The State Constitution would be amended to provide for: (1) the enactment of a balanced state budget, (2) state budget reserve requirements, and (3) limits on future borrowing to finance state budget deficits.

No

A **NO** vote on this measure means: The State Constitution would not be amended to add new requirements on state budgetary practices.

Arguments

Pro

Proposition 58 will require the Governor and the Legislature to enact a balanced budget. It will require that spending not exceed income each fiscal year and will require building at least an \$8 billion reserve. It will prohibit borrowing in the future to pay off deficits.

Con

With the \$15 billion bonds, we were **SUPPOSED** to get a strong spending limitation measure. But Prop 58 **DOES NOT LIMIT SPENDING!** It allows short-term borrowing to balance the budget, the budget reserve is largely unprotected, and the door is wide open for massive spending increases and higher taxes.

For Additional Information

For

Tom Hiltachk
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Against

Richard Rider
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858-530-3027
rrider@san.rr.com

OFFICIAL TITLE AND SUMMARY*Prepared by the Attorney General***The California Balanced Budget Act.**

- Requires enactment of a balanced budget where General Fund expenditures do not exceed estimated General Fund revenues.
- Allows the Governor to proclaim a fiscal emergency in specified circumstances, and submit proposed legislation to address the fiscal emergency.
- Requires the Legislature to stop other action and act on legislation proposed to address the emergency.
- Establishes a budget reserve.
- Provides that the California Economic Recovery Bond Act is for a single object or work.
- Prohibits any future deficit bonds.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Unknown net state fiscal effects, which will vary year by year and depend in part on actions of future Legislatures.
- Reserve provisions may smooth state spending, with reductions during economic expansions and increases during downturns.
- Balanced budget and debt limitation provisions could result in more immediate actions to correct budgetary shortfalls.

Final Votes Cast by the Legislature on ACAX5 5 (Proposition 58)

Assembly:	Ayes 80	Noes 0
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Senate:	Ayes 35	Noes 5
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ANALYSIS BY THE LEGISLATIVE ANALYST

Background

California's Budget Situation

California has experienced major budget difficulties in recent years. After a period of high growth in revenues and expenditures in the late 1990s, state tax revenues plunged in 2001 and the budget fell badly out of balance. Although policymakers reduced program spending and increased revenues to deal with part of the shortfalls, the state has also carried over large deficits and engaged in a significant amount of borrowing. The state budget faces another major shortfall in 2004–05 and it has a variety of other obligations—such as deferrals and loans from special funds—that are outstanding at this time.

Constitutional Provisions Relating to Budgeting and Debt

There are several budget- and debt-related provisions in California's Constitution that are affected by this proposition.

- **Balanced Budget Requirement.** The Constitution requires the Governor to submit by January 10 of each year a state budget proposal for the upcoming fiscal year (beginning on July 1) which is balanced—meaning that estimated revenues must meet or exceed proposed expenditures. While this balanced budget requirement applies to the Governor's January budget submission, it does *not* apply to the budget ultimately passed by the Legislature or signed by the Governor.
- **Mid-Year Budget Adjustments.** The Legislature has met in special session during the past three years to consider mid-year proposals to address budget shortfalls. However, there is no formal process in the Constitution to require that mid-year corrective actions be taken when the budget falls out of balance.
- **Reserve Requirement.** Reserve funds are typically used to cushion against unexpected budget shortfalls. The Constitution requires that the Legislature establish a prudent state

reserve fund. It does not, however, specify the size of the reserve, or the conditions under which funds are placed into the reserve.

- **Debt-Related Provisions.** The Constitution generally requires voter approval for debt backed by the state's general taxing authority. Over the years, courts have ruled that certain types of borrowing (including short-term borrowing to cover cash shortfalls and some bonds repaid from *specific* revenue sources) can occur without voter approval. The Constitution also requires that bonds submitted to the voters for approval be for a "single object or work" as specified in the respective bond act. For example, in past years, voters have been asked to authorize bonds for such single objects as education facilities, water projects, or prison construction.

Proposal

This proposition amends the Constitution, making changes related to (1) the enactment and maintenance of a balanced state budget, (2) the establishment of specific reserve requirements, and (3) a restriction on future deficit-related borrowing. The provisions are discussed in more detail below.

Balanced Budget Provisions

This proposition requires that the state adopt a balanced budget and provides for mid-year adjustments in the event that the budget falls out of balance.

Balanced Budget. In addition to the existing requirement that the Governor *propose* a balanced budget, this measure requires that the state *enact* a budget that is balanced. Specifically, estimated revenues would have to meet or exceed estimated expenditures in each year.

Mid-Year Adjustments. Under this measure, if the Governor determines that the state is facing substantial revenue shortfalls or spending deficiencies, the Governor may declare a fiscal emergency. He or she would then be required to propose legislation to address the problem, and call the Legislature into special session for that purpose. If the Legislature fails to pass and send to the

ANALYSIS BY THE LEGISLATIVE ANALYST (CONT.)

Governor legislation to address the budget problem within 45 days, it would be prohibited from (1) acting on any other bills or (2) adjourning in joint recess until such legislation is passed.

Reserve Requirement

The proposal requires that a special reserve—called the Budget Stabilization Account (BSA)—be established in the state's General Fund.

Annual Transfers. A portion of estimated annual General Fund revenues would be transferred by the State Controller into the account no later than September 30 of each fiscal year. The specific transfers are 1 percent (about \$850 million) in 2006–07, 2 percent (about \$1.8 billion) in 2007–08, and 3 percent (about \$2.9 billion) in 2008–09 and thereafter. These transfers would continue until the balance in the account reaches \$8 billion or 5 percent of General Fund revenues, whichever is greater. The annual transfer requirement would be in effect whenever the balance falls below the \$8 billion or 5 percent target. (Given the current level of General Fund revenues—approximately \$75 billion—the required reserve level would likely be \$8 billion for at least the next decade.)

Suspension of Transfers. The annual transfers could be suspended or reduced for a fiscal year by an executive order issued by the Governor no later than June 1 of the preceding fiscal year.

Allocation of Funds. Each year, 50 percent of the annual transfers into the BSA would be allocated to a subaccount that is dedicated to repayment of the deficit-recovery bond authorized by Proposition 57. These transfers would be made until they reach a cumulative total of \$5 billion. Funds from this subaccount would be automatically spent for debt service on that bond. The remaining funds in the BSA would be available for transfer to the General Fund.

Spending From the Account. Funds in the BSA could be transferred from this account to the General Fund through a majority vote of the Legislature and approval of the Governor. Spending of these monies from the General Fund could be made for various purposes—including to cover budget shortfalls—generally with a two-thirds vote of the Legislature (same as current law).

Related Provisions in Proposition 56. Proposition 56 on this ballot also contains new, but different, requirements related to a state reserve fund.

Prohibition Against Future Deficit Borrowing

Subsequent to the issuance of the bonds authorized in Proposition 57, this proposal would prohibit most *future* borrowing to cover budget deficits. This restriction applies to general obligation bonds, revenue bonds, and certain other forms of long-term borrowing. The restriction does *not* apply

ANALYSIS BY THE LEGISLATIVE ANALYST (CONT.)

to certain other types of borrowing, such as (1) short-term borrowing to cover cash shortfalls in the General Fund (including revenue anticipation notes or revenue anticipation warrants currently used by the state), or (2) borrowing between state funds.

Other Provisions

This measure also states that:

- With regard to the bond authorized by Proposition 57, the “single object or work” for which the Legislature may create debt includes—for that measure only—the one-time funding of the accumulated state budget deficit and other obligations, as determined by the Director of Finance.
- Its provisions take effect only if Proposition 57 on this ballot is also approved by the voters.

Fiscal Effects

This measure could have a variety of fiscal effects, depending on future budget circumstances and future actions taken by Governors and Legislatures. Possible fiscal effects include:

- **Balanced Budget and Debt Provisions.** In recent years, as well as during difficult budget periods in the past, the Governor and Legislature have at times allowed accumulated

budget deficits to carry over from one year to the next. This meant that spending reductions and/or revenue increases were less than what they otherwise would have been in those years. The provisions of this measure requiring a balanced budget and restricting borrowing would limit the state’s future use of this option. As a result, the state would in some cases have to take more immediate actions to correct budgetary shortfalls.

- **Reserve Requirement.** The \$8 billion reserve target established by this proposition is much larger than the amounts included in past budget plans. This larger reserve could be used to smooth state spending over the course of an economic cycle. That is, spending could be less during economic expansions (as a portion of the annual revenues are transferred into the reserve), and more during downturns (as the funds available in the reserve are used to “cushion” spending reductions that would otherwise be necessary).
- **Other Possible Impacts.** The proposition could have a variety of other impacts on state finances. For example, to the extent that the measure resulted in more balanced budgets and less borrowing over time, the state would benefit financially from higher credit ratings and lower debt-service costs.

ARGUMENT in Favor of Proposition 58

State government spending in California is out of control. Over the past three years, state spending has significantly exceeded state revenues.

Proposition 58 will require the Governor and the California State Legislature to ENACT a BALANCED BUDGET. Right now, the Governor is only required to propose, not enact, a balanced budget. This loophole has led to the huge budget deficits that plague California.

The California Balanced Budget Act:

WILL require a BALANCED BUDGET;

WILL require that SPENDING NOT EXCEED INCOME each fiscal year;

WILL require general funds to be put in a "Rainy Day" fund to build a RESERVE to protect California from future economic downturns. The Budget Stabilization Account will also be used to pay off the California Economic Recovery Bond early;

WILL allow the Governor to call a fiscal emergency if revenues drop below expenditures or if expenditures exceed revenues; and

WILL prohibit the Legislature from acting on other legislation or adjourning if they fail to pass legislation to address the crisis.

California faces unprecedented budget deficits. Overspending has led to serious shortfalls which threatens the state's ability to pay its bills and access financial markets. This proposition is a safeguard against this EVER HAPPENING AGAIN. Proposition 58 will prevent the Legislature from ENACTING BUDGETS THAT SPEND MORE MONEY THAN WE HAVE.

The California Balanced Budget Act will require, for the first time, the Governor and the Legislature to pass a

BALANCED BUDGET. This proposition, along with the California Economic Recovery Bond Act, will give us the tools we need to resolve California's budget crisis.

As California faced unprecedented budget deficits for the last 3 years, the problem was ignored, spending exceeded revenues, and there was no process in place to address the fiscal crisis. Proposition 58 will allow the Governor to call a Special Session of the Legislature to deal with future fiscal crises. If the Legislature fails to act within 45 days, then they will not be able to recess and they will not be able to pass any other legislation. This will force the Governor and the Legislature to work together to find a solution to the problem BEFORE IT IS TOO LATE.

The California Recovery Bond, Proposition 57, and the California Balanced Budget Act, Proposition 58, together will give California's leaders the tools necessary to restore confidence in the financial management of the State.

Please join Governor Arnold Schwarzenegger, State Controller Steve Westly, Superintendent of Public Instruction Jack O'Connell, the California Chamber of Commerce, the California Taxpayers' Association, and all 80 members of the California State Assembly—both Republicans and Democrats—and support Proposition 58.

ARNOLD SCHWARZENEGGER, *Governor
State of California*

HERB J. WESSON, JR., *Speaker
California State Assembly*

JENNY OROPEZA, *Chairwoman
Assembly Budget Committee*

REBUTTAL to Argument in Favor of Proposition 58

Reject this ruse! Remember the original deal we were promised by Arnold? Vote for a huge \$15 billion bond to pay for past mistakes, and we'll pass a solid spending limit so this mess doesn't happen again.

Prop. 57 gives us the bonds, but Prop. 58 does NOT give us ANY spending limit. The Legislature is free to continue spending like crazy, sticking us with higher taxes and more debt. All pain for no gain. If we approve this toothless "plan," then perhaps we'll owe Gray Davis an apology!

Yes, the budget will be "balanced," but by law the California budget ALREADY has to be balanced. The problem is HOW it is balanced. Prop. 58 does NOT protect us from the sleazy methods currently employed to balance the budget—*accounting tricks and short-term borrowing*.

Proponents claim that Prop. 58 requires that "spending not exceed income each fiscal year." This statement is factually incorrect, and they know it. As in the past, short-

term borrowing allows spending in excess of revenues received.

Yes, the entire State Assembly voted for this measure. But we remember another bill that received such unanimous bipartisan approval—the terribly flawed electricity deregulation bill that cost us billions and billions of dollars.

Prop. 58 does nothing except justify selling bonds. The vaunted budget reserve is largely unprotected. Prop. 58 includes NO SPENDING LIMITS, leaving the door wide open to more borrowing and higher taxes.

Force Sacramento to sober up. Vote NO on Prop. 58.

RICHARD RIDER, *Chair
San Diego Tax Fighters*

BRUCE HENDERSON, *President
Association of Concerned Taxpayers*

JOE ARMENDARIZ, *Executive Director
Santa Barbara County Taxpayers Association*

ARGUMENT Against Proposition 58

The same legislature that created the biggest budget deficit in California's history now wants to paper over that deficit by borrowing \$15 billion, at a total cost of over \$2,000 per California family.

Our California Constitution prohibits them from doing so. Since 1849, the "single object or work" provision of the Constitution has limited long-term borrowing to projects like schools, parks, or water projects that will serve coming generations. Prop. 58 sweeps that provision aside, and allows them to do what no generation in California's history has ever done—*steal from the future*.

At a time when our state has the lowest credit rating in the nation—challenging Singapore and Malaysia—they want to borrow \$15 billion more to pay for their own mistakes—**AND STICK YOU WITH THE BILL**. Our Constitution won't let them. But Prop. 58 shreds that provision, making it possible for them to plunge us \$15 billion deeper into debt. That is the *real* purpose of Prop. 58.

They have the *audacity* to call it a "Balanced Budget Act." How can they do that? Simple. They suspended the law that guarantees you an unbiased ballot title and summary—instead literally writing it themselves. Daniel Weintraub, perhaps the most respected newspaper columnist in California, writes that *"the balanced-budget requirement doesn't actually require that lawmakers approve a balanced budget."*

Don't be fooled. California's Constitution already prohibits long-term borrowing from being used to balance the budget. That's the part they're suspending! We've gotten into this mess because of short-term borrowing—and *short-term borrowing is exempt from Prop. 58*. As Weintraub says, Prop. 58 *"does not outlaw borrowing to paper over a deficit."*

California already has a prudent reserve requirement in current law—legislatures and governors have ignored it. Prop. 58 allows them to continue to ignore it. Weintraub: *"The governor could suspend transfers into the reserve at any time. And the Legislature could transfer money out of the reserve . . . at any time."* It is no protection at all!

The Governor **ALREADY** has the power to call the Legislature into session to address a developing budget shortfall. This initiative requires the Legislature to take action before it can move on to other business. But it is **LOOPHOLE-RIDDEN**. Weintraub writes: *"As long as they passed any bill to address the shortfall, they could continue as usual, even if the governor vetoed their approach. In practice, such a provision is unlikely to yield anything very different from the stalemates we see today."*

If they were serious about a balanced budget, they'd restore the Governor's power to make mid-year spending reductions to keep the budget in balance. If they were serious about spending restraint, they'd restore the Gann Spending Limit that produced a decade of balanced budgets and prudent reserves from 1979 until 1990.

But they're only serious about one thing—they *want to borrow more money, and this amendment gives them the power to do so*.

RICHARD RIDER, *Chair*
San Diego Tax Fighters

BRUCE HENDERSON, *President*
Association of Concerned Taxpayers

JOE ARMENDARIZ, *Executive Director*
Santa Barbara County Taxpayers Association

REBUTTAL to Argument Against Proposition 58

Don't be fooled by the opponents. The California Taxpayers Association supports the California Balanced Budget Act.

Proposition 58 **WILL REQUIRE A BALANCED BUDGET** for the first time. State government spending in California is out of control. Over the past three years, state spending has significantly exceeded state revenues.

Under Proposition 58, the Governor and the California State Legislature must **ENACT a BALANCED BUDGET**. It will **CLOSE A LOOPHOLE** that was used to create the huge deficit.

Governor Schwarzenegger's California Economic Recovery Plan includes both Propositions 57 and 58. Combined, the two measures will allow California to refinance its debt and prevent such a situation from **EVER HAPPENING AGAIN**. We should not be allowed to **SPEND MORE MONEY THAN WE HAVE**.

Proposition 58 requires the Legislature to enact a balanced budget and if circumstances change after they

pass the budget, the Governor is required to call them into special session to make mid-year changes to the budget, so that we end the year with **A BALANCED BUDGET**. And Proposition 58 prohibits the Legislature from acting on any new legislation until the budget is balanced again.

Proposition 58 does not change the Gann Spending Limit. It is still the law, the **BALANCED BUDGET ACT** provides a new tool in the fight against overspending.

Proposition 58 prohibits borrowing for future deficits. Proposition 58 requires building a reserve of at least \$8 billion. Please support the California Recovery Plan and vote **YES ON PROPOSITIONS 57 and 58**.

ARNOLD SCHWARZENEGGER, *Governor*
State of California

BILL HAUCK, *Chairman*
California Constitution Revision Commission

ALLAN ZAREMBERG, *Chairman*
California Chamber of Commerce

Proposition 58

This amendment proposed by Assembly Constitutional Amendment 5 of the 2003–2004 Fifth Extraordinary Session (Resolution Chapter 1, 2003–2004 Fifth Extraordinary Session) expressly amends the California Constitution by adding sections thereto and amending sections thereof; therefore, existing provisions proposed to be deleted are printed in ~~strike-out type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENTS TO ARTICLES IV AND XVI

First—That Section 10 of Article IV is amended to read:

SEC. 10. (a) Each bill passed by the Legislature shall be presented to the Governor. It becomes a statute if it is signed by the Governor. The Governor may veto it by returning it with any objections to the house of origin, which shall enter the objections in the journal and proceed to reconsider it. If each house then passes the bill by rollcall vote entered in the journal, ~~two-thirds~~ *two-thirds* of the membership concurring, it becomes a statute.

(b) (1) Any bill, other than a bill which would establish or change boundaries of any legislative, congressional, or other election district, passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, that is not returned within 30 days after that date becomes a statute.

(2) Any bill passed by the Legislature before September 1 of the second calendar year of the biennium of the legislative session and in the possession of the Governor on or after September 1 that is not returned on or before September 30 of that year becomes a statute.

(3) Any other bill presented to the Governor that is not returned within 12 days becomes a statute.

(4) If the Legislature by adjournment of a special session prevents the return of a bill with the veto message, the bill becomes a statute unless the Governor vetoes the bill within 12 days after it is presented by depositing it and the veto message in the office of the Secretary of State.

(5) If the 12th day of the period within which the Governor is required to perform an act pursuant to paragraph (3) or (4) of this subdivision is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.

(c) Any bill introduced during the first year of the biennium of the legislative session that has not been passed by the house of origin by January 31 of the second calendar year of the biennium may no longer be acted on by the house. No bill may be passed by either house on or after September 1 of an even-numbered year except statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes, and bills passed after being vetoed by the Governor.

(d) The Legislature may not present any bill to the Governor after November 15 of the second calendar year of the biennium of the legislative session.

(e) The Governor may reduce or eliminate one or more items of appropriation while approving other portions of a bill. The Governor shall append to the bill a statement of the items reduced or eliminated with the reasons for the action. The Governor shall transmit to the house originating the bill a copy of the statement and reasons. Items reduced or eliminated shall be separately reconsidered and may be passed over the Governor's veto in the same manner as bills.

(f) (1) *If, following the enactment of the budget bill for the 2004–05 fiscal year or any subsequent fiscal year, the Governor determines that, for that fiscal year, General Fund revenues will decline substantially below the estimate of General Fund revenues upon which the budget bill for that fiscal year, as enacted, was based, or General Fund expenditures will increase substantially above that estimate of General Fund revenues, or both, the Governor may issue a proclamation declaring a fiscal emergency and shall thereupon cause the Legislature to assemble in special session for this purpose. The proclamation shall identify the nature of the fiscal emergency and shall be submitted by the Governor to the Legislature, accompanied by proposed legislation to address the fiscal emergency.*

(2) *If the Legislature fails to pass and send to the Governor a bill or bills to address the fiscal emergency by the 45th day following the issuance of the*

proclamation, the Legislature may not act on any other bill, nor may the Legislature adjourn for a joint recess, until that bill or those bills have been passed and sent to the Governor.

(3) *A bill addressing the fiscal emergency declared pursuant to this section shall contain a statement to that effect.*

Second—That Section 12 of Article IV is amended to read:

SEC. 12. (a) Within the first 10 days of each calendar year, the Governor shall submit to the Legislature, with an explanatory message, a budget for the ensuing fiscal year containing itemized statements for recommended state expenditures and estimated state revenues. If recommended expenditures exceed estimated revenues, the Governor shall recommend the sources from which the additional revenues should be provided.

(b) The Governor and the Governor-elect may require a state agency, officer, or employee to furnish whatever information is deemed necessary to prepare the budget.

(c) (1) The budget shall be accompanied by a budget bill itemizing recommended expenditures. ~~The~~

(2) *The budget bill shall be introduced immediately in each house by the persons chairing the committees that consider appropriations. The budget.*

(3) *The Legislature shall pass the budget bill by midnight on June 15 of each year. ~~Until~~*

(4) *Until the budget bill has been enacted, the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the fiscal year for which the budget bill is to be enacted, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature.*

(d) No bill except the budget bill may contain more than one item of appropriation, and that for one certain, expressed purpose. Appropriations from the General Fund of the State, except appropriations for the public schools, are void unless passed in each house by rollcall vote entered in the journal, ~~two-thirds~~ *two-thirds* of the membership concurring.

