

November 23, 2009

Hon. Edmund G. Brown Jr.
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Krystal Paris
Initiative Coordinator

Dear Attorney General Brown:

Pursuant to Elections Code 9005, we have reviewed the proposed constitutional amendment related to the passage of the state budget (A.G. File No. 09-0057).

Background

Process for Passing a Budget. The State Constitution vests the Legislature with the power to appropriate state funds (and make midyear adjustments to those appropriations). The annual state budget act is the Legislature's primary method of authorizing expenses for a particular year. Specifically, the Constitution requires that (1) the Governor propose a budget by January 10 for the next fiscal year (beginning July 1) and (2) the Legislature pass the annual budget act by June 15. The Governor may then either sign the budget or veto all or part of it. By a two-thirds (67 percent) vote in each house of the Legislature, a gubernatorial veto may be overridden.

Two-Thirds Vote Requirement for Passage of State Budget. The Constitution requires a two-thirds vote of each house of the Legislature for the passage of the annual budget act, other General Fund appropriations (except appropriations for public schools), other measures that take effect immediately (other than for the calling of an election), and bills that raise state taxes. The Constitution requires the Legislature to pass the budget bill by June 15 each year—in advance of the July 1 start of the state's fiscal year. Certain budget actions (for example, a decision by the Legislature and the Governor to change the types of services that the state provides) require changing state law. Such changes in law often are included in "trailer bills" that accompany passage of the budget each year. In order for these trailer bills to take effect immediately rather than, as with most other bills, on January 1, they must be passed by a two-thirds vote of each house.

Late Budgets. When a fiscal year begins without a state budget, most expenses do not have authorization to continue. Over time, however, a number of court decisions and interpretations of the Constitution by the State Controller and other officials have expanded the types of payments that may continue to be made when a state budget has not been passed. For example, state employee salaries currently continue to be made in this scenario with several notable exceptions—such as the salaries of the Governor, other elected state officials, Members of the Legislature, and their appointed staff, who receive no salaries after July 1 until a budget is passed. Any salary payments which are withheld from these officials then are paid upon passage of the budget.

Proposal

Lowers the Vote Requirement to Pass the Budget Bill and Related Legislation. This measure amends the Constitution to lower the vote requirement necessary to pass the budget and related legislation from two-thirds to a majority (50 percent plus one). The lower vote requirement would also apply to bills that the Legislature identifies “as related to the budget in the budget bill passed by the Legislature.” This measure does not change the vote requirement for increasing state taxes.

Late Budgets Would Result in Forfeiture of Pay and Reimbursements for Legislators. In any year when the budget bill is not passed by the Legislature by midnight on June 15, this proposal prohibits Members of the Legislature from collecting any salary or reimbursements for travel or living expenses from a current or future budget during any regular or special session. This prohibition would be in effect during the period from midnight on June 15 until the day that a budget is presented to the Governor. Lost salaries and expenses could not be paid retroactively.

Fiscal Effect

State Spending Easier to Enact. This measure, by reducing the voting requirement from two-thirds to a majority, could make it easier to pass a state budget. In some years, this could affect the content of the budget and related appropriations. For instance, spending priorities in a given budget could be different. The extent of the impacts would depend on a number of factors—including the state’s financial circumstances, the composition of the Legislature, and its future actions.

Some Pay May Be Forfeited. In years when the budget bill is not passed by June 15, Legislators would forfeit any salary or reimbursement for living and travel expenses. In any year that the Legislature does not pass a bill by June 15, the measure could reduce state costs by around \$50,000 per day until the passage of a budget.

Summary of Fiscal Effect

This measure would have the following fiscal effects:

- Unknown changes in the content of the state budget from lowering the legislative vote requirement for passage. Fiscal impact would depend on the composition and actions of future Legislatures.
- Minor reduction in state costs related to compensation of legislators in years when the budget bill is passed after June 15.

Sincerely,

Mac Taylor
Legislative Analyst

Michael C. Genest
Director of Finance