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December 11, 1997

Hon. Daniel E. Lungren
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Michelle Olsen

Dear Attorney General Lungren:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative cited as the "Jury Education Initiative" (File No. SA 97 RF 0057, Amendment No. 1-NS). This initiative amends California law to require that judges instruct jurors that they may disregard the law or the application of a law in a particular case when rendering a verdict. The main provisions of the initiative are described below.

Jury Instructions. Under existing law, juries are instructed to apply the law, as stated to them by the judge, to the facts of the case regardless of whether they agree with the law.

This measure would require judges to instruct the jury that it is the court's duty to advise the jury of the law and that the jury must consider the instructions of the court, but that if the jury finds that the law is unjust or that the law's application would produce an unjust verdict, the jury may acquit the defendant, or find the defendant not liable for damages.

Disclosure of Applicable Penalties. The measure would allow all parties to a case to present arguments to the jury which pertain to various issues of law and justice, includ-

ing the disclosure of the sanctions or penalties which may be applied to the losing party. Currently, sanctions or penalties may not be disclosed to the jury in criminal cases.

Fiscal Effect

This measure would result in unknown costs and savings to state and local governments. Specifically, the measure could affect the number of jury trials and the outcome of those trials. For example, the measure could result in an increase in the number of jury trials or an increase in the number of hung juries. To the extent this occurs, the state would incur increased costs for the operations of the courts and local governments would incur increased costs for prosecution and public defense. On the other hand, the measure could result in a decrease in the number of jury trials, which would result in savings to the state and local governments for these programs. In addition, to the extent that the measure results in an increase in the number of acquittals, the state and local governments may experience savings due to reductions in jail and prison populations. The net effect of these costs and savings is unknown.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Craig L. Brown
Director of Finance