(e) The Legislature may control the submission, approval, and enforcement of budgets and the filing of claims for all state agencies.

(f) *For the 2004–05 fiscal year, or any subsequent fiscal year, the Legislature may not send to the Governor for consideration, nor may the Governor sign into law, a budget bill that would appropriate from the General Fund, for that fiscal year, a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the budget bill's passage, and the amount of any General Fund moneys transferred to the Budget Stabilization Account for that fiscal year pursuant to Section 20 of Article XVI, exceeds General Fund revenues for that fiscal year estimated as of the date of the budget bill's passage. That estimate of General Fund revenues shall be set forth in the budget bill passed by the Legislature.*

Third—That Section 1.3 is added to Article XVI thereof, to read:

SEC. 1.3. (a) *For the purposes of Section 1, a "single object or work," for which the Legislature may create a debt or liability in excess of three hundred thousand dollars (\$300,000) subject to the requirements set forth in Section 1, includes the funding of an accumulated state budget deficit to the extent, and in the amount, that funding is authorized in a measure submitted to the voters at the March 2, 2004, statewide primary election.*

(b) *As used in subdivision (a), "accumulated state budget deficit" means the aggregate of both of the following, as certified by the Director of Finance:*

(1) *The estimated negative balance of the Special Fund for Economic Uncertainties arising on or before June 30, 2004, not including the effect of the estimated amount of net proceeds of any bonds issued or to be issued pursuant to the California Fiscal Recovery Financing Act (Title 17 (commencing with Section 99000) of the Government Code) and any bonds issued or to be issued pursuant to the measure submitted to the voters at the March 2, 2004, statewide primary election as described in subdivision (a).*

(2) *Other General Fund obligations incurred by the State prior to June 30, 2004, to the extent not included in that negative balance.*

(c) *Subsequent to the issuance of any state bonds described in subdivision (a), the State may not obtain moneys to fund a year-end state budget deficit, as may be defined by statute, pursuant to any of the following: (1) indebtedness incurred pursuant to Section 1 of this article, (2) a debt obligation under which funds to repay that obligation are derived solely from a des-*

Proposition 58 (cont.)

ignated source of revenue, or (3) a bond or similar instrument for the borrowing of moneys for which there is no legal obligation of repayment. This subdivision does not apply to funding obtained through a short-term obligation incurred in anticipation of the receipt of tax proceeds or other revenues that may be applied to the payment of that obligation, for the purposes and not exceeding the amounts of existing appropriations to which the resulting proceeds are to be applied. For purposes of this subdivision, "year-end state budget deficit" does not include an obligation within the accumulated state budget deficit as defined by subdivision (b).

Fourth—That Section 20 is added to Article XVI thereof, to read:

SECTION 20. (a) The Budget Stabilization Account is hereby created in the General Fund.

(b) In each fiscal year as specified in paragraphs (1) to (3), inclusive, the Controller shall transfer from the General Fund to the Budget Stabilization Account the following amounts:

(1) No later than September 30, 2006, a sum equal to 1 percent of the estimated amount of General Fund revenues for the 2006–07 fiscal year.

(2) No later than September 30, 2007, a sum equal to 2 percent of the estimated amount of General Fund revenues for the 2007–08 fiscal year.

(3) No later than September 30, 2008, and annually thereafter, a sum equal to 3 percent of the estimated amount of General Fund revenues for the current fiscal year.

(c) The transfer of moneys shall not be required by subdivision (b) in any fiscal year to the extent that the resulting balance in the account would exceed 5 percent of the General Fund revenues estimate set forth in the budget bill for that fiscal year, as enacted, or eight billion dollars (\$8,000,000,000), whichever is greater. The Legislature may, by statute, direct the Controller, for one or more fiscal years, to transfer into the account amounts in excess of the levels prescribed by this subdivision.

(d) Subject to any restriction imposed by this section, funds transferred to the Budget Stabilization Account shall be deemed to be General Fund revenues for all purposes of this Constitution.

(e) The transfer of moneys from the General Fund to the Budget Stabilization Account may be suspended or reduced for a fiscal year as specified by an executive order issued by the Governor no later than June 1 of the preceding fiscal year.

(f) (1) Of the moneys transferred to the account in each fiscal year, 50 percent, up to the aggregate amount of five billion dollars (\$5,000,000,000) for all fiscal years, shall be deposited in the Deficit Recovery Bond Retirement Sinking Fund Subaccount, which is hereby created in the account for the purpose of retiring deficit recovery bonds authorized and issued as described in Section 1.3, in addition to any other payments provided for by law for the purpose of retiring those bonds. The moneys in the sinking fund subaccount are continuously appropriated to the Treasurer to be expended for that purpose in the amounts, at the times, and in the manner deemed appropriate by the Treasurer. Any funds remaining in the sinking fund subaccount after all of the deficit recovery bonds are retired shall be transferred to the account, and may be transferred to the General Fund pursuant to paragraph (2).

(2) All other funds transferred to the account in a fiscal year shall not be deposited in the sinking fund subaccount and may, by statute, be transferred to the General Fund.

Fifth—That this measure shall become operative only if the bond measure described in Section 1.3 of Article XVI of the Constitution, as added by this measure, is submitted to and approved by the voters at the March 2, 2004, statewide primary election.

Sixth—That this measure shall be submitted to the voters at the March 2, 2004, statewide primary election.

Secretary of State
1500 11th Street
Sacramento, CA 95814

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Official Voter Information Guide SUPPLEMENTAL

In an effort to reduce election costs, the State Legislature has authorized the State and counties to mail only one guide to addresses where more than one voter with the same surname resides. You may obtain additional copies by writing to your county elections official or by calling 1-800-345-VOTE.



**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SACRAMENTO
GORDON D SCHABER COURTHOUSE
MINUTE ORDER**

Date: 03/12/2009

Time: 01:30:00 PM

Dept: 19

Judicial Officer Presiding: Judge Patrick Marlette
Clerk: D. Rios

Bailiff/Court Attendant: Deputy Munoz

ERM:

Reporter: K Nowack #6987

Case Init. Date: 02/09/2009

Case No: 34-2009-80000158-CU-WM-GDS Case Title: Arnold Schwarzenegger Governor vs. State of
Controller John Chiang

Case Category: Civil - Unlimited

Event Type: Petition for Writ of Mandate - Writ of Mandate

Moving Party: David A Gilb Director of Department of Personnel Administration, Department of
Personnel Administration, Arnold Schwarzenegger Governor

Causal Document & Date Filed:Petition for Writ of Mandate, 02/09/2009

Appearances:

David W. Tyra appearing on behalf of Petitioner

Mark Beckington, Dep. A.G. appearing on behalf of the Respondent and the Intervenors

The above entitled cause came on this date for Hearing on the Petition for Writ of Mandate with the
above named counsel present before the Court.

Counsel presented their respective arguments to the Court and the matter was submitted.

The Court having received and read the pleadings filed herein, and further having heard the arguments
of counsel, affirmed the tentative decision as posted in the Court's web site, a copy of which is attached
hereto and incorporated in this minute order, and adopted it as the Court's ruling in this case.

The following shall constitute the Court's tentative ruling on the petition for writ of mandate, set for
hearing in Department 19 on Thursday, March 12, 2009. The Court anticipates that all parties will appear
at the hearing. Oral argument shall be limited to no more than 20 minutes per side.

This is a petition for writ of mandate under Code of Civil Procedure section 1085 which presents the
issue of whether the Governor's Executive Order of December 19, 2008, directing a furlough of
represented state employees and supervisors for two days per month, and an equivalent furlough or
salary reduction for all state managers, applies to employees of other elected California civil executive
officers. Such officers include the Lieutenant Governor, the Secretary of State, the State Treasurer, the
State Controller, the Superintendent of Public Instruction, the Insurance Commissioner, the Attorney
General, and members of the State Board of Equalization. The Governor and the Department of
Personnel Administration are the petitioners in this action, and the State Controller is the respondent. All
of the other elected civil executive officers, except the Insurance Commissioner, have intervened in this
action and are aligned with the State Controller in opposition to the petition.

Petitioners have filed a request for judicial notice of certain legislative history material related to
Government Code section 19851. Respondent and intervenors have filed a request for judicial notice of
various Executive Orders issued by the Governor (including the Executive Order at issue in this case),
press releases issued by the Governor's office, a document regarding the 2009 Budget Act Package

Date: 03/12/2009

MINUTE ORDER

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published on the Web site of the California Department of Finance, records of this court from several recent actions involving the Executive Order at issue here, and an article from the Sacramento Bee newspaper regarding the recently-passed 2009 budget. No objections have been made to the requests, and the matters contained therein being proper subjects for judicial notice, the requests are granted.

Respondent and intervenors have filed objections to certain portions of the declarations petitioners submitted with their reply brief. The Court has read the declarations and considered the objections. The objections are overruled on the basis that the declarants have personal knowledge of the matters contained in their declarations, and that the matters stated therein are not inadmissible opinion testimony, being based on the declarants' personal participation in and observation of the events about which they testify.

In four cases brought by unions that represent state employees in various bargaining units (referred to herein as the "union writ cases"), this Court previously ruled that the Governor's Executive Order imposing furloughs on represented and unrepresented state employees was a valid exercise of his power as the employer of such employees in response to the recent state budget crisis.

After the rulings in the union writ cases had been issued, a dispute arose between the Governor and the State Controller over whether those rulings applied to the employees of elected civil executive officers, who were not parties to any of those actions. The Governor asserted that the rulings did apply to employees of those officers; the Controller asserted that they did not, and refused to implement the reduction in pay anticipated as a result of furloughs of those state employees. In an attempt to resolve the dispute, the Controller sent a letter to the Court requesting a ruling on that issue; in a minute order dated February 4, 2009, the Court stated that its ruling in the union writ cases "...did not address, or make any ruling regarding, the Governor's authority to order furloughs for the employees of those officers and officials. Accordingly, the Court expresses no views regarding that issue." Following the issuance of that minute order, the Governor filed the present writ proceeding.

The starting point for this proceeding is the Court's rulings in the union writ cases that the Governor has the authority, under statute and under the Memoranda of Understanding of the unions involved, to order furloughs for represented and unrepresented state employees. The pleadings in this action do not put that matter at issue or mount any challenge to the Court's rulings in the union writ cases. The Governor's petition in this action seeks an order compelling the State Controller, the only respondent named in the petition, to comply with the implementation of furloughs for the employees of the above-listed civil executive officers. The State Controller, in his opposition to the petition, and the intervenors, in their Complaint in Intervention (which is, in substance, an opposition to the petition), ask the Court to rule that the provisions of the Governor's Executive Order imposing furloughs on represented and unrepresented state employees may not be applied to their own employees.

Thus, the issue before the Court, as framed by the pleadings in this case, is whether the provisions of the Executive Order directing two-day-a-month furloughs for represented and unrepresented state employees apply to employees of the civil executive officers who are parties to this case.

If that question were answered in the affirmative, given the presence of the civil executive officers as parties in the case, the relief granted in the judgment and writ would be twofold: an order requiring the civil executive officers who are parties to this action to comply with the Executive Order by implementing furloughs for their employees; and an order requiring the State Controller to process the resulting pay reduction for such employees.

If that question were answered in the negative, the relief granted in the judgment would be a declaration that the Executive Order does not apply to the employees of respondent and intervenors insofar as it orders employee furloughs, and therefore the State Controller does not have a duty to reduce the pay of such employees as if they had been furloughed.

Respondent and intervenors contend that the Executive Order may not be applied to their employees on two main grounds.

First, they argue that applying the Order to their employees would violate the system of divided executive power embodied in the State Constitution and would interfere with the independent powers and duties that have been assigned to their offices.

Second, they argue that the Executive Order does not actually apply to their employees, either because the Order is now moot (the circumstances that led to its issuance allegedly having ceased to exist), or because the express terms of the Order do not direct furloughs of their employees, or because the Governor should be estopped, as a matter of equity, from asserting that they do.

The first contention is not persuasive because it is established law that, notwithstanding the divided executive power concept, civil service employees of civil executive officers, as those officers are enumerated in Government Code section 1001, are generally "...subject to the jurisdiction of the State Personnel Board with respect to the merit aspects of their employment and to the Department of Personnel Administration with respect to the nonmerit aspects of employment." (Schabarum v. California Legislature (1998) 60 Cal. App. 4th 1205, 1225.)

While the Schabarum case dealt with employees of the Legislative Counsel's office, and not employees of elected executive branch officers, the chief of the Legislative Counsel's office and the elected officials who are parties to this action are all "civil executive officers" as that term is used in applicable statutory law. The Court therefore concludes that the civil service employees of the elected civil executive officers who are parties to this case are subject to the jurisdiction of the Department of Personnel Administration with respect to the nonmerit aspects of employment.

The nonmerit aspects of the state's personnel system extend generally to the state's financial relationship with its employees, and embrace such matters as salary, layoffs and nondisciplinary demotions. (See, Tirapelle v. Davis (1993) 20 Cal. App. 4th 1317, 1322.) As the Court found in the union writ cases, the adjustment of state employees' hours to respond to a fiscal emergency falls within the scope of the Governor's authority as the employer of such employees. Such action is related to the nonmerit aspects of state employment. On that basis, the Court concludes that the civil service employees of respondent and intervenors are subject to the Governor's power to order a furlough under the authority that served as the basis for the Court's ruling in the union writ cases. It is not necessary to restate that authority here.

The Court further finds to be unpersuasive the contention of respondent and intervenors that recognizing the Governor's authority over their employees, at least for the purpose of ordering a furlough under the circumstances of the budget crisis, impermissibly interferes with the powers and duties that have been assigned to their offices. The reason this contention is not persuasive is that the Governor's power to order employee furloughs is not unlimited, but rather is controlled by law, and therefore cannot be exercised in an arbitrary or capricious manner. As the Court found in the union writ cases, the Governor's authority to order state employee furloughs arises ultimately from his statutory power, as the "employer" of such employees, to reduce their hours to meet the varying needs of state agencies. (See, e.g., Government Code section 19851.) In other words, the Governor must have a legitimate reason to reduce the hours of state employees in this manner, one that is related to the legitimate needs of state agencies. The recent fiscal crisis and budget impasse provided such a legitimate reason, as the Court found in the union writ cases. Thus, in this case at least, the Governor's action was not arbitrary or capricious, and does not impermissibly interfere with the powers and duties of other elected civil executive officers.

Respondent and intervenors argue here, however, that the circumstances that gave rise to the furlough order, and which may have justified it at the time, no longer exist. In particular, they contend that the Legislature's failure to enact a budget, which was cited in the Executive Order as the reason for the furlough, has now been rectified through the recent passage of the Budget Act of 2008, and that furloughs therefore are neither necessary nor proper in view of current circumstances. In essence, respondent and intervenors contend that this matter has been rendered moot by events post-dating the rulings in the union writ cases.

This contention is unpersuasive as well, because the evidence submitted by the Governor demonstrates that furloughs for state employees, including the employees of the elected civil executive officers who are parties to this case, explicitly were factored into the fiscal assumptions underlying the Budget Act of 2008.

As set forth in the Declaration of Diana L. Ducay, Program Manager for the Administration Unit of the California Department of Finance, who oversees the unit with direct responsibility for the employee

compensation and retirement benefits components of the State Budget: "[B]udget reduction figures legislatively mandated by both sections 3.90 [of the Budget Act] for fiscal years 2008-2009 and 2009-2010 were calculated by the Administration Unit of the Department of Finance...in cooperation with the Department of Personnel Administration prior to those figures being included in the legislation. Our calculation of these figures was based, in part, on the assumption that all state employees, including those who work in the offices of the civil executive officers of the State, i.e., the Lieutenant Governor, the Secretary of State, the Treasurer, the Attorney General, the Controller, the Superintendent of Public Instruction, the Insurance Commissioner and the Board of Equalization, would be furloughed two days a month from February 2009 to June 2010 as required by Governor Schwarzenegger's Executive Order S-16-08, dated December 19, 2009. Thus, the assumptions underlying the required budget savings specified in section 3.90 for fiscal years 2008-2009 and 2009-2010 include two-day a month furloughs for the employees of the civil executive officers."

The text of Section 3.90(a) of the Budget Act confirms this statement, providing: "Notwithstanding any other provision of this act, each item of appropriation in this act...shall be reduced, as appropriate, to reflect a reduction in employee compensation achieved through the collective bargaining process for represented employees or through existing administration authority and a proportionate reduction for nonrepresented employees (utilizing existing authority of the administration to adjust compensation for nonrepresented employees) in the total amounts of \$385,762,000 from General Fund items and \$285,196,000 from items relating to other funds. It is the intent of the Legislature that General Fund savings of \$1,024,326,000 and other fund savings of \$688,375,000 in the 2009-2010 fiscal year shall be achieved in the same manner described above."

By contrast, respondent and intervenors have not cited any provisions of the Budget Act of 2008 that explicitly repudiate or abrogate furloughs.

Because the cost savings called for in the Budget Act were based in part on the savings resulting from furloughs for state employees, including employees of the elected civil executive officers who are parties to this action, the issue of whether the Governor has the legal authority to order such furloughs is not moot.

Similarly, the recent agreement between the Department of Personnel Administration and the Service Employees International Union reducing furloughs for members of that organization to one day per month, does not render the two-day per month furloughs for other employees moot. Section 3.90 of the Budget Act, quoted in the main text above, explicitly recognizes that employee compensation savings may be achieved through a combination of the collective bargaining process and existing administration authority, i.e., through a combination of agreements with individual employee unions and the Governor's authority to direct furloughs.

Respondent and intervenors also argue that the Governor's line item vetoes cutting the budgets for certain of the elected civil executive officers as set forth in the recent Budget Act rendered this matter moot by making furloughs of those officers' employees unnecessary to achieve the savings called for in the Act. In support of this argument, respondent and intervenors have cited statements by the Governor indicating that the cuts were implemented to "...reflect equity among all executive branch agencies for the state employee compensation reductions within the budget through furloughs, elimination of positions, overtime reform and reducing paid state holidays" and that "[t]he Constitutional Officers will have flexibility to implement the savings within their own offices." Such statements, however, do not demonstrate that the Governor intended the line item vetoes to substitute for furloughs. Instead, the line item vetoes simply represented additional budget cuts for the affected officers. Moreover, those cuts applied only to the 2009-2010 fiscal year. Respondent and intervenors have not argued that such additional cuts would be in any way improper (or unreasonable under the circumstances); indeed, the petition and complaint in intervention in this action do not raise any issue regarding the propriety of the line item vetoes. The Court therefore does not find that the line item vetoes rendered the furloughs, as applied to the employees of respondent and intervenors, either unnecessary or in any way improper.

As described above, respondent and intervenors also contend that the Governor's Executive Order, by its terms, did not apply to their employees. Based on the language of the Order itself, the Court finds this contention to be without merit.

The operative provisions of Executive Order S-16-08 (i.e., those that actually direct the furloughs)

provide:

"IT IS ORDERED that effective February 1, 2009 through June 30, 2010, the Department of Personnel Administration shall adopt a plan to implement a furlough of represented state employees and supervisors for two days per month, regardless of funding source. This plan shall include a limited exemption process.

"IT IS FURTHER ORDERED that effective February 1, 2009 through June 30, 2010, the Department of Personnel Administration shall adopt a plan to implement an equivalent furlough or salary reduction for all state managers, including exempt state employees, regardless of funding source."

This language of the Order is broad in scope, applying generally to "state employees" with no stated exceptions for employees of elected civil executive officers.

At the same time, the Order does contain one provision that amounts to a recognition that certain agencies are beyond the scope of the Governor's authority to direct furloughs. That provision states:

"IT IS REQUESTED that other entities of State government not under my direct executive authority, including the California Public Utilities Commission, the University of California, the California State University, California Community Colleges, the legislative branch (including the Legislative Counsel Bureau), and judicial branch, implement similar or other mitigation measures to achieve budget and cash savings for the current and next fiscal year."

None of the elected civil executive officers who are parties to this action are included in the list of entities that the Governor recognized as not being under his direct executive authority for purposes of the Order. No other provision of the Order excludes them from its reach. The Court therefore concludes that the Order, by its terms, addresses the employees of respondent and intervenors.

The final question before the Court is whether the Governor should be estopped from asserting that the Executive Order applies to the employees of respondent and intervenors, i.e., whether the Order should not be enforced as to them even if the Governor has the authority to make the Order and the Order by its terms addresses their employees.

As stated in *Golden Day Schools, Inc. v. Department of Education* (1999) 69 Cal. App. 4th 681, 693, "[t]he necessary elements of an estoppel claim are: (1) the party to be estopped must be appraised of the facts; (2) he must intend that his conduct shall be acted upon, or must so act that the party asserting the estoppel had a right to believe it was so intended; (3) the other party must be ignorant of the true state of facts; and (4) he must rely upon the conduct to his injury."

The concept of estoppel also has been described as a conclusive presumption under Evidence Code section 623 as follows: "Whenever a party has, by his own statement or conduct, intentionally and deliberately led another to believe a particular thing true and to act upon such belief, he is not, in any litigation arising out of such statement, permitted to contradict it."

The party seeking to impose equitable estoppel must have acted in a reasonable manner in relying on the conduct of the other party. (See, *Golden Gate Water Ski Club v. County of Contra Costa* 165 Cal. App. 4th 249, 257-258.)

When estoppel is successfully invoked, the result is that "...the court in effect closes its ears to a point – a fact, argument, claim or defense – on the ground that to permit its assertion would be intolerably unfair." (See, *Hoopes v. Dolan* (2008) 168 Cal. App. 4th 146, 162.)

The essence of respondent's and intervenors' claim of estoppel in this case is that the Governor intentionally misled them by telling them that the Executive Order did not, and would not, apply to their employees. As support for this contention, respondent and intervenors have offered declarations made by representatives of their various offices, all of which focus on a telephone conference call that took place on January 9, 2009 between the declarants and representatives of the Department of Personnel Administration, acting on behalf of the Governor. Although the declarations differ in the amount of detail they offer, and sometimes differ among themselves as to who said what, in substance they tell the same story. Accordingly, the following excerpt from the Declaration of Collin Wong-Martinusen, Chief Deputy

State Controller/Chief of Staff, is illustrative:

"4. On January 9, 2009, the Department of Personnel Administration conducted a conference call with representatives of the various constitutional and state-wide elected officials. Ms. Debbie Endsley, Chief Deputy Director, DPA, participated in that conference call. I represented the State Controller on that telephone call. In response to a question as to the applicability of the order to the employees of the constitutional officers, Ms. Endsley stated that the executive order did not apply but urged the voluntary compliance of the constitutional officers."

In response to these declarations, the Governor has submitted the Declaration of Debra L. Endsley, Chief Deputy Director of the Department of Personnel Administration, which tells a different story:

"3. On January 9, 2009, I participated in a conference call with Paul Feist, Deputy Cabinet Secretary for the Governor. The conference call included representatives from the various State of California civil executive officers. The topic of the call was furloughing of state employees, including the employees in the offices of the civil executive officers.

"4. During the course of the telephone call, Mr. Feist explained that it was the Administration's understanding that the Governor could not legally furlough the employees of the civil executive officers. One of the participants in the telephone call, a representative from the Insurance Commissioner's office, questioned the legal interpretation that the furloughs did not apply to the civil executive officers. Following this question, I told the group that the Department of Personnel Administration would have our legal office research the authority to furlough employees of constitutional offices and get this information to the Governor's Office. At the conclusion of the telephone call, the question of whether the furloughs applied to the employees of the civil executive officers, and the Governor's legal authority to furlough that group of employees, was definitely unresolved and the subject left open."

Based upon this evidence, and viewing it in the light most favorable to respondent and intervenors, the Court finds that the doctrine of estoppel should not be applied here. In essence, respondent and intervenors contend that, as of January 9, 2009, the Governor made a clear statement that he would not seek to apply the Executive Order to their employees regardless of its terms and regardless of the circumstances. Even if this characterization of events were taken as true, the Court finds that such a representation was not one on which respondent and intervenors reasonably could rely. They acknowledge that the Governor was urging them to implement equivalent savings voluntarily, which indicates that they knew they were not exempt from the need to cut costs. At the same time, with the State's financial situation in January being extremely critical, and moreover, according to the State Controller's projections, worsening practically on a daily basis (as was amply documented by the evidence submitted in the union writ cases), respondent and intervenors could not reasonably assume that their voluntary efforts would exempt them from the need to make further, deeper cuts later. In other words, even if the Governor initially stated that he would not apply the Executive Order to their employees, respondents and intervenors could not reasonably assume that he might not adjust course later under the pressure of worsening fiscal conditions. Thus, the Court does not find that the budgetary savings these officers realized voluntarily should be seen as reasonably having been made in reliance on the Governor's statements regarding the Executive Order, since they would have been required to make the cuts in any event under the circumstances. Similarly, the Court does not find that such efforts precluded the Governor from adjusting his position regarding enforcement of the Executive Order, since it was not reasonable to assume that further cuts would be unnecessary.

In addition, the Court does not find, under all of the circumstances of fiscal crisis present in this case, that it would be "intolerably unfair" to permit the Executive Order to be applied to the employees of respondent and intervenors. Notwithstanding the recent passage of the Budget Act, serious fiscal problems remain. All sides recognize that spending cuts may be one necessary part of an effective response to these problems. The Governor's decision to require the employees of the elected civil executive officials to make an additional contribution to that response through furloughs – even if, as argued, that decision was belated or represented a reversal of the Governor's original approach – is not intolerably unfair.

Finally, the Governor contends that the rulings in the union writ cases decided the issue of whether the Governor has the authority to direct furloughs for the employees of elected civil executive officers. In light of the Court's ruling in this proceeding that the Governor has the authority to direct furloughs for the

employees of elected civil executive officers, it is unnecessary to address that contention.

For the reasons stated above, the Court finds that the Governor's Executive Order S-16-08, directing two-day-per-month furloughs for state employees, applies to the civil service employees of the respondent and intervenors in this case.

Further, in *Tirapelle v. Davis* (1993) 20 Cal. App. 4th 1317, the Third District Court of Appeal held that the State Controller may not refuse to implement an executive action that is authorized by law, even though the action affects state employees' pay. The Controller therefore lacks authority to refuse to implement the reduction in pay resulting from the Governor's Executive Order as to the employees of his own office and those of the intervenors. Since it is clear from the facts before the Court that the State Controller is refusing to perform a duty he is legally required to perform, the petition for writ of mandate is granted, and the Court's judgment and writ in this matter shall include an order directing the Controller to take all necessary and appropriate steps to implement the provisions of the Governor's Executive Order imposing furloughs on state employees of the parties to this action, including the reduction in such employees' pay.

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In the event that this tentative ruling becomes the final ruling of the Court, counsel for petitioners is directed to prepare the order, judgment and writ of mandate in accordance with the ruling under the procedure set forth in Rule of Court 3.1312.

Senate Bill No. 2

CHAPTER 2

An act to amend Items 3910-004-0226, 3910-004-0281, and 3910-007-0387 of Section 2.00 of the Budget Act of 2003 (Chapter 157 of the Statutes of 2003), and to amend Items 0690-102-0001, 0690-102-0214, 0690-102-0597, 0690-113-0001, 0890-001-0001, 1870-012-0214, 2640-101-0046, 2660-302-0042, 2660-302-0890, 3790-001-0001, 3790-001-6051, 4140-011-0121, 4170-101-0001, 4300-101-0001, 5180-111-0001, 5225-101-0001, 6440-001-0001, 6600-001-0001, 6610-001-0001, 6610-002-0001, 8660-011-0470, 8660-011-0471, 8660-011-0483, and 9210-101-0001 of, and to add Items 2180-011-0067, 2660-013-0042, 3560-011-0347, 3680-011-0516, 3790-011-0263, 3910-011-0226, and 8120-013-0268 to, Section 2.00 of the Budget Act of 2008 (Chapters 268 and 269 of the Statutes of 2008), and to amend Section 28.00 of, and to add Sections 3.90, 8.25, and 35.10 to, the Budget Act of 2008, relating to the support of state government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 20, 2009. Filed with
Secretary of State February 20, 2009.]

I object to the following appropriations contained in Senate Bill 2 Third Extraordinary Session.

Item 2660-013-0042—For transfer by the Controller from the State Highway Account, State Transportation Fund, to the Transportation Debt Service Fund to be used as specified in Section 16965 of the Government Code.

I am eliminating this item consistent with the Budget agreement to eliminate the proposed \$0.12 excise tax increase on gasoline and diesel fuel.

With the above deletions, revisions, and reductions, I hereby approve Senate Bill 2 Third Extraordinary Session.

Schwarzenegger, Arnold

LEGISLATIVE COUNSEL'S DIGEST

SB 2, Ducheny. Budget Act of 2008: revisions.

The Budget Act of 2008 (Chapters 268 and 269 of the Statutes of 2008) made appropriations for the support of state government during the 2008–09 fiscal year.

This bill would amend the Budget Act of 2008 to make adjustments to certain items of appropriations. The bill would authorize the Director of Finance to allocate necessary reductions in employee compensation from General Fund items in the amount of \$385,762,000 and from items relating to other funds in the amount of \$285,196,000. The bill would state the intent of the Legislature that reductions in employee compensation will result in

General Fund savings of \$1,024,326,000 and other fund savings of \$688,375,000 in the 2009–10 fiscal year.

The bill also would set forth procedures to account for the receipt of federal funds as part of an economic stimulus or similar legislation during the 2008–09 and 2009–10 fiscal years.

The Budget Act of 2003 (Chapter 157 of the Statutes of 2003) makes appropriations for the support of state government during the 2003–04 fiscal year and, among other things, authorizes transfers to the General Fund from certain special funds to be repaid to those funds during the 2nd half of the 2008–09 fiscal year.

This bill would amend the Budget Act of 2003 to extend the time for repayment of those transfers to the 2nd half of the 2009–10 and 2011–12 fiscal years, as specified.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.

This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. The adjustments to appropriations made by this act are in addition to the appropriations made in Section 2.00 of the Budget Act of 2008 (Chapters 268 and 269 of the Statutes of 2008) and are subject to the provisions of that act, as appropriate, including, as applicable, the provisions of that act that apply to the items of appropriation that are amended by this act. Unless otherwise specified, the references in this act to item numbers refer to items of appropriation in Section 2.00 of the Budget Act of 2008 (Chapters 268 and 269 of the Statutes of 2008).

SEC. 2. Item 0690-102-0001 of Section 2.00 of the Budget Act of 2008 is amended to read:

0690-102-0001—For local assistance, Office of Emergency Services.....	29,849,000
Schedule:	
(1) 50.20-Victim Services.....	3,916,000
(2) 50.30-Public Safety.....	25,933,000
Provisions:	
1. Notwithstanding any other provision of law, the Office of Emergency Services may provide advance payment of up to 25 percent of grant funds awarded to commu-	

SEC. 35. Item 9210-101-0001 of Section 2.00 of the Budget Act of 2008 is amended to read:

9210-101-0001—For local assistance, Local Government Financing..... 124,950,000

Provisions:

1. For allocation by the Controller to local jurisdictions for public safety as determined by the Director of Finance pursuant to Chapter 6.7 (commencing with Section 30061) of Division 3 of Title 3 of the Government Code.
2. Notwithstanding any other provision of law, the funds appropriated in this item shall be available for expenditure until June 30, 2010. These funds shall be used to supplement and not supplant existing services.

SEC. 36. Section 3.90 is added to the Budget Act of 2008, to read:

Sec. 3.90. (a) Notwithstanding any other provision of this act, each item of appropriation in this act, with the exception of those items for the California State University, the University of California, Hastings College of the Law, the Legislature (including the Legislative Counsel Bureau), and the judicial branch, shall be reduced, as appropriate, to reflect a reduction in employee compensation achieved through the collective bargaining process for represented employees or through existing administration authority and a proportionate reduction for nonrepresented employees (utilizing existing authority of the administration to adjust compensation for nonrepresented employees) in the total amounts of \$385,762,000 from General Fund items and \$285,196,000 from items relating to other funds. It is the intent of the Legislature that General Fund savings of \$1,024,326,000 and other fund savings of \$688,375,000 in the 2009–10 fiscal year shall be achieved in the same manner described above. The Director of Finance shall allocate the necessary reduction to each item of appropriation to accomplish the employee compensation reductions required by this section.

(b) The Department of Personnel Administration shall transmit proposed memoranda of understanding to the Legislature promptly and shall include with each such transmission estimated savings pursuant to this section of each agreement.

(c) Nothing in this section shall change or supersede the provisions of the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1 of the Government Code).

SEC. 37. Section 8.25 is added to the Budget Act of 2008, to read:

Sec. 8.25. (a) Any amounts received in the 2008–09 and 2009–10 fiscal years from the federal government as part of an economic stimulus or similar legislation shall be deposited in the Federal Trust Fund. Notwithstanding Section 28.00, the Department of Finance may authorize expenditure of these funds in a manner consistent with federal law and that offsets General Fund expenditures otherwise authorized in this act. The Director of Finance

Senate Bill No. 1

CHAPTER 1

An act making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of Section 12 of Article IV of the Constitution of the State of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 20, 2009. Filed with Secretary of State February 20, 2009.]

Item 0110-001-0001—For support of Senate

I am not reducing the Legislature's budget to reflect the \$24.9 million in cuts included in my proposed budget. While I am not reducing the Legislature's budget, I expect the Legislature to achieve savings that equal 10 percent of their budget, by taking action to offset General Fund expenditures in state programs and other areas of the budget.

Item 0120-011-0001—For support of Assembly

I am not reducing the Legislature's budget to reflect the \$24.9 million in cuts included in my proposed budget. While I am not reducing the Legislature's budget, I expect the Legislature to achieve savings that equal 10 percent of their budget, by taking action to offset General Fund expenditures in state programs and other areas of the budget.

I object to the following appropriations contained in Senate Bill 1 Third Extraordinary Session.

Item 0750-001-0001—For support of Office of the Lieutenant Governor. I reduce this item from \$2,778,000 to \$1,044,000.

I am reducing the Lieutenant Governor's budget by \$1,734,000 to ensure that sufficient resources are reserved for key programs within state government. In these tough times, we cannot continue to fund the Office of the Lieutenant Governor at the level provided in recent years.

Item 0820-001-0001—For support of Department of Justice. I reduce this item from \$369,594,000 to \$345,933,000 by reducing:

- (8) Amount payable from the Fingerprint Fees Account (Item 0820-001-0017) from -\$70,079,000 to -\$66,615,000;
- (10) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 0820 001-0044) from -\$25,109,000 to -\$23,834,000;
- (11) Amount payable from the Department of Justice Sexual Habitual Offender Fund (Item 0820-001-0142) from -\$2,321,000 to -\$2,218,000;
- (15) Amount payable from the Indian Gaming Special Distribution Fund (Item 0820 001 0367) from -\$15,636,000 to -\$14,080,000;
- (16) Amount payable from the False Claims Act Fund (Item 0820-001-0378) from \$10,657,000 to -\$10,090,000;
- (17) Amount payable from the Dealers' Record of Sale Special Account (Item 0820 001 0460) \$10,787,000 to -\$9,907,000;

State Industrial.....	17.236%
State Safety.....	18.411%
Peace Officer/Firefighter.....	26.064%
Highway Patrol.....	32.149%
Judges' Retirement System II.....	20.227%

The Director of Finance may adjust amounts in any appropriation item, or in any category thereof, in this act as a result of changes from amounts budgeted for employer contributions for 2009–10 fiscal year retirement benefits to achieve the percentages specified in this subdivision.

(b) Notwithstanding any other provision of law, the Director of Finance shall require retirement contributions computed pursuant to subdivision (a) to be offset by the Controller with surplus funds in the Public Employees' Retirement Fund, employer surplus asset accounts.

(c) Notwithstanding any other provision of law, for purposes of calculating the "appropriations subject to limitation" as defined in Section 8 of Article XIII B of the California Constitution, the appropriations in this act shall be deemed to be the amounts remaining after the adjustments required by subdivisions (a) and (b) are made.

SEC. 3.90. (a) Notwithstanding any other provision of this act, each item of appropriation in this act, with the exception of those items for the California State University, the University of California, Hastings College of the Law, the Legislature (including the Legislative Counsel Bureau), and the judicial branch, shall be reduced, as appropriate, to reflect a reduction in employee compensation achieved through the collective bargaining process for represented employees or through existing administration authority and a proportionate reduction for nonrepresented employees (utilizing existing authority of the administration to adjust compensation for nonrepresented employees) in the total amounts of \$1,024,326,000 from General Fund items and \$688,375,000 from items relating to other funds. The Director of Finance shall allocate the necessary reductions to each item of appropriation to accomplish the employee compensation reductions required by this section.

(b) The Department of Personnel Administration shall transmit proposed memoranda of understanding to the Legislature promptly and shall include with each such transmission estimated savings pursuant to this section of each agreement.

(c) Nothing in this section shall change or supersede the provisions of the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1 of the Government Code).

SEC. 4.01. (a) Notwithstanding any other provision of law, the Director of Finance shall reduce items of appropriation in this act to reflect savings achieved pursuant to the Alternate Retirement Program (Chapter 214 of the Statutes of 2004). These reductions shall not apply to the University of California, Hastings College of the Law, California State University, the Legislature, or the judicial branch.



Office of the Governor

ARNOLD SCHWARZENEGGER
THE PEOPLE'S GOVERNOR

EXECUTIVE ORDER S-13-09

07/01/2009

WHEREAS the global recession has caused California's revenues to continue to plummet, leaving our state with an unprecedented budget deficit that forces the State to take drastic actions that will affect every Californian; and

WHEREAS on December 19, 2008, I issued Executive Order S-16-08, in which I ordered the Department of Personnel Administration (DPA) to: (1) initiate the layoff process for state civil service employees effective January 1, 2009 through June 30, 2010; and (2) adopt a plan to implement a furlough of two days per month effective February 1, 2009 to June 30, 2010; and

WHEREAS on January 9, 2009, in order to reduce current spending to ensure that essential services of the State are not jeopardized and the public health and safety is preserved, the DPA adopted a furlough plan; and

WHEREAS on May 15, 2009, state agencies and departments sent out over 4,500 layoff notices to employees funded by the General Fund to further reduce current state spending; and

WHEREAS on May 20, 2009, after the failure of Propositions 1A through 1E, California faced a budget deficit of at least \$21.3 billion for fiscal years 2008-09 and 2009-10; and

WHEREAS California planned to borrow up to \$6 billion through a Reimbursement Warrants (commonly known as RAWs) to address part of the budget deficit, but this short-term borrowing is no longer an available option due to the recent decision of the federal government not to provide financial assistance or loan guarantees for this emergency, short-term borrowing; and

WHEREAS the State's inability to borrow through RAWs will result in more severe spending cuts in the State's programs and services; and

WHEREAS on May 22, 2009, the Legislative Analyst predicted that the Governor's May Revision revenue projections may prove overly optimistic, and instead, projected that the drop in revenues will be at least \$3 billion worse than projected putting the size of the State's shortfall at more than \$24 billion for fiscal years 2008-09 and 2009-10; and

WHEREAS the State Controller has determined that without effective action to address the budget and cash crisis, the State will have insufficient cash to meet its obligations starting July 2009 and will need to issue registered warrants (IOUs) in order to preserve cash and protect payments the State must make to fund education and repay outstanding debt; and

WHEREAS the projected \$24 billion budget deficit will require deeper cuts to state programs and services, additional borrowing from available resources such as special funds, and the release of thousands of prison inmates who are undocumented immigrants; and

WHEREAS on June 30, 2009, the Legislature failed to take action to pass a revised budget for fiscal years 2008-09 and 2009-10 to effectively address the unprecedented statewide fiscal crisis, thereby requiring billions of dollars in additional solutions; and

WHEREAS the State will be forced to eliminate state programs and services providing critical public services, ranging from public safety to health and welfare; and

WHEREAS if the State eliminates any of these critical state programs and services, then the public health and safety will be jeopardized, causing extreme peril to the safety of persons and property; and

WHEREAS immediate and comprehensive action to further reduce current spending must be taken to ensure, to the maximum extent possible, that the essential services of the State are not jeopardized and the public health and safety is preserved; and

WHEREAS an additional furlough day per month is necessary to continue to reduce current spending and immediately improve the State's ability to meet its obligations to pay for essential services of the State, such as services provided by CAL Fire, hospitals and 24-hour care facilities, so as not to jeopardize its residents' health and safety in the current and next fiscal year.

NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby determine that an emergency pursuant to Government Code section 3516.5 exists and issue this Order to become effective immediately:

IT IS ORDERED that effective July 1, 2009 through June 30, 2010, the Department of Personnel Administration shall adopt an amended plan to implement a furlough of represented state employees for three days per month, regardless of funding source. This plan shall include a limited exemption process.

IT IS FURTHER ORDERED that effective July 1, 2009 through June 30, 2010, the Department of Personnel Administration shall adopt an amended plan to implement an equivalent furlough or salary reduction for all non-represented state employees, including supervisors, managers, and exempt state employees, regardless of funding source.

IT IS FURTHER ORDERED that all state employees covered by the original and amended furlough plans must use their accrued furlough days prior to using vacation, annual leave, personal holiday, holiday credit, personal leave plan (PLP) credit, and compensatory time off (CTO).

This Order is not intended to create, and does not create, any rights or benefits, whether substantive or procedural, or enforceable at law or in equity, against the State of California or its agencies, departments, entities, officers, employees, or any other person.

I FURTHER ORDER that, as soon as hereafter possible, this Order shall be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this Order.



IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 1st day of July, 2009.

ARNOLD SCHWARZENEGGER
Governor of California

ATTEST:
DEBRA BOWEN
Secretary of State

Assembly Bill No. 1389

CHAPTER 751

An act to amend Section 23320 of the Business and Professions Code, to amend Sections 22664, 22954, 22954.1, 22955, 22955.5, 24412, 24415, 24416, 24417, and 24600 of, to add Sections 8277.65, 8277.66, and 24415.5 to, to repeal Section 24411 of, and to repeal and add Section 22954.5 of, the Education Code, to amend Section 13001 of the Fish and Game Code, to add Section 4101.4 to the Food and Agricultural Code, to amend Sections 8544.5, 11032, 11033, 11270, 11271, 11272, 11274, 11276, 11277, 13300, 13302, 13332.02, 13332.03, 15849.6, 16142, 16142.1, 16144, 22877, 22883, 30061, 63035, and 76104.6 of, to add Sections 11270.1, 13311, 13312, 15814.28, and 19816.22 to, to add Chapter 7 (commencing with Section 15849.20) to Part 10b of Division 3 of Title 2 of, and to repeal Section 13997.4 of, the Government Code, to amend Sections 33675 and 33680 of, and to add Sections 17928, 33684, 33685, 33686, 33687, 33688, and 33689 to, the Health and Safety Code, to amend Section 1060 of the Insurance Code, to amend Sections 62.5, 62.9, and 139.48 of the Labor Code, to add Section 69.9 to the Military and Veterans Code, to amend Section 25416 of the Public Resources Code, to amend Section 281 of the Public Utilities Code, to amend Sections 18535, 18536, 19280, and 30131.4 of, and to add Sections 19011.5 and 19290.1 to, the Revenue and Taxation Code, to amend Section 5891 of the Welfare and Institutions Code, and to amend Section 6 of Chapter 213 of the Statutes of 2000, relating to state government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1389, Committee on Budget. State government.

(1) The State Teachers' Retirement Law prescribes the rights and benefits of members of the State Teachers' Retirement System. Under the law, a continuous appropriation equal to 2.5% of creditable compensation, as specified, is made annually from the General Fund for transfer to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund to fund supplemental purchase power protection payments to retired members, disabled members, and beneficiaries of the Defined Benefit Program of the State Teachers' Retirement System. The law provides that the transfer for the 2008-09 fiscal year be made on November 1.

This bill would reduce the continuous appropriation from the General Fund, described above, by specified amounts. The bill would require that the transfers to the Supplemental Benefit Maintenance Account be made

on November 1 and April 1 of each fiscal year, with each transfer to equal $\frac{1}{2}$ the amount appropriated. The bill, until 2013, would also make a series of appropriations from the General Fund for the purpose of paying interest on the judgment in a specified case related to the account. The bill would state the intent of the Legislature that certain information be included in the annual Budget Act.

(2) Existing law requires the Teachers' Retirement Board, beginning in 2006 and every 4 years thereafter, to report to the Legislature and the Department of Finance regarding the ability of the retirement system to pay the supplemental purchase power protection payments, described above, in each fiscal year until 2036, and appropriates funds, as determined by the actuary and certified by the Director of Finance, as necessary to enable the Teachers' Retirement System to make those payments, as specified, until June 30, 2036. Existing law limits the aggregate amount of funds to be appropriated by these provisions pursuant to a specified method.

This bill would revise and recast these provisions. The bill would delete the provisions regarding the appropriation, described above, and would delete the termination date, described above. The bill would require the board to adopt an actuarial projection regarding the ability of the system to continue providing, over a term to be established by the board, the purchasing power protection provided from the funds of the Supplemental Benefit Maintenance Account. The bill would require the board, as a result of determinations made in connection with the actuarial projection, to identify the maximum level of benefits it expects to be sustainable, as specified.

(3) Existing law requires that, for the 1998-99 fiscal year, the contributions to be made to the Supplemental Benefit Maintenance Account be reduced by the total value of the state's interest in the school lands from the sale of the Elk Hills Naval Petroleum Reserve.

This bill would repeal those provisions.

(4) Existing law defines creditable compensation for the purposes of making contributions from the General Fund to the Supplemental Benefit Maintenance Account and the Teachers' Retirement Fund. Existing law specifies, with regard to making contributions from the General Fund to the Teachers' Retirement Fund, that the amount is to be calculated annually on October 1.

This bill would require that the Teachers' Retirement Board calculate, on or after October 1 and on or before October 25 each year, the total amount of creditable compensation upon which members' contributions are based for the fiscal year that ended on the immediately preceding June 30. The bill would require the board to immediately submit a report that includes this calculation to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst. The bill would provide a process for reporting a revision in the amount of that calculation and adjusting subsequent appropriations to reflect that amount. The bill would also make conforming changes.

(5) Existing law prohibits the purchase power protection payments from the Supplemental Benefit Maintenance Account from exceeding the amount

necessary to restore purchasing power up to 80% of the purchasing power of the initial monthly allowance, as specified. Existing law provides that these benefits are vested only to the extent that funds are appropriated to the Supplemental Benefit Maintenance Account, as specified. Existing law permits annual cost-of-living adjustments for retired members, disabled members, and beneficiaries, in excess of a specified adjustment, to be included in a General Fund appropriation in the annual Budget Act, and provides a method for its calculation and distribution. Existing law provides that these provisions shall be operative only in a fiscal year during which distributions from the Supplemental Benefit Maintenance Account are not made. Existing law establishes a permissive process for funding purchasing power payments, or adjusting their amount, if the Supplemental Benefit Maintenance Account does not have sufficient funds to provide payments of up to 80% of the initial monthly allowance. Existing law creates an auxiliary Supplemental Benefit Maintenance Account to be distributed when the funds in the Supplemental Benefit Maintenance Account are insufficient to support 80% of the initial monthly allowance to retired members, disabled members, and beneficiaries.

This bill would increase the amount of the supplemental purchase power protection payments from the Supplemental Benefit Maintenance Account to up to 85% of the purchasing power of the initial monthly allowance, as specified, and would make corresponding changes in the related provisions described above. The bill would authorize the board to adjust the purchasing power protection payments between no more than 85% and no less than 80%, based on actuarial projections, as specified. The bill would require the board to propose uses for excess moneys, if any, in the account. The bill would authorize the board to adopt regulations in this regard, which would be filed with the Secretary of State but would not be subject to the Administrative Procedure Act. The bill would delete the optional process for General Fund cost-of-living adjustments for retired members, disabled members, and beneficiaries, operative only in a fiscal year during which distributions from the Supplemental Benefit Maintenance Account are not made. The bill would make conforming changes.

(6) Existing law sets forth the powers and duties of the Director of Finance generally in supervising matters concerning the financial and business policies of the state.

This bill would authorize the director to defer payment of General Fund moneys appropriated to the University of California in the annual Budget Act until May or June of the same fiscal year, subject to specified criteria. This bill also would, commencing with the 2008–09 fiscal year, authorize the director to reduce General Fund items of appropriation for state operations or suspend the effective date of cost-of-living adjustments or rate increases upon making certain determinations, according to specified criteria and subject to specified exceptions. The bill would specify that these provisions would only become operative if a specified amendment to the California Constitution is submitted to, and approved by, the voters at a statewide election.

(7) Existing law establishes the Department of Finance within state government. Under existing law, the department is required to devise an accounting system for each state agency that provides for the accrual of revenues at the end of the fiscal year if the underlying transaction has occurred as of the last day of the fiscal year, and the due date for the tax is within 2 months of the end of the period.

This bill would revise this accrual provision to replace the tax condition with one requiring instead that the revenue amount is measurable and will be collected during the current period or in time to pay current year-end liabilities.

(8) Existing law requires the Secretary of the Resources Agency to direct the Controller to pay annually to each eligible county, city, or city and county, \$5 per acre for prime agricultural land, and \$1 per acre for all other land, other than prime agricultural land, which is devoted to open space uses of statewide significance, or for a county that has adopted farmland security zones, \$8 for land that is within, or within 3 miles of the boundaries of the sphere of influence of, each incorporated city.

This bill would require the Controller, commencing with the 2008–09 fiscal year, and each fiscal year thereafter, to reduce these payments by 10%.

(9) Existing law sets forth the procedures pursuant to which local agencies receive specified types of open space subventions of state funds. The Controller is required to make the payment to the local agencies on or before June 30 of each year.

This bill would also specify that the payment would not be made earlier than April 20 of each year.

(10) Existing law requires the establishment in each county treasury of a Supplemental Law Enforcement Services Fund, and requires that moneys from this fund be allocated to counties and cities located within a county for various law enforcement services, according to specified criteria.

This bill would additionally require the Controller to allocate funds appropriated in the annual Budget Act for this purpose according to these criteria, in 4 equal installments, to be paid in September, December, March, and June of each fiscal year.

(11) Existing law creates in the State Treasury, the California High-Cost Fund-A Administrative Committee Fund, the California High-Cost Fund-B Administrative Committee Fund, the Universal Lifeline Telephone Service Trust Administrative Committee Fund, the Deaf and Disabled Telecommunications Program Administrative Committee Fund, the Payphone Service Providers Committee Fund, and the California Teleconnect Fund Administrative Committee Fund. Under existing law, revenue in these funds is held in trust for the benefit of ratepayers and to compensate telephone corporations for the costs of providing universal service and may be expended solely for specified purposes.

This bill would authorize the Controller to use these funds for loans to the General Fund, as specified.

(12) Existing law creates in the State Treasury the Fish and Game Preservation Fund, and makes the revenue in the fund available for expenditure, upon appropriation by the Legislature, for particular purposes. Existing law also creates in the General Fund the State Energy Conservation Assistance Account and continuously appropriates its revenue to the State Energy Resources Conservation and Development Commission for expenditure.

This bill would authorize the Controller to use this fund and account for loans to the General Fund, as specified.

(13) Existing law, the DNA Fingerprint, Unresolved Crime and Innocence Act, an initiative measure, creates in the State Treasury the state's DNA Identification Fund, and makes its revenue, upon appropriation by the Legislature, available to the Attorney General solely to support DNA testing and to offset the impacts of increased testing. Existing law, the California Children and Families First Act of 1998, an initiative measure, creates in the State Treasury the Children and Families Trust Fund for the exclusive purpose of funding the act's provisions. The Mental Health Services Act, an initiative measure, creates in the State Treasury the Mental Health Services Fund for the purpose of funding specified older adults, intervention, and children's services programs. These acts provide for their amendment by the Legislature if the amendments further the act and are consistent with its purposes.

This bill would authorize the Controller to use these funds for loans to the General Fund, as specified, and would require that the loans be repaid with interest at 110% of the Pooled Money Investment Account rate. The bill would declare that its provisions further these initiative acts and are consistent with their purposes.

(14) Existing law requires the Department of Finance to certify annually to the Controller the amount it determines to be the fair share of costs for which each state agency that is supported by funds other than the General Fund shall reimburse the General Fund for administrative services rendered by other designated state entities and agencies that are supported by the General Fund, and requires the Controller to transfer the amount of these costs from those funds to the General Fund.

This bill would create the Central Service Cost Recovery Fund, provide for the deposit into that fund of amounts equal to the fair share of administrative costs due and payable from state agencies, and direct that moneys in the Central Service Cost Recovery Fund be appropriated for the administration of the state government, as determined by the Director of Finance. This bill, except under certain circumstances, would prohibit moneys in the Central Service Cost Recovery Fund, that are not currently required to fund any appropriation, from being used, loaned, borrowed, assessed, allocated, or transferred unless approved by the Director of Finance. This bill would also designate the state entities that provide administrative services for which reimbursement is to be paid under these provisions.

(15) Existing law authorizes the Controller to make monthly transfers from the General Fund to the State Audit Fund, a continuously appropriated

fund, for estimated audit costs that are not directly billed to affected state agencies.

This bill would authorize the Controller to also make transfers for that purpose from the Central Service Cost Recovery Fund.

(16) The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined, in blighted areas in those communities known as project areas. Section 16 of Article XVI of the California Constitution authorizes a redevelopment agency to receive funding through tax increments attributable to increases in assessed property tax valuation of property in a project area due to the redevelopment. Not less than 20% of tax increments generated from a project area are required to be used by a redevelopment agency to increase and improve the community's supply of low- and moderate-income housing. Redevelopment agencies also are required in specified years to remit to the county auditor an amount of revenue, determined in accordance with specified calculations made by the Director of Finance and based on a specified report of the Controller, for deposit in the Educational Revenue Augmentation Fund in each county for allocation to school entities. For each redevelopment project for which the redevelopment plan provides for the division of taxes the redevelopment agency is required to file with the county auditor or officer, as specified, a statement of indebtedness.

This bill would require redevelopment agencies, the county auditor, the Controller, the State Department of Education, and the Board of Governors of the California Community Colleges to submit specified reports or make specified calculations by specified dates regarding the revenue payments deposited by redevelopment agencies in the Educational Revenue Augmentation Fund in each county for allocation to school entities. By adding to the duties of county auditors, this bill would impose a state-mandated local program. Redevelopment agencies that have an outstanding payment obligation to a local educational agency would be (A) prohibited from adding new project areas or expanding existing project areas; (B) prohibited from issuing new bonds, notes, interim certificates, debentures, or other obligations, as specified; (C) prohibited from encumbering any funds or expending any money derived from any source, with specified exceptions; (D) subject to interest charges, as specified; and (E) required to deposit a portion of the outstanding payment obligation, plus any interest, in the Educational Revenue Augmentation Fund. Funds deposited in the county Educational Revenue Augmentation Fund as an outstanding payment would be prohibited from being distributed to a community college district. A county would be authorized to charge a redevelopment agency for any expenses incurred by the county in performing these services. A redevelopment agency would be authorized on its statement of indebtedness to credit the payment to the local educational agency against any existing passthrough payment indebtedness.

(17) Existing property tax law requires the county auditor, for each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each

jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. Existing property tax law also reduces the amounts of ad valorem property tax revenue that would otherwise be annually allocated to the county, cities, and special districts pursuant to these general allocation requirements by requiring, for purposes of determining property tax revenue allocations in each county for the 1992–93 and 1993–94 fiscal years, that the amounts of property tax revenue deemed allocated in the prior fiscal year to the county, cities, and special districts be reduced in accordance with certain formulas. It requires that the revenues not allocated to the county, cities, and special districts as a result of these reductions be transferred to the Educational Revenue Augmentation Fund (ERAF) in that county for allocation to school districts, community college districts, and the county office of education.

Existing law also requires a redevelopment agency, during the 2005–06 fiscal year, to remit to the county auditor an amount of revenue, determined in accordance with specified calculations made by the Director of Finance and based on a specified report of the Controller, for deposit in the ERAF in each county for allocation to school entities.

This bill would require a redevelopment agency to make a remittance to county ERAFs for the 2008–09 fiscal year. A redevelopment agency would be authorized to defer the payment of a portion of this remittance if that agency finds that it is unable, for either of certain reasons, to pay the full allocation, and if the agency adopts a specified resolution. A legislative body would be authorized to remit, in lieu of making that payment prior to May 10, 2009, a designated amount to the county auditor for deposit in the county ERAF. For the 2008–09 fiscal year, no funds deposited in the county ERAF would be distributed to a community college district. If an agency does not remit the full designated amount or fails to arrange for full payment, as specified, to the county ERAF, then the agency would be prohibited from adding new project areas or expanding existing project areas; from issuing new bonds, notes, interim certificates, debentures, or other obligations, as specified; and from encumbering any funds or expending any moneys derived from any source except as specified. By imposing new duties upon local tax officials in the annual allocation of these revenues, this bill would impose a state-mandated local program.

(18) The Child Care and Development Services Act establishes the Child Care and Development Facilities Loan Guaranty Fund and the Child Care and Development Facilities Direct Loan Fund in the State Treasury. The act requires the Department of Housing and Community Development to use moneys deposited into those funds to make loan guarantees and subordinated loans to sole proprietorships, partnerships, proprietary and nonprofit corporations, and local public agencies for the purchase, development, construction, expansion, or improvement of licensed child care and development facilities, and for the purpose of administering the guarantees and loans.

This bill would abolish the Child Care and Development Facilities Loan Guaranty Fund, the Child Care and Development Facilities Direct Loan Fund, and the Child Care Loan Guaranty Fund Account in the Small Business Expansion Fund. All moneys remaining in those funds and that account would revert to the General Fund.

This bill also would require the Department of Housing and Community Development to deposit all subsequent loan repayments to the Treasurer to the credit of the General Fund.

(19) Existing law, the California Small Business Financial Development Corporation Law, creates the Small Business Expansion Fund, which is continuously appropriated, and that fund provides moneys to be used to pay for defaulted loan guarantees and administrative costs for small business financial development corporations.

This bill would authorize up to \$139,000 to be transferred from the General Fund to the Small Business Expansion Fund upon the order of the Director of Finance if funds are needed to pay a loan guarantee made from the Small Business Expansion Fund for the purchase, development, construction, expansion, or improvement of licensed child care and development facilities, as specified. Because the Small Business Expansion Fund is a continuously appropriated fund, this bill would make an appropriation.

(20) The Bergeson-Peace Infrastructure and Economic Development Bank Act requires the California Infrastructure and Economic Development Bank to annually submit to the Governor and the Joint Legislative Budget Committee a report of its activities. The report is required to include, among other things, a listing of applications accepted and a report of revenues and expenditures for the preceding fiscal year.

This bill would require the report to include information with respect to applications for a specified program and additional information with respect to revenues and expenditures for the preceding fiscal year.

(21) Existing law designates the Business, Transportation and Housing Agency as the primary state agency responsible for facilitating economic development in the state, and requires the agency to work with other governmental and international public and private entities in meeting this responsibility.

This bill would repeal those provisions.

(22) Existing law creates the State Public Works Board, and authorizes the board to issue bonds and other forms of debt, pursuant to the State Building Construction Act of 1955, to obtain funds to pay the cost of public buildings. Existing law services the debt issued by the board through revenues, rentals, and receipts from those public buildings.

This bill would authorize the board to issue debt to pay for the development and implementation of the Financial Information System for California, a single integrated financial management system that encompasses the management of resources and dollars in the areas of budgeting, accounting, procurement, cash management, financial management, financial reporting, cost accounting, asset management, project

accounting, grant management, and human resources management. This bill would provide that debt service is conditioned upon annual appropriation by the Legislature. This bill would make an appropriation by creating continuously appropriated funds and subaccounts to pay for the system's development, implementation, operation, and maintenance.

(23) Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an injured employee for injuries sustained in the course of his or her employment.

Existing law requires that the Director of Industrial Relations levy and collect assessments from employers in an amount determined by the director to be sufficient to fund specified workers' compensation programs implemented in the state.

This bill would require that specified revenues received from additional surcharges levied upon employers in the state be deposited into the Occupational Safety and Health Fund, created by this bill, as a special account in the State Treasury, and would authorize the expenditure of moneys in the fund by the department, upon appropriation by the Legislature, for purposes of funding the activities of those departments related to the implementation and enforcement of occupational health and safety laws in the state.

(24) Existing law requires the administrative director, until January 1, 2009, to establish the Return-to-Work Program to promote the early and sustained return to work of the employee following a work-related injury or illness.

This bill would extend to January 1, 2010, the repeal date of those provisions.

(25) Existing law requires the department to enter into an agreement with the Franchise Tax Board that authorizes the collection by the board of delinquent assessments and penalties that are levied against employers for violation of specified labor laws.

This bill would also authorize the collection by the board of delinquent assessments and penalties that are levied against employers for violation of specified occupational safety and health laws.

(26) Under existing law, unpaid fines and other penalties for criminal offenses imposed by a court upon a person or entity in an amount less than \$100 may be referred to the Franchise Tax Board for collection after being delinquent for 90 days.

This bill would include bail in those unpaid debts that may be referred to the Franchise Tax Board for collection after being delinquent for 90 days.

(27) The existing Corporation Tax Law requires taxpayers whose tax liability exceeds specified amounts to remit payment to the Franchise Tax Board by electronic funds transfers if any of 3 specified conditions exists.

This bill would require personal income taxpayers with estimated tax or extension payments in excess of \$20,000, or total tax liability in excess of \$80,000, to remit payments to the Franchise Tax Board by electronic funds transfers, subject to specified requirements.

(28) Existing income tax laws authorize the Franchise Tax Board to provide for the filing of a group return for electing nonresident partners and electing nonresident directors of a corporation, and to adjust the income of those taxpayers to properly reflect income, as provided. Existing law provides that the tax rate or rates applicable to each partner's distributive share or each director's compensation for services is the highest marginal rate or rates provided by the Personal Income Tax Law.

The Personal Income Tax Law also imposes an additional tax at the rate of 1% on that portion of a taxpayer's taxable income in excess of \$1,000,000.

This bill would also impose this additional tax of 1% on taxable income in excess of \$1,000,000 of any electing nonresident partner or nonresident director of a corporation included on the group return.

(29) The Alcoholic Beverage Control Act provides for the issuance of licenses for which various annual fees are charged depending upon the type of license issued. That law authorizes an annual adjustment of the fees in an amount not to exceed an inflation factor based on the Consumer Price Index.

This bill would increase these annual fees by 11.78% beginning January 1, 2009, in lieu of any annual fee adjustments that could have been imposed for the previous 4 years. This bill would also permit the Department of Alcoholic Beverage Control to annually adjust the fees charged commencing with the 2010 calendar year by an amount not to exceed an inflation factor based on the Consumer Price Index.

(30) Existing law appropriates \$5,000,000 to the Governor's Office on Service and Volunteerism, on an annual basis, for the purpose of funding grants to local and state operated Americorps and Conservation Corps programs.

This bill would instead specify that this appropriation is to California Volunteers, suspend the appropriation from July 1, 2008, to June 30, 2010, inclusive, and provide for an appropriation of \$2,500,000 to June 30, 2010, inclusive.

(31) Until January 1, 2012, or earlier, as specified, the Rural Health Care Equity Program, as administered by the Department of Personnel Administration, provides subsidies and reimbursements for certain health care premiums and health care costs incurred by state employees and annuitants in rural areas in which there is no board-approved health maintenance organization plan available for enrollment.

This bill would eliminate annuitants from those who are eligible to receive those benefits through the Rural Health Care Equity Program.

(32) Existing law requires the Department of Personnel Administration to administer and enforce laws pertaining to state personnel.

This bill would authorize the Department of Personnel Administration to assess special funds, bond funds, and nongovernmental cost funds in sufficient amounts to support the cost of the Human Resources Modernization Project, as specified.

(33) Existing law authorizes state officers and employees to travel out of state on state business and provides for payment of expenses for this

(2) Cash in agency trust accounts within the centralized State Treasury system that is in transit to the State Treasury, accrued interest receivable, and accounts receivable shall be accrued as of the end of each fiscal year.

(c) For the purposes of financial reporting:

(1) A payable exists when goods or services have been delivered and the state is required to pay for those goods or services, and an encumbrance exists when a valid obligation against an appropriation has been created.

(2) All funds appropriated shall be identified as either expended, payable, encumbered (exclusive of payables), or unencumbered, as further defined by the California Fiscal Advisory Board, and the total of these shall equal the total appropriation.

SEC. 32. Section 13311 is added to the Government Code, to read:

13311. (a) Notwithstanding any other provision of law, in order to achieve effective management of state cash resources, the Director of Finance may defer payment of General Fund moneys, in a cumulative amount not to exceed five hundred million dollars (\$500,000,000) annually, appropriated to the University of California in the annual Budget Act.

(b) The payment of the amount deferred shall be in May or June, as established by the Director of Finance, of the same fiscal year that the original payment would have been made.

SEC. 33. Section 13312 is added to the Government Code, to read:

13312. (a) (1) Commencing with the 2008–09 fiscal year, and notwithstanding any other provision of law, if after the annual Budget Act is enacted, the Director of Finance determines that General Fund total available resources for the fiscal year will decline substantially below the estimate of General Fund total resources available upon which the Budget Act was based, or that General Fund expenditures will increase substantially above that estimate of General Fund total resources available, the director may make reductions pursuant to subdivision (b).

(2) For purposes of this subdivision, “total resources available” includes prior year balance and revenues and transfers for the fiscal year.

(b) Upon making a determination as described in subdivision (a), the Director of Finance, in consultation with agency secretaries and other cabinet members, may reduce General Fund items of appropriation, subject to both of the following:

(1) The Director of Finance shall not reduce, pursuant to this section, the amounts appropriated for any of the following:

(A) The Legislature.

(B) Constitutional officers.

(C) Transfers pursuant to the Article XIX B of the California Constitution.

(D) Debt service, including, but not limited to, tobacco settlement revenue shortfalls, payment of interest on General Fund loans, and interest payments to the federal government.

(E) Health and dental benefits for annuitants.

(F) Equity claims before the California Victim Compensation and Government Claims Board.

(G) Augmentations for contingencies or emergencies.

(H) Local assistance appropriations.

(2) A General Fund state operations or capital outlay item of appropriation, and a program or category designated in any line of any schedule set forth by that appropriation, may not be reduced by more than 7 percent.

(c) Notwithstanding any provision of law to the contrary, any cost-of-living adjustment or rate increase funded in an annual Budget Act shall be subject to the following conditions:

(1) If the Director of Finance determines that suspension by up to 120 days of the effective date of a cost-of-living adjustment or rate increase funded in an annual Budget Act is necessary to mitigate conditions that would authorize the issuance of a proclamation declaring a fiscal emergency pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution, that cost-of-living adjustment or rate increase shall not take effect during that time.

(2) (A) If the Governor issues a proclamation declaring a fiscal emergency pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution, then no cost-of-living adjustment or rate increase funded in the annual Budget Act for that fiscal year shall take effect until the Legislature passes and sends to the Governor a bill or bills to address the fiscal emergency.

(B) Commencing with the 2009–10 fiscal year, the annual Budget Act shall include a section specifying the cost-of-living adjustments or rate increases included in the Budget Act or authorized by other statutes which may be suspended pursuant to this paragraph.

(d) The Director of Finance shall report to the Chair of the Joint Legislative Budget Committee and the chairs of the committees of each house of the Legislature that consider appropriations not less than 30 days prior to making reductions pursuant to this section. The report shall list the specific reductions, by department, agency, and program, and state the programmatic effects and impacts of each reduction.

(e) Cost-of-living adjustments for purposes of this section shall not include any apportionments made to fund a cost-of-living adjustment to augment appropriations made pursuant to Section 2558 of the Education Code, for county office of education revenue limits, or Section 42238 of the Education Code, for school district revenue limits.

(f) Nothing within this section shall be construed to confer any authority upon the Director of Finance to modify or eliminate any provision of existing law.

SEC. 34. Section 13332.02 of the Government Code is amended to read:

13332.02. All funds recovered from the federal government to offset statewide indirect costs shall be transferred to the Central Service Cost Recovery Fund or to the unappropriated surplus of the General Fund in a manner prescribed by the Department of Finance, unless expenditure of the funds is authorized by the Department of Finance. No authorization may become effective sooner than 30 days after notification in writing of the

the Pooled Money Investment Account rate, with interest commencing to accrue on the date the loan is made from the fund. This subdivision does not authorize any transfer that would interfere with the carrying out of the object for which these funds were created.

SEC. 74. Section 6 of Chapter 213 of the Statutes of 2000, as amended by Section 52 of Chapter 228 of the Statutes of 2003, is amended to read:

Sec. 6. The following sums are hereby appropriated from the General Fund to be allocated according to the following schedule:

(a) (1) Five million dollars (\$5,000,000) to California Volunteers, on an annual basis, for the purpose of funding grants to local and state operated Americorps and Conservation Corps programs, up to 5 percent of which may be used for state level administration costs.

(2) This subdivision shall be inoperative from July 1, 2008, to June 30, 2010, inclusive.

(b) (1) Two million five hundred thousand dollars (\$2,500,000) to California Volunteers, on an annual basis, for the purpose of funding grants to local and state operated Americorps and Conservation Corps programs, up to 5 percent of which may be used for state level administration costs.

(2) This subdivision shall be inoperative after June 30, 2010.

(c) One million dollars (\$1,000,000) to the Superintendent of Public Instruction for the purpose of developing or revising, as needed, a model curriculum on the life and work of Cesar Chavez and distributing that curriculum to each school.

SEC. 75. Notwithstanding any other provision of law, the Commission on State Mandates, upon final resolution of any pending litigation challenging the constitutionality of subdivision (f) of Section 17556 of the Government Code, shall reconsider its test claim statement of decision in CSM-4509 on the Sexually Violent Predator Program to determine whether Chapters 762 and 763 of the Statutes of 1995 and Chapter 4 of the Statutes of 1996 constitute a reimbursable mandate under Section 6 of Article XIII B of the California Constitution in light of ballot measures approved by the state's voters, federal and state statutes enacted, and federal and state court decisions rendered since these statutes were enacted. The commission shall, if necessary, issue a statewide cost estimate and revise its parameters and guidelines in CSM-4509 to be consistent with this reconsideration and shall, if practicable, include a reasonable reimbursement methodology as defined in Section 17518.5 of the Government Code. If the parameters and guidelines are revised, the Controller shall revise the appropriate claiming instructions to be consistent with the revised parameters and guidelines. Any changes by the commission to the original statement of decision in CSM-4509 shall be deemed effective on July 1, 2009.

SEC. 76. Section 33 of this act, adding Section 13312 to the Government Code, shall only become operative if either a Senate Constitutional Amendment or an Assembly Constitutional Amendment of the 2007-08 Regular Session that amends Section 12 of Article IV and Section 20 of Article XVI of, and adds Section 21 to Article XVI of, the California

Constitution, is submitted to, and approved by, the voters at a statewide election.

SEC. 77. The Legislature hereby finds and declares that the amendments made by this act to Section 76104.6 of the Government Code furthers the DNA Fingerprint, Unresolved Crime and Innocence Protection Act enacted by the approval of Proposition 69 at the November 3, 2004, general election, and is consistent with its purposes.

SEC. 78. The Legislature hereby finds and declares that the amendments made by Section 72 of this act to Section 30131.4 of the Revenue and Taxation Code furthers the California Children and Families First Act of 1998 enacted by the approval of Proposition 10 at the November 3, 1998, general election, and is consistent with its purposes.

SEC. 79. The Legislature hereby finds and declares that the amendments made by Section 73 of this act to Section 5891 of the Welfare and Institutions Code furthers the Mental Health Services Act enacted by the approval of Proposition 63 at the November 2, 2004, general election, and is consistent with its purposes.

SEC. 80. In addition to the appropriations described in Sections 22954, 22954.5, and 22955 of the Education Code, it is the intent of the Legislature to appropriate in the Budget Act of 2009 a total of up to three million dollars (\$3,000,000) to augment state appropriations that were transferred to the Teachers' Retirement Fund pursuant to Sections 22954 and 22955 in prior fiscal years. It is the intent of the Legislature that an appropriation in the 2009–10 fiscal year will provide contributions to the system related to creditable compensation in the 2005–06 and 2006–07 fiscal years that was reported by the system to the Department of Finance prior to passage of this act, but which was not reported by the system to the Department of Finance in a timely fashion after the end of those fiscal years, and that, accordingly, will not have resulted in a transfer from the General Fund to the Teachers' Retirement Fund prior to July 1, 2009.

SEC. 81. It is the intent of the Legislature that Sections 4 to 17, inclusive, and Section 80 of this act constitute a comprehensive package of modifications to appropriations for, and benefits of, the State Teachers' Retirement System. It is the intent of the Legislature that this comprehensive package of modifications provides members of the State Teachers' Retirement System with comparable new advantages for members of the system in accordance with the standard articulated in *Allen v. Long Beach* (1955) 45 Cal. 2d 128. Accordingly, the Legislature finds and declares that Sections 5, 6, 9, 10, 13, 14, 15, 16, and 80 of this act would not have been enacted except for their inclusion as part of this comprehensive package, and, therefore, it is the intent of the Legislature that these sections of the act not be interpreted as separable from one another.

SEC. 82. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

PROPOSITION

1A**STATE BUDGET. CHANGES CALIFORNIA
BUDGET PROCESS.
LIMITS STATE SPENDING. INCREASES "RAINY
DAY" BUDGET STABILIZATION FUND.**

ANALYSIS BY THE LEGISLATIVE ANALYST

OVERVIEW OF THE PROPOSAL

Measure Changes the State's Budgeting. This measure would make major changes to the way in which the state sets aside money in one of its "rainy day" reserve accounts and how this money is spent. As a result, Proposition 1A could have significant impacts on the state's budgeting practices in the future. The measure would tend to increase the amount of money set aside in the state's rainy day account by increasing how much money is put into this account and restricting the withdrawal of these funds.

Measure Results in Tax Increases. If this measure is approved, several tax increases passed as part of the February 2009 budget package would be extended by one to two years. State tax revenues would increase by about \$16 billion from 2010-11 through 2012-13.

BACKGROUND**Restrictions On Annual State Budget**

Currently, the State Constitution has two main provisions related to the state's overall level of spending:

- ***Spending Limit.*** There is a limit on the amount of tax revenues that the state can spend each year. In recent years, however, the limit has been well above the state's level of spending and has not been a factor in budgeting decisions.
- ***Balanced Budget.*** In March 2004, the state's voters passed Proposition 58. Among other changes, the measure requires that the Legislature pass a balanced budget each year.

Outside of these requirements, the Legislature and Governor are generally able to decide how much General Fund money to spend in a given year.

Rainy Day Reserve Funds

When the state passes its annual budget, it estimates the amount of revenues that it expects to receive in the upcoming year. Typically, the state sets aside a portion of these revenues into one of two rainy day reserve funds. Money in these reserves is set aside to pay for unexpected

expenses, cover any drops in tax receipts, or save for future years. The two funds are described below.

- **Special Fund for Economic Uncertainties (SFEU).** The SFEU is the state's traditional reserve fund. Funds can be spent for any purpose with approval by the Legislature. Any unexpected monies received during a year are automatically deposited into the SFEU.
- **Budget Stabilization Account/Budget Stabilization Fund (BSA/BSF).** The state's voters created the BSA/BSF through the passage of Proposition 58 in 2004. (Under current law, this reserve is known as the BSA. Proposition 1A would rename it the BSF. For simplicity, we refer to the reserve as the BSF throughout this analysis.) Each year, 3 percent of estimated General Fund state revenues are transferred into the BSF. The Governor, however, can stop the transfer in any year by issuing an executive order. For instance, the transfer this year was stopped due to the state's budget problems. Similarly, it is expected that the transfers will be suspended over the next few years as the state continues to face budget problems. In addition, the annual transfers are not made once the balance of the BSF reaches a specified "target"—the higher amount of \$8 billion or 5 percent of revenues (currently about \$5 billion). By passing a law, the state can transfer funds out of the BSF and use the funds for any purpose. (Currently, this is accomplished through the annual budget act, which allows transfers out of the BSF each year.)

Economic Recovery Bonds (ERBs). In 2004, the state's voters passed Proposition 57, which allowed the state to issue \$15 billion in ERBs. These bonds were used to pay off budgetary debt that had accumulated in the early part of this decade. A portion of the sales and use tax (SUT) is the primary mechanism to pay off the ERBs. However, one-half of the funds deposited into the BSF—up to a total of \$5 billion—are used to make extra payments on the ERBs to pay them off faster. To date, \$1.5 billion in BSF funds have been used in this manner.

Authority To Reduce Spending

Once the annual budget has been approved by the Legislature and the Governor, the Governor has only limited authority to reduce spending during the year without legislative approval.

Recent Tax Increases

As discussed in the "Overview of the State Budget" section of this guide, the Legislature and Governor passed a plan in February 2009 to balance the state's 2008–09 and 2009–10 budgets. The plan included a number of tax increases that are scheduled to remain in effect for about two years

(unless the voters approve this measure). Specifically:

- **Sales and Use Tax.** The SUT is charged on the purchase of goods. The budget package raised the tax by one cent for every dollar of goods purchased. This raised the average SUT rate in the state from about 8 percent to 9 percent through 2010–11.
- **Vehicle License Fee (VLF).** The VLF is based on the value of a vehicle and is paid annually as part of an owner's registration. The budget package raised the tax rate from 0.65 percent to 1.15 percent of a vehicle's value through 2010–11.
- **Personal Income Tax (PIT).** The PIT is based on an individual's income. Tax rates range from 1 percent to 10.3 percent depending on a taxpayer's income. Higher tax rates are charged as income increases. Numerous exemptions and credits may be applied to an individual's income to lower the amount of the tax owed. The budget package raises each tax rate by a 0.25 percentage point. (This rate increase will be reduced by one-half if it is determined by April 1, 2009 that the state will receive a certain level of federal funds to help balance the state budget.) For instance, the 9.3 percent tax rate was raised to 9.55 percent. The package also reduces the value of the credit for having a dependent (such as a child) by about \$210. These changes would affect the 2009 and 2010 tax years.

PROPOSAL

This measure amends the Constitution to change the state's budgeting practices. Based on other components of the 2009–10 budget package, passage of this measure would also give the Governor more authority to cut spending and would extend recent tax increases by up to two years.

USE OF EXTRA REVENUES IN CERTAIN YEARS

Proposition 1A establishes a process to determine which revenues are "unanticipated." The measure generally defines unanticipated revenues to mean those that exceed the amount expected based on the revenues received by the state over the past ten years. The ten-year trend would be adjusted to exclude the impact of shorter-term tax changes. (In other cases, unanticipated revenues could be defined as any revenues above the amount needed to pay for spending equal to the prior year's level of spending grown for changes in population and inflation.) Beginning in 2010–11, any extra revenues would be directed to the following purposes (in priority order):

- Meet funding obligations under the Constitution for K–14 education not already paid. (An existing formula established by Proposition 98 determines how much of higher revenues go to education.)
- Transfer to the BSF to fill the reserve up to its target.

- Pay off any budgetary borrowing and debt, such as certain loans and ERBs.

Once all of these types of payments were made, any other extra revenues could be spent on a variety of purposes, including further building up of the BSF, paying for infrastructure (such as constructing roads, schools, or state buildings), providing one-time tax relief, or paying off unfunded health care liabilities for state employees.

Revenues Into the BSF

Increased Reserve Target. This measure increases the amount of the BSF reserve target to 12.5 percent of state revenues. This percentage is currently equal to about \$12 billion, but would grow over time. This compares to the existing target of the higher of \$8 billion or 5 percent of revenues.

Suspension of Transfers More Restricted. Under the measure, the circumstances in which the Governor may stop a transfer to the BSF would be limited. Beginning in the 2011–12 fiscal year, the Governor could only stop the BSF transfer in years when the state did not have enough revenues to pay for state spending equal to the prior year's level of spending grown for changes in population and inflation.

Extra Revenues to Reserve in Certain Years. As noted above, one of the priorities for extra revenues would be to build up the BSF.

Spending Out Of The BSF

New Spending Requirements. As described above, funds in the BSF currently can be transferred out of the fund to the General Fund for spending for any purpose through the passage of a law. Under this measure, some revenues in the BSF would be spent on particular purposes:

- **Increased Education Spending, if Proposition 1B Passes.** If both Proposition 1A and Proposition 1B on this ballot pass, the state would be required to pay K–12 schools and community colleges \$9.3 billion in supplemental funds to address recent funding reductions. This measure establishes the way in which these payments would be made. Each year beginning in 2011–12, 1.5 percent of state revenues (currently about \$1.5 billion) would be taken from the BSF and paid to schools and colleges until the entire \$9.3 billion was paid. Regardless of the state's financial situation, these payments could not be suspended by the Governor. As a result, at least 1.5 percent of General Fund revenues would be transferred into the BSF every year until the entire amount was paid.

- **Spending on Infrastructure and State Bond Debt.** After the \$9.3 billion in educational payments were made (or if Proposition 1B does not pass), 1.5 percent of state revenues each year would be dedicated to paying for infrastructure or state bond debt. These payments could be used to reduce obligations that would otherwise fall on the General Fund.

Smaller Payments to Pay Off ERBs. Under current law, one-half of transfers into the BSF—up to \$5 billion total—is used to make extra ERB payments. This measure excludes the supplemental education funding transfers from this calculation. In years when transfers are made into the BSF (assuming Proposition 1B passes), therefore, the extra ERB payments would be smaller than otherwise.

Limits on Other Withdrawals. The ability of the state to transfer funds out of the BSF for other purposes would be significantly limited under the measure. Specifically, transfers out of the BSF would be limited to the following two situations:

- Funds in the BSF could be used to cover any costs associated with an emergency, such as a fire, earthquake, or flood.
- If revenues were not high enough to cover state spending equal to the prior year's level of expenses (grown for population and inflation), then BSF funds could be used to meet that level of spending.

Governor's Authority To Reduce Spending

If Proposition 1A passes, the Governor would be given new authority to reduce certain types of spending during a fiscal year without additional legislative approval. (This authority is included in a part of a new law that will only go into effect if Proposition 1A passes.) Specifically, the Governor could reduce:

- Many types of spending for general state operations (such as equipment purchases) or capital outlay by up to 7 percent.
- Cost-of-living adjustments (COLAs)— provided to account for inflation—for any programs specified in the annual budget. This would not apply to any increases for most state employees' salaries.

Tax Increases Extended

If Proposition 1A passes, the tax increases included in the February 2009 budget package would be extended for one or two additional years. (The extensions of the tax increases are included in a part of a law that will only go into effect if Proposition 1A passes.) The SUT increase of 1 cent would be extended for one year through 2011–12. The VLF tax increase

would be extended for two years through 2012–13. The PIT-related tax increases would also be extended for two more years, through the 2012 tax year.

FISCAL EFFECTS

Uncertainty About The Effect Of The Measure

The fiscal effects of Proposition 1A are particularly difficult to assess. This is because the measure's effects would depend on a variety of factors that will change over time and cannot be accurately predicted. Consequently, the measure's effects may be very different from one year to the next. The key factors determining the impact of Proposition 1A in any given year are:

- **Future Budget Decisions by the Legislature and Governor.** Key decisions made on the annual budget include the total level of spending and the mix of spending between one-time and ongoing purposes. These decisions would affect the state's fiscal condition and how much money is deposited or withdrawn from the BSF in a given year.
- **Revenue Trends and Volatility.** The level of revenues available for spending in a given year would depend on the previous ten years of revenue growth. The state's revenues are very volatile and can have big swings from year to year. Using the trend from ten years of revenues would reduce—but not eliminate—year-to-year changes.

Despite this uncertainty, we describe the more likely outcomes of the measure below—focusing first on nearer-term effects and then on a longer-term outlook.

Nearer-Term Budgets

Proposition 1A would have major effects on the state budget over the next few years. Although Proposition 1A was passed as part of the package to balance the 2009–10 budget, it would not significantly affect this year's budget. Most of its provisions go into effect starting with the 2010–11 budget or later, as described below.

Increased Tax Revenues. If Proposition 1A is approved, tax increases adopted as part of the 2009–10 budget package would be extended by one to two years. In total, this extension of higher taxes is projected to increase revenues by a total of roughly \$16 billion from 2010–11 through 2012–13. (This total would be about \$2.5 billion lower if a certain level of federal stimulus funds is available to the state.)

Governor's Ability to Reduce Some Spending. Effective upon passage

of this measure, the Governor would have new authority to unilaterally reduce some spending for state operations and capital outlay and eliminate some COLAs. This authority could potentially be used to reduce spending within a fiscal year if the budget goes out of balance after it is passed.

Higher Payments to Education. If Proposition 1B also passes, the state would divert 1.5 percent of annual General Fund revenues beginning in 2011–12 to make supplemental payments for education. These payments would be made until a total of \$9.3 billion had been spent, likely in five or six years. These payments could not be suspended. The fiscal effect of these payments is discussed in more detail in the analysis of Proposition 1B.

Altered Pay Off of ERBs. As described above, this measure could alter the speed at which the state pays off its outstanding ERBs (bonds related to prior budgetary debt). In years when the only transfers made into the BSF were the base 3 percent of revenues (and assuming Proposition 1B also passes), the measure would reduce the amount of the extra ERB payments made from the BSF by one-half (reducing state costs in that year by more than \$700 million). On the other hand, to the extent that additional transfers to the BSF were made related to unanticipated revenues, extra BSF payments to ERBs could be made compared to current law. These changes would affect the timing of the final payoff of the ERBs. Once the ERBs are paid off, the state would experience reduced General Fund costs on an annual basis.

Limited Ability to Suspend BSF Transfers. Under current law, the Governor may suspend BSF transfers in any year and, therefore, allow 3 percent of revenues to be available to help balance a budget immediately. In contrast, beginning in 2011–12 (if Proposition 1B also passes), this measure would eliminate the ability to suspend one-half of the transfer related to supplemental educational payments. For the remaining amount of the transfer, the transfer could only be suspended in more restricted cases.

Transfer of Extra Revenues to BSF. Beginning in 2010–11, this measure would require transfers of General Fund revenues into the BSF of amounts that exceed the ten-year revenue trend. It is difficult to predict what this calculation would require in future years. It is possible, however, that this provision would require billions of dollars in the next few years to be transferred to the BSF.

Net Result of These Factors. Some of these factors—such as the higher tax revenues—would make it easier to balance the state budget in the coming years. Other factors—such as the limited ability to suspend the annual transfers to the BSF—could make it more difficult. The net result of

these factors is difficult to determine in any particular year. In 2011–12, the size of the tax increases connected to this measure would likely make that year’s budget easier to balance. In other years, however, the effect of the measure on the ability of the state to balance the budget is unknown.

Longer-Term Outlook

As described above, this measure has a number of effects that would last for less than a decade—including higher taxes, supplemental payments to education, and altered payoff of the ERBs. Once these effects have run their course, Proposition 1A could continue to have a substantial effect on the state’s budgeting practices. In this section, we describe the possible long-term effects of this measure.

Restrictions on Revenues and Spending. In any given year, Proposition 1A does not strictly limit the amount of revenues that could be collected by the state or the amount of spending that could occur. The measure does not restrict the ability of the Legislature and the Governor to approve tax increases to collect on top of existing revenues. Regarding spending, while the measure could make it harder to approve spending increases in some years by restricting the access to revenues, it would not cap the total level of spending that could be authorized in any year if alternative revenues were approved.

More Money in the BSF. In some years, the measure could lower the amount of money in the BSF rainy day reserve by allowing 1.5 percent of General Fund revenues to be spent on infrastructure. In many other cases, however, the measure would increase the amount of money in the state’s BSF rainy day reserve by:

- Restricting the ability of the Governor to stop the annual transfer into the reserve.
- Restricting the purposes for which funds can be taken out.
- Requiring revenues above a decade-long trend to be deposited into the fund.
- Raising the target cap on funds in the BSF (from 5 percent or \$8 billion) to 12.5 percent of revenues.

On net, we expect that the balance of the BSF would be greater than under current law in many future years. The net amount of additional money in the BSF would depend on a number of factors, including future budgeting decisions by the Legislature and Governor and the rate and volatility of revenue growth.

Effect on State Budgeting. The precise effect of having more rainy day funds is unknown. However, it could lead to the following primary types of results:

- **Revenues Determined by Prior Ten Years.** Currently, the state's revenues available for spending in a year is determined by the state's economic condition at that point in time. A poor economy means less revenues, and a booming economy means extra revenues. Under the measure, however, revenues available generally would be based on the past decade. As a result, the amount of revenues available may no longer reflect the state's economy at that time.
- **Smoother State Spending.** The level of state spending would be reduced to the extent the BSF was built up to a higher level than would exist under current law. These funds would then be available in later years when revenues fell short. This could help cushion the level of spending reductions in lower-revenue years. Over time, this measure could help limit the ups and downs of state spending and smooth out spending from year to year.
- **Changes in Types of Spending.** The state would spend money on different types of programs than otherwise would be the case. The measure, for example, could increase spending on a variety of one-time activities—such as repaying budgetary borrowing and debt, infrastructure projects, and temporary tax relief. In some cases, this would mean less money was available to spend on ongoing spending increases.

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The Core Legislative History of

California
Statutes of 1955, Chapter 1787
Assembly Bill 1464 – Fleury



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Authentication of the Records and Table of Contents

Core Legislative History Research Report Regarding: California Statutes of 1955, Chapter 1787, Assembly Bill 1464 – Fleury

I, Lisa Hampton, declare that this report includes:

- *Historical documents surrounding the adoption of the above enactment.* These documents were obtained by the staff of Legislative Research, Incorporated and are true and correct copies of the originals obtained from the designated official, public sources in California unless another source is indicated, with the following exceptions: In some cases, pages may have been reduced in size to fit an 8 ½” x 11” sized paper. Or, for readability purposes, pages may have been enlarged or cleansed of black marks or spots. Lastly, paging and relevant identification have been inserted.

Legislative Research, Incorporated was established in 1983 (formerly Legislative Research Institute), and is a firm which specializes in the historical research surrounding the adoption, amendment and/or repeal of California statutes, regulations and constitutional provisions pursuant to California Code of Civil Procedure § 1859 which states in pertinent part: "In the construction of a statute the intention of the Legislature ... is to be pursued, if possible" Legislative Research, Incorporated has been cited by name as the source of records relied upon by the court in *Redlands Community Hospital v. New England Mutual Life Insurance Co*, 23 Cal. App.4th 899 at 906 (1994).

- *A table of contents itemizing the documents.* This table of contents cites the sources of the documents.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct and that I could and would so testify in a court of law if called to be a witness.

Executed June 22, 2009, in Sacramento, California.

Lisa Hampton, Research Director



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General Enactment History

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ASSEMBLY BILL

No. 1464

Introduced by Mr. Fleury

January 15, 1955

REFERRED TO COMMITTEE ON CIVIL SERVICE AND STATE PERSONNEL

An act to amend Sections 18020 and 18021 of the Government Code, relating to overtime in the state service.

The people of the State of California do enact as follows:

1 SECTION 1. Section 18020 of the Government Code is
2 amended to read:

3 18020. The State Personnel Board shall establish the work
4 week for each position or class in the state service for which a
5 monthly or annual salary range is fixed, whether or not the
6 position or class is subject to state civil service, by allocating,
7 and reallocating as the needs of the service require, each class
8 or position to one of the following groups:

9 (1) Classes and positions with a work week of 40 hours.

10 (2) Classes and positions with a work week of 44 hours.

11 (3) Classes and positions with a work week of 48 hours.

12 (4) Classes and positions with ~~unusual~~ conditions or hours
13 of work requiring the establishment by the Personnel Board of
14 special provisions governing hours of work or methods of com-
15 pensation for overtime.

16 SEC. 2. Section 18021 of the Government Code is amended
17 to read:

18 18021. It is the policy of the State to avoid the necessity for
19 overtime work whenever possible. This policy does not restrict
20 the extension of regular working hour schedules on an over-
21 time basis in those activities and agencies where such is neces-
22 sary to carry on state business properly during a manpower
23 shortage. Salaried employees whose classes or positions are
24 allocated by the board to work week groups 1, 2, or 3, as de-
25 fined in Section 18020 shall, if required and ordered to work
26 in excess of the hours prescribed for the group, receive over-
27 time compensation for all such overtime work. The board may

1 provide by rule that such compensation may not be provided
2 unless the overtime work is specifically authorized by the ap-
3 pointing power in advance, except in critical emergencies. The
4 rate of overtime shall be based on the regular rate of pay,
5 except that for employees whose classes or positions are allo-
6 cated by the board to work week group 4 the rate of overtime
7 compensation may be established by the board at less than the
8 regular rate of pay *taking into consideration the prevailing*
9 *practices for comparable services in other public employment*
10 *and in private business* and it may vary within classes depend-
11 ing upon the unusual conditions of work.

0

AMENDED IN ASSEMBLY MAY 18, 1955

CALIFORNIA LEGISLATURE—1955 REGULAR SESSION

ASSEMBLY BILL

No. 1464

Introduced by Mr. Fleury

January 15, 1955

REFERRED TO COMMITTEE ON CIVIL SERVICE AND STATE PERSONNEL

An act to amend Sections 18020 and 18021 of, AND TO ADD SECTION 18021.5 TO, the Government Code, relating to overtime in the state service.

The people of the State of California do enact as follows:

1 SECTION 1. Section 18020 of the Government Code is
2 amended to read:

3 18020. The State Personnel Board shall establish the work-
4 week for each position or class in the state service for which a
5 monthly or annual salary range is fixed, whether or not the
6 position or class is subject to state civil service, by allocating,
7 and reallocating as the needs of the service require, each class
8 or position to one of the following groups:

9 (1) Classes and positions with a work week of 40 hours.
10 (2) Classes and positions with a work week of 44 hours.
11 (3) Classes and positions with a work week of 48 hours.
12 (4) Classes and positions with conditions or hours of work
13 requiring the establishment by the Personnel Board of special
14 provisions governing hours of work or methods of compensa-
15 tion for overtime.

16 18020. *It is the policy of the State that the work week of*
17 *the state employee shall be 40 hours, except that work weeks*
18 *of a different number of hours may be established in order to*
19 *meet the varying needs of the different state agencies. It is*
20 *the policy of the State to avoid the necessity for overtime work*
21 *whenever possible. This policy does not restrict the extension*
22 *of regular working hour schedules on an overtime basis in*

1 *those activities and agencies where such is necessary to carry*
2 *on the state business properly during a manpower shortage.*

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6 overtime work whenever possible. This policy does not restrict
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11 allocated by the board to work week groups 1, 2, or 3, as de-
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13 in excess of the hours prescribed for the group, receive over-
14 time compensation for all such overtime work. The board may
15 provide by rule that such compensation may not be provided
16 unless the overtime work is specifically authorized by the ap-
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18 rate of overtime shall be based on the regular rate of pay,
19 except that for employees whose classes or positions are allo-
20 cated by the board to work week group 4 the rate of overtime
21 compensation may be established by the board at less than the
22 regular rate of pay taking into consideration the prevailing
23 practices for comparable services in other public employment
24 and in private business and it may vary within classes depend-
25 ing upon the unusual conditions of work.

26 18021. For each class or position for which the State Per-
27 sonnel Board establishes a monthly or annual salary, the board
28 shall establish and adjust work week groups and shall assign
29 each class or position to a work week group. The State Person-
30 nel Board, after considering the needs of the state service and
31 prevailing overtime compensation practices, may establish work
32 week groups of different lengths or of the same length but re-
33 quiring different methods of recognizing or providing compen-
34 sation for overtime.

35 SEC. 3. Section 18021.5 of the Government Code is added,
36 to read:

37 18021.5. The State Personnel Board shall determine the
38 extent to which, and establish the method by which, ordered
39 overtime or overtime in times of critical emergency is compen-
40 sated. The board may provide for cash compensation at a rate,
41 equal to or less than the regular rate of pay, and the rate may
42 vary within a class depending upon the conditions of work, or
43 the board may provide for compensating time off. Such pro-
44 visions shall take into consideration the practices of private
45 industry and other public employment, the needs of state serv-
46 ice, and internal relationships.

AMENDED IN SENATE JUNE 6, 1955
AMENDED IN ASSEMBLY MAY 18, 1955

CALIFORNIA LEGISLATURE—1955 REGULAR SESSION

ASSEMBLY BILL

No. 1464

Introduced by Mr. Fleury

January 15, 1955

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4 the state employee shall be 40 hours, except that work weeks
5 of a different number of hours may be established in order to
6 meet the varying needs of the different state agencies. It is
7 the policy of the State to avoid the necessity for overtime work
8 whenever possible. This policy does not restrict the extension
9 of regular working hour schedules on an overtime basis in
10 those activities and agencies where such is necessary to carry
11 on the state business properly during a manpower shortage.

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4 *vide* the extent to which, and establish the method by which,
5 ordered overtime or overtime in times of critical emergency is
6 compensated. The board may provide for cash compensation at
7 a rate equal to or less than the regular rate of pay, and the
8 rate may vary within a class depending upon the conditions of
9 work, or the board may provide for compensating time off.
10 ~~Such provisions shall take into consideration~~ *The provisions*
11 *made under this section shall be based on* the practices of pri-
12 vate industry and other public employment, the needs of state
13 service, and internal relationships.

VOLUME 2

STATUTES OF CALIFORNIA

1954 AND 1955

CONSTITUTION OF 1879 AS AMENDED
MEASURES SUBMITTED TO VOTE OF ELECTORS,
1954 GENERAL ELECTION

GENERAL LAWS, AMENDMENTS TO CODES,
RESOLUTIONS, AND CONSTITUTIONAL
AMENDMENTS

PASSED AT

THE 1954 REGULAR SESSION OF
THE LEGISLATURE

THE 1954 FIRST EXTRAORDINARY SESSION
OF THE LEGISLATURE

AND THE

1955 REGULAR SESSION OF THE LEGISLATURE



the request of such employee shall defend said suit on behalf of such employee. If there is a settlement or judgment in the suit the State shall pay the same; provided, that no settlement shall be effected without the consent of the officer or employee. The settlement of such claims or judgments shall be limited to those arising from acts of such officers and employees of the State in the performance of their duties on the grounds of state institutions or facilities or by reason of emergency aid given to inmates, state officials, employees, and to members of the public for accidents occurring on such grounds.

CHAPTER 1786

An act to amend Section 6363, Business and Professions Code, relating to retirement of officers and employees of law libraries.

[Approved by Governor July 7, 1955. Filed with
Secretary of State July 8, 1955.]

In effect
September
7, 1955

The people of the State of California do enact as follows:

SECTION 1. Section 6363 of the Business and Professions Code is amended to read:

6363. Whenever a law library, and a board of trustees to govern the same, is in existence under the provisions of any law, other than the law superseded by this chapter, in any county, or city and county, in this State, this chapter shall not be considered a repeal of any legislation under which such library was established and is now governed, but shall be deemed to confer upon such library the benefits of Sections 6321, 6322, 6322.1, 6326, 6341, 6345, 6346, 6346.5, and 6347.

CHAPTER 1787

An act to amend Sections 18020 and 18021 of, and to add Section 18021.5 to, the Government Code, relating to overtime in the state service.

[Approved by Governor July 7, 1955. Filed with
Secretary of State July 8, 1955.]

In effect
September
7, 1955

The people of the State of California do enact as follows:

SECTION 1. Section 18020 of the Government Code is amended to read:

18020. It is the policy of the State that the workweek of the state employee shall be 40 hours, except that workweeks of a different number of hours may be established in order to

meet the varying needs of the different state agencies. It is the policy of the State to avoid the necessity for overtime work whenever possible. This policy does not restrict the extension of regular working hour schedules on an overtime basis in those activities and agencies where such is necessary to carry on the state business properly during a manpower shortage.

SEC. 2. Section 18021 of the Government Code is amended to read:

18021. For each class or position for which the State Personnel Board establishes a monthly or annual salary, the board shall establish and adjust workweek groups and shall assign each class or position to a workweek group. The State Personnel Board, after considering the needs of the state service and prevailing overtime compensation practices, may establish workweek groups of different lengths or of the same length but requiring different methods of recognizing or providing compensation for overtime.

SEC. 3. Section 18021.5 of the Government Code is added, to read:

18021.5. The State Personnel Board shall provide the extent to which, and establish the method by which, ordered overtime or overtime in times of critical emergency is compensated. The board may provide for cash compensation at a rate equal to or less than the regular rate of pay, and the rate may vary within a class depending upon the conditions of work, or the board may provide for compensating time off. The provisions made under this section shall be based on the practices of private industry and other public employment, the needs of state service, and internal relationships.

CHAPTER 1788

An act to amend Section 50705 of the Water Code, relating to reclamation districts.

In effect
September
7, 1955

[Approved by Governor July 7, 1955. Filed with
Secretary of State July 8, 1955]

The people of the State of California do enact as follows:

SECTION 1. Section 50705 of the Water Code is amended to read:

50705. The polls shall be kept open from 10 a.m. of the day of election until 4 p.m. Where the real property in the district is assessed to 500 or more different individual, joint, or corporate owners, the board may elect to keep the polls open from 7 a.m. of the day of election until 7 p.m. and in such event shall include such time of polling in the notice as provided in Section 50732.



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The Core Legislative History of

California
Statutes of 1974, Chapter 1368
Assembly Bill 3436 – Z'berg



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Authentication of the Records and Table of Contents

Core Legislative History Research Report Regarding:
California Statutes of 1974, Chapter 1368, Assembly Bill 3436 – Z'berg

I, Lisa Hampton, declare that this report includes:

- *Historical documents surrounding the adoption of the above enactment.* These documents were obtained by the staff of Legislative Research, Incorporated and are true and correct copies of the originals obtained from the designated official, public sources in California unless another source is indicated, with the following exceptions: In some cases, pages may have been reduced in size to fit an 8 ½" x 11" sized paper. Or, for readability purposes, pages may have been enlarged or cleansed of black marks or spots. Lastly, paging and relevant identification have been inserted.

Legislative Research, Incorporated was established in 1983 (formerly Legislative Research Institute), and is a firm which specializes in the historical research surrounding the adoption, amendment and/or repeal of California statutes, regulations and constitutional provisions pursuant to California Code of Civil Procedure § 1859 which states in pertinent part: "In the construction of a statute the intention of the Legislature ... is to be pursued, if possible" Legislative Research, Incorporated has been cited by name as the source of records relied upon by the court in *Redlands Community Hospital v. New England Mutual Life Insurance Co*, 23 Cal. App.4th 899 at 906 (1994).

- *A table of contents itemizing the documents.* This table of contents cites the sources of the documents.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct and that I could and would so testify in a court of law if called to be a witness.

Executed June 23, 2009, in Sacramento, California.

Lisa Hampton, Research Director



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General Enactment History

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ASSEMBLY BILL

No. 3436

Introduced by Assemblymen Z'berg, Powers, and Leroy F.
Greene

March 18, 1974

REFERRED TO COMMITTEE ON EMPLOYMENT AND PUBLIC EMPLOYEES

An act to amend Sections 18020 and 18021 of the Government Code, relating to overtime in the state service.

LEGISLATIVE COUNSEL'S DIGEST

AB 3436, as introduced, Z'berg (Emp. & P.E.). Overtime in state service.

Provides that it is state policy that the workday of state employees shall be 8 hours. Makes related changes.

Provides that the board may provide for payment of overtime in designated classes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 18020 of the Government Code is
- 2 amended to read:
- 3 18020. It is the policy of the state that the workweek
- 4 of the state employee shall be 40 hours, *and the workday*
- 5 *of state employees eight hours*, except that workweeks
- 6 *and workdays* of a different number of hours may be
- 7 established in order to meet the varying needs of the
- 8 different state agencies. It is the policy of the state to
- 9 avoid the necessity for overtime work whenever possible.

1 This policy does not restrict the extension of regular
2 working-hour schedules on an overtime basis in those
3 activities and agencies where such is necessary to carry
4 on the state business properly during a manpower
5 shortage.

6 SEC. 2. Section 18021 of the Government Code is
7 amended to read:

8 18021. For each class or position for which a monthly
9 or annual salary range is established by the State
10 Personnel Board or by the Department of Finance, the
11 board shall establish and adjust workweek groups and
12 shall assign each class or position to a workweek group.
13 The State Personnel Board, after considering the needs of
14 the state service and prevailing overtime compensation
15 practices, may establish workweek groups of different
16 lengths or of the same length but requiring different
17 methods of recognizing or providing compensation for
18 overtime. *The board may also provide for the payment of*
19 *overtime in designated classes for work performed after*
20 *the normal scheduled workday or normal scheduled*
21 *workweek.*

O

AMENDED IN SENATE JUNE 12, 1974

CALIFORNIA LEGISLATURE—1973-74 REGULAR SESSION

ASSEMBLY BILL

No. 3436

Introduced by Assemblymen Z'berg, Powers, and Leroy F.
Greene

March 18, 1974

REFERRED TO COMMITTEE ON EMPLOYMENT AND PUBLIC EMPLOYEES

An act to ADD SECTION 24201.5 TO THE EDUCATION CODE, AND TO amend Sections 18020 and 18021 of the Government Code, relating to overtime in the state service.

LEGISLATIVE COUNSEL'S DIGEST

AB 3436, as amended, Z'berg (Emp. & P.E.). Overtime in state service.

Provides that it is state policy that the workday of state employees shall be 8 hours. Makes related changes.

Provides that the ~~board~~ *State Personnel Board* may provide for payment of overtime in designated classes.

Specifically makes policy re workday and workweek applicable to employees of California State University and Colleges and authorize trustees to provide for payment of overtime in designated classes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1.~~ Section 18020 of the Government Code is
- 2 ~~SECTION 1.~~ Section 24201.5 is added to the Education

1 *Code, to read:*

2 *24201.5. It is the policy of the state that the workweek*
3 *of the employee of the California State University and*
4 *Colleges shall be 40 hours, and the workday of such*
5 *employees eight hours, except that workweeks and*
6 *workdays of a different number of hours may be*
7 *established in order to meet the varying needs of the*
8 *different campuses and facilities. It is the policy of the*
9 *state to avoid the necessity for overtime work whenever*
10 *possible.*

11 *This policy does not restrict the extension of regular*
12 *working-hour schedules on an overtime basis when such*
13 *action is necessary to carry on the business of the*
14 *California State University and Colleges properly during*
15 *a manpower shortage.*

16 *The trustees may provide for the payment of overtime*
17 *in designated classes for work performed after the*
18 *normal scheduled workday or normal scheduled*
19 *workweek, when such designation is appropriate to such*
20 *designated class.*

21 *SEC. 2. Section 18020 of the Government Code is*
22 *amended to read:*

23 *18020. It is the policy of the state that the workweek*
24 *of the state employee shall be 40 hours, and the workday*
25 *of state employees eight hours, except that workweeks*
26 *and workdays of a different number of hours may be*
27 *established in order to meet the varying needs of the*
28 *different state agencies. It is the policy of the state to*
29 *avoid the necessity for overtime work whenever possible.*
30 *This policy does not restrict the extension of regular*
31 *working-hour schedules on an overtime basis in those*
32 *activities and agencies where such is necessary to carry*
33 *on the state business properly during a manpower*
34 *shortage.*

35 ~~SEC. 2~~ *SEC. 3. Section 18021 of the Government*
36 *Code is amended to read:*

37 *18021. For each class or position for which a monthly*
38 *or annual salary range is established by the State*
39 *Personnel Board or by the Department of Finance, the*
40 *board shall establish and adjust workweek groups and*

1 shall assign each class or position to a workweek group.
2 The State Personnel Board, after considering the needs of
3 the state service and prevailing overtime compensation
4 practices, may establish workweek groups of different
5 lengths or of the same length but requiring different
6 methods of recognizing or providing compensation for
7 overtime. The board may also provide for the payment of
8 overtime in designated classes for work performed after
9 the normal scheduled workday or normal scheduled
10 workweek.

O

Volume 2

STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

1974

Constitution of 1879 as Amended

Measures Submitted to Vote of Electors,
Special Election, June 4, 1974,
and General Election, November 5, 1974

General Laws, Amendments to the Codes, Resolutions,
and Constitutional Amendments passed by the
California Legislature

1973-74 Regular Session
and
1973-74 Second Extraordinary Session



Compiled by
GEORGE H. MURPHY
Legislative Counsel

80—3659

limited to a period of five years of such part-time status. The employer shall maintain the necessary records to separately identify each employee receiving credit pursuant to this section.

SEC. 5. It is the intent of the Legislature in enacting this act to provide certificated employees of school districts and academic employees of the California State University and Colleges with options for part-time employment to phase in their retirement program.

✓

CHAPTER 1368

An act to add Section 24201.5 to the Education Code, and to amend Sections 18020 and 18021 of the Government Code, relating to overtime in the state service.

[Approved by Governor September 26, 1974. Filed with Secretary of State September 26, 1974.]

The people of the State of California do enact as follows:

SECTION 1. Section 24201.5 is added to the Education Code, to read:

24201.5. It is the policy of the state that the workweek of the employee of the California State University and Colleges shall be 40 hours, and the workday of such employees eight hours, except that workweeks and workdays of a different number of hours may be established in order to meet the varying needs of the different campuses and facilities. It is the policy of the state to avoid the necessity for overtime work whenever possible.

This policy does not restrict the extension of regular working-hour schedules on an overtime basis when such action is necessary to carry on the business of the California State University and Colleges properly during a manpower shortage.

The trustees may provide for the payment of overtime in designated classes for work performed after the normal scheduled workday or normal scheduled workweek, when such designation is appropriate to such designated class.

SEC. 2. Section 18020 of the Government Code is amended to read:

18020. It is the policy of the state that the workweek of the state employee shall be 40 hours, and the workday of state employees eight hours, except that workweeks and workdays of a different number of hours may be established in order to meet the varying needs of the different state agencies. It is the policy of the state to avoid the necessity for overtime work whenever possible. This policy does not restrict the extension of regular working-hour schedules on an overtime basis in those activities and agencies where such is necessary to carry on the state business properly during a manpower

shortage.

SEC. 3. Section 18021 of the Government Code is amended to read:

18021. For each class or position for which a monthly or annual salary range is established by the State Personnel Board or by the Department of Finance, the board shall establish and adjust workweek groups and shall assign each class or position to a workweek group. The State Personnel Board, after considering the needs of the state service and prevailing overtime compensation practices, may establish workweek groups of different lengths or of the same length but requiring different methods of recognizing or providing compensation for overtime. The board may also provide for the payment of overtime in designated classes for work performed after the normal scheduled workday or normal scheduled workweek.

CHAPTER 1369

An act to amend Sections 396, 396b, 399, and 581 of, and to repeal Section 581b of, the Code of Civil Procedure, relating to venue.

[Approved by Governor September 26, 1974. Filed with Secretary of State September 26, 1974.]

The people of the State of California do enact as follows:

SECTION 1. Section 396 of the Code of Civil Procedure is amended to read:

396. If an action or proceeding is commenced in a court which lacks jurisdiction of the subject matter thereof, as determined by the complaint or petition, if there is a court of this state which has such jurisdiction, the action or proceeding shall not be dismissed (except as provided in Section 399, and subdivision 1 of Section 581) but shall, on the application of either party, or on the court's own motion, be transferred to a court having jurisdiction of the subject matter which may be agreed upon by the parties, or, if they do not agree, to a court having such jurisdiction which is designated by law as a proper court for the trial or determination thereof, and it shall thereupon be entered and prosecuted in the court to which it is transferred as if it had been commenced therein, all prior proceedings being saved. In any such case, if summons is served prior to the filing of the action or proceeding in the court to which it is transferred, as to any defendant, so served, who has not appeared in the action or proceeding, the time to answer or otherwise plead shall date from service upon such defendant of written notice of filing of such action or proceeding in the court to which it is transferred.

If an action or proceeding is commenced in or transferred to a court which has jurisdiction of the subject matter thereof as



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Assembly Policy Committee Materials

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ASSEMBLY COMMITTEE ON EMPLOYMENT AND PUBLIC EMPLOYEES

MARCH K. FONG, CHAIRMAN

BILL ANALYSIS

AB 3436 - Z'BERG

- SUBJECT: Overtime in State Service in excess of normal workday
- SPONSOR: California State Employees' Association
- SUMMARY: AB 3436 provides that overtime be paid when a state employee works in excess of his normal workday or in excess of his normal workweek. Flexibility is given the SPB to provide for different overtime policy for different classes of employees.
- BACKGROUND: Currently the State Personnel Board is authorized to pay overtime only when an employee works in excess of the normal work week of 40 hours. An employee may be required to work a workday in excess of "normal" but is not entitled to overtime if the employee's weekly total is less than or equal to "normal."
AB 3436 is identical to AB 1093 of the 1973 Legislative Session which passed both houses of the Legislature unanimously and was vetoed by the Governor.
- COMMENT:
- The State Personnel Board recognizes that prevailing practice in the private and public sectors provides for the payment of overtime on the basis of a daily and weekly work period.
 - Proponents argue that employees who are required to work overtime on a daily basis but who work only a "normal" work week as a result of compensating time-off suffer from disruption of car pools and of family life with no premium compensation. To provide overtime on a daily basis would discourage the use of overtime consonant with state policy and compensate a state employee for the disruption to his schedule.
 - A hearing conducted by the SPB in 1971 indicated that most state departments were in favor of the concept of AB 3436.

• Unless otherwise specified by SPB resolutions pursuant to Board rules 132 and 133, the rate of cash compensation paid for compensable overtime and compensating time off shall be time and one-half the hourly equivalent of the employee's monthly salary. Currently under SPB rules not all employees are eligible for overtime, classes exempt from overtime benefits include some of those supervisory and professional in nature.

FISCAL IMPACT:

No firm estimate is available, however the SPB believes that the costs will be negligible as the result of AB 3436.

POLICY/
CONSIDERATION:

Congress has passed S 2747, the Fair Labor Standards Act of 1974. This measure, which was signed by the President on April 8, 1974, included state and local employees. It is unclear what potential effect the Federal legislation may have on state employees concerning 40 hour week and minimum wage. Is AB 3436 consistent with the Fair Labor Standards Act of 1974?

SUPPORT/
OPPOSITION:

AB 3436 is supported by the State Personnel Board and the California State Employees' Association.

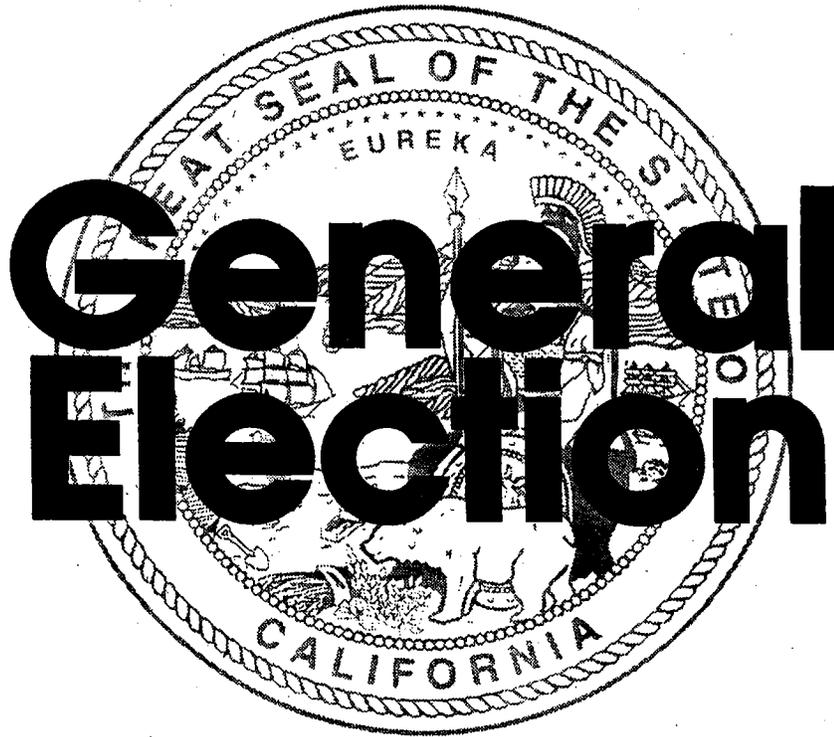
Carroll Reed

Hearing Date:
4/23/74

CLC

California

BALLOT PAMPHLET



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November 3, 1992

CERTIFICATE OF CORRECTNESS

I, March Fong Eu, Secretary of State of the State of California, do hereby certify that the foregoing measures will be submitted to the electors of the State of California at the GENERAL ELECTION to be held throughout the State on November 3, 1992, and that this pamphlet has been correctly prepared in accordance with law.



Witness my hand and the Great Seal of the State in Sacramento, California,
this 10th day of August 1992.

March Fong Eu

MARCH FONG EU
Secretary of State



Secretary of State

SACRAMENTO 95814

Dear Californians:

This is your California Ballot Pamphlet for the November 3, 1992, General Election. It contains the ballot title and a short summary provided by the Attorney General, the Legislative Analyst's analysis and an overview of the state bond debt, the pro and con arguments and rebuttals, and the complete texts for Propositions 155 through 167. It also contains the legislative votes cast for and against each measure proposed by the Legislature. Should any other measures be added to the ballot at a later date, materials relating to them will be sent in a supplemental ballot pamphlet. This election, at the suggestion of the California Commission on Campaign Financing, a private, non-profit organization, we are also including summary information regarding the measures. Statements from political parties about their philosophies and purposes are also included.

Many rights and responsibilities go along with citizenship. Voting is one of the most important, as it is the foundation on which our democratic system is built. Read carefully all of the measures and information about them contained in this pamphlet. Legislative propositions and citizen-sponsored initiatives are designed specifically to give you, the electorate, the opportunity to influence the laws which regulate us all.

Take advantage of this opportunity and exercise your rights by voting on November 3, 1992.

Please note that Proposition 155 is the first proposition for this election. To avoid confusion with past measures, the Legislature passed a law which requires propositions to be numbered consecutively starting with the next number after those used in the November 1982 General Election. This numbering scheme runs in twenty-year cycles.

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Official Title and Summary Prepared by the Attorney General

BUDGET PROCESS. WELFARE. PROCEDURAL AND SUBSTANTIVE CHANGES. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

- Amends Constitution to allow Governor to declare "fiscal emergency" when budget not adopted or deficit exceeds specified percentages. Grants Governor, with restrictions, powers to reduce expenditures to balance budget including state salaries but not education (Proposition 98).
- Amends statutes to eliminate or limit automatic cost of living adjustments in specified welfare programs.
- Reduces AFDC by 10%, then 15% after six months on aid. Limits aid for new residents. Provides teenage recipients school attendance incentives.
- Gives counties discretion to set general assistance.
- Implements as federal law permits. Other provisions.

Summary of Legislative Analyst's

Estimate of Net State and Local Government Fiscal Impact:

- Potential state savings, or costs of up to several hundred million or billions of dollars in some years, depending on the budget situation.
- Annual savings of about \$680 million to the state General Fund and \$35 million to counties, due to changes in the Aid to Families with Dependent Children (AFDC) Program. The savings are due primarily to grant reductions. Savings in years beyond 1993-94 could increase by an unknown, but potentially significant, amount, due to the effect of certain provisions.
- Potential annual savings beginning in 1996-97—up to several hundred million dollars to the state and several million dollars to counties—due to elimination of automatic cost of living adjustments in the AFDC Program and the Supplemental Security Income/State Supplementary Program (SSI/SSP).
- Unknown annual savings to counties—probably over \$75 million and potentially several hundred million dollars—due to payment limits and funding discretion in general assistance (GA) programs. These savings would be partly offset by additional GA costs of up to \$30 million annually, due to the effects of the measure's AFDC provisions.

Analysis by the Legislative Analyst

This measure makes significant changes in (1) the state's budget process and (2) public assistance programs. The proposed changes in these two areas are discussed separately below.

STATE BUDGET PROCESS

Background

The California Constitution requires the state to have an annual budget. The budget authorizes most of the state's spending, including payments to public schools and local governments, and health and welfare benefits for needy individuals.

How a Budget Becomes Law. By January 10 of each year, the Governor must submit to the Legislature a balanced budget proposal for the next fiscal year starting July 1. The budget proposal must include specific spending amounts and identify the revenues needed to pay for that spending. The Constitution requires the Legislature to pass a budget bill by June 15. To pass a budget, two-thirds of the members of each house of the Legislature (the Senate and the Assembly) must vote for it.

Just as with other bills, the budget passed by the Legislature becomes law if the Governor signs it (or takes no action within 12 days). Normally, in signing the budget the Governor reduces or eliminates some individual spending items (these are known as "line-item

vetoed"). Alternatively, the Governor may veto the entire budget. In either case, the Legislature can "override" the Governor's veto by a two-thirds vote.

Budget Delays. When the state starts the new fiscal year on July 1 without an enacted budget, there generally is no authority for the state to spend money. However, spending for some programs may continue if other laws or the State Constitution permit that spending. For example, state and federal laws guarantee certain welfare benefits to eligible persons. The courts have required the state to continue to pay these benefits even without a budget.

Proposal

This measure changes the state's budget process in several ways and increases the Governor's control over state spending. It contains the following specific constitutional changes:

Delays Date for Governor's Budget Proposal. The measure changes the deadline for the Governor to submit his or her budget proposal to the Legislature from January 10 to March 1.

Late Budget Forfeits Salaries and Expenses. Under the measure, the Governor and members of the Legislature would not be paid if the Legislature fails to pass a budget by June 15. Specifically, it prohibits the payment of salaries and expenses for the period between June 15 and the time that the budget becomes law.

Late Budget Allows Governor to Continue Prior-Year Budget. The measure allows the Governor to declare a "fiscal emergency" if the budget is not signed by July 1. In that case, the prior-year budget continues as the state's working budget until a new one becomes law. Spending amounts in the prior-year budget, however, would automatically increase if more money is needed for the following purposes:

- State payments to public schools and community colleges required by the Constitution.
- Payments to local governments for revenue lost due to the homeowners' property tax exemption.
- Payments to local governments for the costs of programs required by the state.
- Payments on state bonds.

The measure also allows the Governor to make cuts to this working budget (except in the protected categories listed above) if necessary to balance expected spending and estimated revenues. These spending cuts would take effect after 30 days unless a new budget has become law by that time.

Governor May Cut Spending to Keep Budget Balanced. The measure also allows the Governor to make spending cuts after a budget becomes law. The Governor could make cuts if General Fund revenues fall short of estimates or spending runs ahead of estimates. Specifically, General Fund revenues or spending would have to be off from budget estimates by 3 percent or more (or spending and revenues each would have to be off from estimates by at least 1.5 percent). The Governor could not cut the protected spending categories listed earlier. The spending cuts would take effect after 30 days, unless the Legislature passes, and the Governor signs, alternative legislation to balance spending and revenues.

Eliminates Need for Law Changes to Make Certain Cuts. This measure allows the Governor to make some spending cuts that now require passing a separate law. These cuts could include reductions in state public assistance programs, such as welfare grants and health benefits. The Governor also could reduce state employee salaries or work time by up to 5 percent, except for employees covered under a collective bargaining agreement (unless the agreement allows such reductions).

Governor's Approval for Budget-Related Legislation. The California Constitution allows enactment of laws (including the budget) without the Governor's signature in two ways. The Legislature may override a Governor's veto or the Governor may let a measure become law by taking no action. This measure appears to prevent the enactment of certain budget-related laws without the Governor's signature. Specifically, the enactment of a new budget after July 1 would require the Governor's signature if the Governor has declared a fiscal emergency. In addition, certain laws that would bring an enacted budget back into balance would need the Governor's approval. This would be true for any laws that would enact alternative budget solutions after the Governor had proposed his or her own budget-balancing cuts.

Fiscal Effect

The provisions related to late budgets could result in either costs or savings to the state. The impact in any year could be up to hundreds of millions or billions of dollars, depending on the circumstances. On the one hand, there would be savings to the extent cuts proposed by the Governor to the working budget took effect, including those cuts that cannot be made now without passing a new law. On the other hand, extending the prior-year budget could increase state spending. State

agencies could continue spending at prior-year levels even if the Legislature would not have approved that spending in a new budget.

Savings of up to billions of dollars to the state's General Fund also could occur in any year in which the Governor makes cuts to an enacted budget. The Governor now can require state agencies to reduce some types of spending after the budget becomes law. This measure, however, allows the Governor to cut additional types of spending that now can only be cut by enacting new laws.

The measure also could result in up to several hundred thousand dollars of General Fund savings for the salaries and expenses of legislators and the Governor in any year in which a budget is not passed on time.

PUBLIC ASSISTANCE PROGRAMS

The following section is based on the laws in effect at the time this analysis was prepared (which was prior to enactment of a budget for 1992-93).

Background

The federal, state, and local governments provide a variety of public assistance programs to low-income persons and families.

Aid to Families with Dependent Children-Family Group (AFDC-FG) and AFDC-Unemployed Parent (AFDC-U). The AFDC-FG and U programs provide cash grants to families and children whose incomes are not adequate to provide for their basic needs. Families are eligible for grants under this program if they have a child who is financially needy due to the death, incapacity, continued absence, or unemployment of one or both parents.

Monthly AFDC grants are based on a "need standard" specified in state law. The grant is determined by subtracting the recipient's income (adjusted for certain allowable deductions) from the need standard. The amount of the grant, however, cannot exceed a maximum aid payment (MAP), which is also specified in state law. For example, the need standard for a family of three is \$702 per month and the MAP is \$663. Both the need standard and the MAP increase with family size.

The state and counties share responsibility for administering the AFDC Program. The state Department of Social Services (DSS) is responsible for oversight of the program. Each county welfare department is responsible for determining AFDC eligibility and calculating grant levels according to state and federal law. Funding for grants and county administration is shared by the federal, state, and county governments.

County General Assistance (GA). Under state law, each county has a responsibility to provide aid to financially needy county residents. (These are typically single persons who are not eligible for AFDC or other benefit programs.) Each county establishes standards for eligibility, the amount of the cash grant, and in some cases, "in-kind" support (such as housing) for GA recipients. Counties are responsible for funding the program.

Other Public Assistance Programs. Other programs affected by this measure include:

- **AFDC-Foster Care (AFDC-FC).** Children are eligible for grants under this program if they are living with a foster care provider. The federal, state, and county governments fund the program.
- **Supplemental Security Income/State Supplementary Program (SSI/SSP).** The SSI/SSP Program provides cash grants to low-income aged, blind, and disabled persons. The state and federal governments fund the program.

- **In-Home Supportive Services (IHSS).** The IHSS Program provides services to low-income aged, blind, and disabled persons who are unable to live safely in their own homes without assistance. The federal, state, and county governments fund the program.
- **California Medical Assistance Program (Medi-Cal).** The Medi-Cal Program provides health care services to persons eligible for AFDC and SSI/SSP and to certain other individuals who cannot afford to pay for these services. The federal and state governments fund the program.
- **Food Stamps.** The Food Stamps Program provides coupons for food items to low-income individuals. The federal government funds the costs of the coupons.

Proposal

The public assistance provisions of this measure make numerous statutory changes in the AFDC, SSI/SSP, IHSS, and GA programs. These changes also affect the Medi-Cal Program. Implementation of many of the changes to the AFDC Program requires the federal government to grant waivers of federal law. The DSS received all necessary waivers in mid-July. The waivers permit these changes for five years and are potentially renewable.

AFDC Program Changes

The measure proposes several changes to the AFDC-FG and U programs:

MAP Reductions. The measure reduces the MAPs by 10 percent. Currently, the MAP ranges from \$326 for a one-person "assistance unit" to \$1,403 for a family of 10 or more persons.

The measure reduces the MAPs by an *additional* 15 percent after a family (1) has been on aid for more than 6 months or (2) went off aid after 6 months and returned to the program within 24 months. (This additional reduction would not occur in certain cases—for example, if the parents in the home are disabled and on SSI/SSP or IHSS.)

The MAP reductions would affect most AFDC recipients—that is, those who do not have any employment income or who work part-time and earn relatively little per month. Because the measure would not reduce the need standard, however, AFDC families could compensate for the grant reductions if they were to earn enough additional money to offset the reductions.

MAP Adjustments. Currently, the MAP can be changed only by enacting a law. If the Budget Act appropriation is less than the amount needed to fully fund the MAP for all eligible persons, additional funds must be provided later in the year.

This measure provides that the MAP is to be adjusted based on the state's annual Budget Act appropriation and projected AFDC caseload, as estimated by the DSS. Thus, the measure would permit the Legislature, or the Governor by using his or her veto (subject to an override vote by the Legislature), to appropriate an amount for the AFDC Program that results in MAPs *below* the levels provided in law. In this way, the MAP could be changed through the budget process rather than a change in existing law.

Maximum Family Grant. The measure provides that, in determining a family's MAP (but not the need standard), any children conceived while a family is on aid are not counted. This provision would have the effect of "freezing" the grant payment at a given family size.

Pregnant Women. The state currently provides three

pregnancy-related AFDC benefits:

- The "state-only" AFDC-FG Program provides grants to pregnant women without children during the first six months of pregnancy.
- The state participates in the federally assisted AFDC Program for pregnant women without children who are in their last three months of pregnancy.
- Current law provides for a \$70 monthly special need payment to pregnant women who are on AFDC or who will be eligible for AFDC when the child is born.

The measure eliminates all three benefits.

Residency Requirement. The measure provides that during their first 12 months of residence in California, AFDC applicants from other states are eligible for a grant based on the *lesser* of the grant they would receive using California's eligibility requirements or the MAP in their former state. Given California's grant levels relative to other states, this provision would reduce the grants for most new arrivals.

Teen Parents on AFDC. The measure makes the following changes with respect to teen parents who are on AFDC:

- **Teen Parent's Residence.** The measure requires parents under age 18 to remain in the home of a parent, legal guardian, or adult relative, or in certain other living arrangements, in order to receive AFDC. The measure also provides that, where possible, the adult is to receive the aid on behalf of the teen parent. The measure includes exceptions under which the teen could maintain a separate residence.

- **Cal Learn Program.** The measure creates the Cal Learn Program for AFDC parents under age 19 who attend high school. If these parents have no more than two unexcused absences and four total absences per month, they would have their AFDC grant *increased* by \$50. If they have more than two unexcused absences per month, they would have their AFDC grant *reduced* by \$50. Otherwise, their grant would remain unchanged. The program would provide child care needed to attend school. The Cal Learn Program would be implemented only if federal funds were available.

Trigger Reduction. Under current law, a "trigger reduction" of up to 4 percent is applied to most state programs during years when General Fund revenue growth is relatively low. Existing law also limits any trigger reductions in certain programs—including AFDC—to the lesser of 4 percent or the program's cost-of-living adjustment (COLA). This measure *deletes* the COLA-related provision for the AFDC Program.

Cost-of-Living Adjustments (COLAs)

The measure eliminates automatic COLAs for the AFDC-FG and U maximum grants, SSI/SSP payments, and IHSS benefits. Current law eliminates these COLAs through 1995-96 for AFDC and through 1996 for SSI/SSP.

The measure also limits AFDC-FC group home COLAs to the availability of funds in 1992-93 and 1993-94.

County General Assistance Programs

The measure limits the level of GA to the AFDC grant for a family of the corresponding size. The measure also gives county boards of supervisors "sole discretion" to set the level of assistance, considering the availability of funds for such aid and the projected caseload. Currently, counties must provide some level of assistance. These assistance levels vary by county.

Fiscal Effects

AFDC Program. The AFDC grant reductions (10 percent, additional 15 percent, residency requirement, maximum family grant), elimination of pregnancy-related programs, and the teen parent provisions would result in major public sector savings. There would be part-year savings in 1992-93 and full-year savings, beginning in 1993-94, of about \$1.4 billion annually (after accounting for administrative costs). These savings would be primarily to the state General Fund (\$680 million) and federal funds (\$685 million), but also to counties (\$35 million). Almost 90 percent of the General Fund savings are due to the 10 percent and 15 percent grant reductions.

In addition, savings from the maximum family grant provision would increase annually by an unknown, but potentially significant, amount as a larger proportion of the caseload is affected. These savings would increase from \$55 million (all funds) in 1993-94 to several hundred million dollars annually in about 10 years.

The AFDC savings resulting from this measure would increase or decrease annually for changes in the number of program recipients.

MAP Adjustment. The provision that would adjust MAPs based on the Budget Act appropriation and projected caseload could result in state, federal, and county savings. This would happen in any year the appropriation for AFDC grants is inadequate to fund the statutory MAP levels, thereby resulting in a lower MAP. These savings are unknown but potentially significant.

Trigger Adjustment. Deleting the statutory provision that limits the "trigger reduction" for the AFDC Program to the lesser of 4 percent or the program's COLA (currently set at zero) would have the effect of applying the trigger reduction to the program. Thus, the measure could result in a reduction in the AFDC appropriation of up to 4 percent, for a potential savings of up to \$240 million (\$114 million General Fund, \$120 million federal funds, \$6 million county funds). These savings would only occur in years when General Fund revenue growth was relatively low.

COLAs. Elimination of automatic AFDC COLAs beginning in 1996-97 would result in unknown savings. If the COLA were 3.5 percent (the 1993-94 estimated inflation index for these programs), the savings would be about \$220 million (\$105 million General Fund, \$110 million federal funds, and \$5 million county funds) in 1996-97. These savings could grow by a comparable amount each year.

Elimination of automatic state SSI/SSP COLAs beginning in calendar year 1997 also would generate savings. If the COLA were 3.5 percent, the savings could be up to \$320 million to the General Fund in calendar year 1997. These savings also could grow by comparable amounts annually.

The provision eliminating the COLA for the IHSS Program would result in full-year savings of about \$3.7 million (\$2.4 million General Fund and \$1.3 million county funds) in 1993-94, increasing by comparable amounts annually.

Actual savings from elimination of the automatic COLAs would be less than the amounts above to the extent that grants were otherwise adjusted for the effects of inflation.

The provision limiting the AFDC-FC group home rate adjustment to "available funds" would result in 1993-94 savings of up to \$18 million (\$5.8 million General Fund, \$8.7 million federal funds, and \$3.9 million county funds).

Public Education. The measure could result in

General Fund costs to provide aid to school districts, potentially in the tens of millions of dollars annually. The impact would depend on the effect of the Cal Learn Program on school attendance by teen parents. In addition, local school districts would incur unknown costs, possibly more than \$1 million annually, to track and report attendance of teen parents affected by the measure.

Medi-Cal Program. The measure could affect the Medi-Cal Program because the AFDC MAP is the basis for determining Medi-Cal eligibility for "medically needy" beneficiaries. These are individuals or families who are not receiving AFDC or SSI/SSP but who can become eligible for Medi-Cal if their medical expenses are relatively high.

Depending on the interpretation of current law regarding AFDC MAP reductions, the measure could result in annual net General Fund savings or have no impact on the Medi-Cal Program. Based on a review of current law, we estimate that the AFDC MAP reductions probably would have no fiscal effect on the Medi-Cal Program.

County GA Programs. Limiting general assistance to the maximum AFDC grants would result in savings to those counties that otherwise would have had general assistance benefits above these grant levels. These savings probably would be about \$75 million to \$100 million annually.

The net savings would be higher (potentially in the hundreds of millions of dollars) if many counties choose to reduce significantly their GA programs below the maximum assistance levels. (As a reference, counties spent over \$400 million for GA grants and aid in 1991-92.)

The measure would also result in costs of up to \$30 million annually to the counties, due to GA caseload increases resulting from the measure's provisions eliminating AFDC benefits to pregnant women. (These individuals would lose their AFDC eligibility and would therefore be eligible for GA.)

Food Stamps Program. We estimate that the AFDC and GA cash grant reductions would increase the amount of federally funded food stamps for recipients by more than \$300 million annually. This would occur because these grants are counted as income for purposes of determining a recipient's monthly food stamps allocation.

Indirect and Other Fiscal Effects. This measure could have a variety of indirect and other fiscal effects, including the following:

- The grant reductions could lead recipients to increase their work effort, resulting in potentially significant long-term savings.
- If the grant reductions are not offset by an increase in earnings from employment or other income sources, the income loss could result in increased demand for certain public services, such as health care and foster care.
- The grant reductions could cause more recipients to become homeless, thereby potentially becoming eligible for AFDC homeless assistance benefits.

We are unable to estimate these fiscal effects.

Federal Funds. We estimate that the measure's provisions would result in a net reduction of about \$400 million annually (full-year effect beginning in 1993-94) in federal funds allocated to California. The net loss of federal funds to the state's economy would, over time, result in lower levels of personal spending and incomes, and an unknown reduction in state tax revenues.

Argument in Favor of Proposition 165

California's budget is out of control!

THIS YEAR CALIFORNIA WAS FORCED TO ISSUE IOU'S, NOT BECAUSE IT'S TAXING TOO LITTLE BUT BECAUSE IT'S SPENDING TOO MUCH—TOO MUCH ON THE WRONG THINGS. "Automatic" increases in spending for public assistance crowd out funding for schools, lowering California's bond rating, costing taxpayers millions.

By the year 2000, welfare related spending will crowd out colleges, prisons, and every function except schools. And without huge annual tax increases, it will even hurt schools.

Higher taxes are driving jobs and taxpayers out of state. **WITHOUT IMMEDIATE REFORM, CALIFORNIA WILL HAVE MORE TAX USERS THAN TAXPAYERS BY 1995.**

Welfare-related spending is now our second largest budget item and keeps climbing. Welfare rolls are growing four times faster than our population.

CALIFORNIA HAS 12% OF AMERICA'S POPULATION, BUT PAYS 26% OF WELFARE COSTS PAID BY ALL STATES NATIONWIDE.

Why? California is one of the most generous welfare states in America. **WE PAY WELFARE RECIPIENTS NEARLY TWICE THE AVERAGE PAID BY OTHER LARGE STATES.** Between 1978 and 1988, CALIFORNIA WELFARE PAYMENTS GREW NEARLY TWICE AS FAST AS REAL FAMILY INCOME.

Is that fair to *your* family? How much more in taxes can you afford?

Opponents claim welfare payments are still too low but fail to include food stamps, health care, and benefits in their analysis. **THE AVERAGE WELFARE RECIPIENT WOULD NEED A JOB PAYING \$1,400 PER MONTH TO EARN MORE WORKING THAN STAYING ON WELFARE.** No wonder people move to California to collect welfare.

Automatic welfare increases aren't the only problem. Budget stalemates and legislators who can't say no cost Californians billions.

Proposition 165 reforms the budget process:

- Docks Governor's and Legislators' pay when they fail to balance the budget on time.

- Gives our Governor similar "last resort" budget-balancing tools governors in 44 other states already have. **THE GOVERNOR CAN'T RAISE TAXES OR CUT EDUCATION. ALL HIS ACTIONS ARE SUBJECT TO LEGISLATIVE OVERRIDE.**

Proposition 165 reforms welfare:

- New state residents would receive no more in welfare here than in their home state, to end California's status as a welfare magnet.
- Cash grants would be lowered 10%, and an additional 15% for long-term able-bodied recipients, still leaving California as one of the most generous states in the nation, but reducing incentive to stay on welfare. The greater reduction for long-term able-bodied recipients **MOVES WELFARE BACK TOWARDS ITS ORIGINAL PURPOSE AS A TEMPORARY SAFETY NET, NOT A PERMANENT WAY OF LIFE.** When increased food stamps are considered, welfare recipients could replace their entire cut by working just 6.4 hours per week.
- Recipients will no longer receive additional cash for having additional children after going on welfare, although they will receive medical benefits and food stamps for the additional child.
- **PROPOSITION 165 PROTECTS EDUCATION AND OUR KIDS' FUTURE.**

Join the California Taxpayers Association, Howard Jarvis Taxpayers Association, California Chamber of Commerce, and over one million Californians who've given their name to support Proposition 165.

PETE WILSON
Governor
State of California

JOEL FOX
President
Howard Jarvis Taxpayers Association

MAUREEN DIMARCO
Secretary of Child Development and Education
State of California

Rebuttal to Argument in Favor of Proposition 165

We usually learn the hidden consequences of ballot measures after it's too late. We can't let that happen with 165.

UNPRECEDENTED POWERS

Promoters say the legislature can overrule the Governor's new powers. Actually, Section 5, paragraph 12.5 says the Governor *must personally approve* any override attempt.

Promoters say 44 other Governors have the same power. Actually, no Governor has 165's unrestrained ability to act without legislative or court review.

Promoters say 165 won't hurt education. This year the Governor tried to cut school funding \$2.3 billion. Under Section 5, paragraph 12.2 no one could stop any Governor from making such cuts.

NOT REFORM

Promoters say 165 reforms welfare. But real reform would include job creation, training and child care and would deal with welfare fraud. 165 doesn't.

Promoters say families on welfare receive the equivalent of \$1,400 monthly. Actually, the average mother with two young children gets \$663 a month and \$142 in food stamps.

What promoters don't tell you is that 165 also raises health costs for working families and aged, blind and disabled, makes it tougher for elderly to avoid premature placement in nursing homes and cuts foster home funding.

NOT THE ANSWER

165 doesn't answer our fiscal crisis. Most 165 cuts come from poor families with young children (AFDC). That entire program accounts for just 6% of the state budget.

TELL THE POLITICIANS YOU DON'T LIKE THE HIDDEN CONSEQUENCES IN THEIR BALLOT MEASURE.

NO ON 165

MARILYN ERICKSEN
Executive Director, California Child, Youth & Family Coalition

GLORIA BLACKWELL
President, California State Parent Teacher Association (PTA)

GORDON A. KOOLMAN
President, California Association of Highway Patrolmen

Argument Against Proposition 165

Don't be misled.

Proposition 165 will NOT do what its backers claim.

They claim 165 is welfare "reform". But it really is a giant step backward that inflicts new hardships on our most vulnerable children, elderly and disabled.

They claim 165 is budget "reform". But buried within 165's long, complex provisions is a constitutional power grab giving this or any future Governor dangerous and unprecedented new powers.

ATTACKING POOR CHILDREN, THE ELDERLY AND DISABLED

Proposition 165 attempts to exploit public concern over welfare by including a few provisions designed to appeal to voters. But these provisions fail to mask 165's constitutional power grab and punitive attacks on those who need help the most.

Read 165 carefully. Underneath all the rhetoric, you'll find that:

- **165 WON'T PUT WELFARE RECIPIENTS TO WORK.** 165 imposes no new work requirement on welfare recipients and offers them no new help in getting a job. It simply punishes everyone who can't find work. No child care for single mothers. No job training or placement. No jobs. Just a 25% cut.
- **165 HURTS THOSE WHO NEED HELP THE MOST.** 165 eliminates cost of living increases for foster homes, and for needy aged, blind and disabled Californians who have nowhere else to turn. And it makes access to Medi-Cal more difficult for the working poor and seniors who need nursing home care.
- **165 WON'T REDUCE WELFARE FRAUD AND WASTE.** Look for yourself. You will not find a single provision eliminating fraud or making welfare administration more efficient.

HOW THE POWER GRAB WORKS

165 allows the Governor to unilaterally declare emergencies under conditions of his own making.

Under 165, FISCAL EMERGENCIES WOULD NOT JUST HAPPEN, THEY COULD BE MADE TO HAPPEN. If the

Governor's own political appointees overestimate revenues by just 3% the Governor can declare an emergency. Or if the Governor prevents the state budget from being adopted on time by refusing to work toward consensus, he can declare an emergency.

After declaring an emergency, **THE GOVERNOR CAN REDUCE VIRTUALLY ANY STATE SUPPORTED SERVICE BY ANY AMOUNT.**

Every service not protected by the constitution is at risk:

- Enforcement of laws protecting consumers, the environment and workers on the job.
- Higher education and schools beyond the minimum Proposition 98 guarantee.
- Fighting AIDS and providing essential health services.
- Homecare and other services for the disabled and elderly.
- Funds to local government for trial courts, health care and children's services.

Once funding is cut, **NEITHER THE LEGISLATURE NOR THE COURTS CAN OVERTURN THE GOVERNOR.** Under 165 the Governor's action can be overturned *only if the Governor agrees.*

A Governor intent on controlling the state could coerce the legislature, regulatory agencies and even local governments into submission merely by *threatening* to use the arbitrary, unrestrained powers granted by Proposition 165.

165 OVERTURNS THE CONSTITUTIONAL CHECKS AND BALANCES WE RELY ON TO PROTECT OUR FREEDOM. NO ONE PERSON SHOULD HAVE THIS MUCH UNRESTRAINED POWER. EVER.

PLEASE JOIN WITH US TO DEFEAT THIS DANGEROUS AND HURTFUL POWER GRAB.

VOTE NO ON PROPOSITION 165.

ROBYN C. PRUD'HOMME-BAUER

President, League of Women Voters of California

REVEREND LES L. SAUER

Executive Committee, California Council of Churches

JOHN F. ALLARD

Board Member, National Council of Senior Citizens

Rebuttal to Argument Against Proposition 165

Consider who's opposing Proposition 165: public employee unions, the welfare lobby and special interests who benefit from higher taxes and more government spending.

They're not concerned with your rights as taxpayers.

They're saying, "Be happy with the way welfare works now."

Some are even suing our state to double California's already very high welfare grant.

They're not concerned with power grabs—they're really concerned about their own spending programs.

PROP 165 LEAVES ALL CONSTITUTIONAL CHECKS AND BALANCES IN PLACE:

- Gives Governor "last resort" budget-balancing authority similar to Governors in 44 other states, and then only if legislators fail to balance the budget.
- **EXEMPTS SCHOOLS FROM CUTS.**
- **GIVES GOVERNOR NO POWER TO RAISE TAXES.**
- **LEGISLATURE CAN OVERRIDE HIM.**
- **THE COURTS' POWERS REMAIN UNCHANGED.**

PROP 165:

- Restructures the system so it pays to get a job rather than just collect welfare.
- Complements *already existing* job training and child care programs for welfare mothers.

- Offers teenage welfare mothers child care and cash incentives to stay in school.
- Has *no* effect on costs or access to health care for poor children, elderly and disabled.

OPONENTS CLAIM A 25% WELFARE CUT, BUT WHEN ADDITIONAL FOOD STAMPS ARE CONSIDERED, THE CUT IS ONLY 11% — AND WE'LL STILL BE PAYING AMONG THE HIGHEST GRANTS IN AMERICA.

Prop 165 stops automatic increases in spending and taxes, avoids Washington-style deficits for California, protects education, and saves millions by forcing politicians to pass a budget on time, or permanently forfeit their salary every day they're late.

RUSSELL S. GOULD

*Secretary of Health and Welfare
State of California*

INGRID AZVEDO

*Former Chair
Federal Council on Aging*

JOHN A. ARGUELLES

*Retired Justice
California Supreme Court*

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury that:

I am a citizen of the United States, over the age of 18, and not a party to the within cause or action. My business address is 201 Dolores Avenue, San Leandro, CA 94577.

On July 20, 2009, I served a true copy of the following document(s):

**Appellant State Controller's
Request for Judicial Notice;
Declaration of Jeffrey Ball**

on the following party(ies) in said action:

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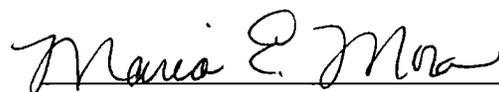
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Respondent

- BY UNITED STATES MAIL:** By enclosing the document(s) in a sealed envelope or package addressed to the person(s) at the address above and
 - depositing the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - placing the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the businesses' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, located in San Leandro, California, in a sealed envelope with postage fully prepaid.
- BY OVERNIGHT DELIVERY:** By enclosing the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- BY MESSENGER SERVICE:** By placing the document(s) in an envelope or package addressed to the persons at the addresses listed and providing them to a professional messenger service for service.
- BY FACSIMILE TRANSMISSION:** By faxing the document(s) to the persons at the fax numbers listed based on an agreement of the parties to accept service by fax transmission. No error was reported by the fax machine used. A copy of the fax transmission is maintained in our files.
- BY EMAIL TRANSMISSION:** By emailing the document(s) to the persons at the email addresses listed based on a court order or an agreement of the parties to accept service by email. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on July 20, 2009, in San Leandro, California.



Maria E. Mora