

December 10, 2009

Via Hand Delivered

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Hon. Edmund G. Brown, Jr.
Attorney General
Office of the Attorney General
1300 I Street
Sacramento, CA 95814

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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Krystal Paris, Initiative Coordinator

RE: Request for Title and Summary-Initiative Statute

Dear Mr. Brown:

Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, I hereby request that a title and summary be prepared for the attached initiative entitled "The Increased Lottery Funding for Schools and Lottery Public Accountability Act of 2010" as provided by law. Included with this submission is the required proponent affidavit signed by me as proponent of this measure pursuant to Section 9608 of the California Elections Code. My address as a registered voter is provided and attached to this letter, along with a check for \$200.00 made payable to the State of California.

All inquiries or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP 2350 Kerner Boulevard, Suite 250, San Rafael, CA 94901, (415) 389-6800, Attention : Chip Nielsen

Thank you for your assistance.

Very truly yours,

Matthew J. Geyer

Enclosure: Proposed Initiative

SECTION 1. Title.

This Act shall be known as and may be cited as the "Increased Lottery Funding for Schools and Lottery Public Accountability Act of 2010."

SECTION 2. Findings and Declarations.

The People of the State of California find and declare that:

(a) The voters approved the California Lottery in 1984 to provide more funding for public education without the imposition of additional or increased taxes.

(b) Today, twenty-five years later, the laws governing the Lottery's operations are ineffective and outdated, and the amount of funding provided to schools by the Lottery is declining. In fact, California's Lottery ranks dead last in performance among the ten largest states, and our students lose out and taxpayers get shortchanged.

(c) The experiences of other states demonstrate that our Lottery's performance can be greatly improved by adopting the same changes other states have implemented, including increasing the number of winning tickets, which could increase Lottery revenues paid to public education by as much as 50 percent or \$500 million.

(d) The California Lottery needs to be improved, and in order to increase the total amount of revenues paid to public education, voter approval is sought to require the Lottery to reduce the percentage of revenues allocated to administrative costs and to authorize the Lottery to increase the share of sales revenue allocated to prizes.

(e) In order to increase the Lottery's public accountability, Californians need easier and better access to information regarding whether schools are receiving more money from the Lottery and how schools are using funds they receive from the Lottery.

(f) If Lottery revenues paid to public education do not increase following the enactment of these changes, then the provisions of this Act are automatically repealed.

SECTION 3. Statement of Purpose.

The purpose of this Act is to increase the amount of lottery revenues paid to public education, to provide the public with better and more accessible information on how much money the lottery provides for schools and how schools are spending that money, and to repeal the provisions of this Act if it does not result in increased funding for schools.

SECTION 4. Section 8880.4 of the Government Code is amended to read:

8880.4. Revenues of the state lottery shall be allocated as follows:

(a) Not less than ~~84~~ 87 percent of the total annual revenues from the sale of state lottery tickets or shares shall be returned to the public in the form of prizes and net revenues to benefit public education.

(1) *The Lottery Commission shall determine the percentage of total annual revenues that shall be returned to the public in the form of prizes as described in this chapter, provided that the percentage shall not be less than fifty percent. Fifty percent of the total annual revenues shall be returned to the public in the form of prizes as described in this chapter.*

(2)(A) *At least 34 percent of the total annual revenues shall be allocated to the benefit of public education, as specified in Section 8880.5. The percentage of the total annual revenues to be allocated to the benefit of public education as specified in Section 8880.5 shall be established by the commission at a level designed to maximize the total net revenues allocated to the benefit of public education.*

(B) *However, as required by Proposition 20, adopted by the voters in 2000, for the 1998-99 fiscal year and each fiscal year thereafter, 50 percent of any increase in the amount calculated pursuant to this paragraph from the amount calculated in the 1997-98 fiscal year shall be allocated to school districts and community college districts for the*

purchase of instructional materials, on the basis of an equal amount per unit of average daily attendance, as defined by law, and through a fair and equitable distribution system across grade levels.

(3) All unclaimed prize money shall revert to the benefit of public education, as provided for in subdivision (e) of Section 8880.32.

(4) All of the interest earned upon funds held in the State Lottery Fund shall be allocated to the benefit of public education, as specified in Section 8880.5. This interest is in addition to, and shall not be considered as any part of, ~~the 34 percent of the total annual revenues that is~~ are required to be allocated for the benefit of public education as specified in paragraph (2).

(5) No more than ~~16~~ 13 percent of the total annual revenues shall be allocated for payment of expenses of the lottery as described in this chapter. To the extent that expenses of the lottery are less than ~~16~~ 13 percent of the total annual revenues, any surplus funds also shall be allocated to the benefit of public education, as specified in this section or in Section 8880.5.

(b) Funds allocated for the benefit of public education pursuant to subdivision (a) are in addition to other funds appropriated or required under existing constitutional reservations for educational purposes. No program shall have the amount appropriated to support that program reduced as a result of funds allocated pursuant to subdivision (a). Funds allocated for the benefit of public education pursuant to subdivision (a) shall not supplant funds committed for child development programs.

(c) None of the following shall be considered revenues for the purposes of this section:

(1) Revenues recorded as a result of a nonmonetary exchange. "Nonmonetary exchange" means a reciprocal transfer, in compliance with generally accepted accounting principles, between the lottery and another entity that results in the lottery acquiring assets or services and the lottery providing assets or services.

(2) Reimbursements received by the lottery for the cost of goods or services provided by the lottery that are less than or equal to the cost of the same goods or services provided by the lottery.

(d) Reimbursements received in excess of the cost of the same goods and services provided by the lottery, as specified in paragraph (2) of subdivision (c), are not a part of the ~~34 percent~~ of total annual revenues required to be allocated for the benefit of public education, as specified in paragraph (2) of subdivision (a). However, this amount shall be allocated for the benefit of public education as specified in Section 8880.5.

SECTION 5. Section 8880.46.7 is added to the Government Code to read:

8880.46.7. On and after the effective date of the Act adding this section, in order to ensure public accountability to the people of the State of California, the following shall apply:

(a) The director of the California State Lottery shall engage an independent firm of certified public accountants to conduct an annual audit of all accounts and transactions of the lottery. The audited financial statements shall be presented to the commission, the Governor, the Controller, the Treasurer, the Attorney General, and the Legislature not more than 120 days after the close of the fiscal year. The independent auditor's report shall be posted on the California State Lottery's Internet website.

(b) The Controller shall conduct quarterly and annual postaudits of all accounts and transactions of the commission and other special postaudits as the Controller deems necessary. The Controller or his or her agents conducting an audit under this chapter shall have access and authority to examine any and all records of the commission, its distributing agencies, lottery contractors, and lottery game retailers. The Controller shall issue a public report of the annual postaudit. The Controller shall provide a copy of the public report to the commission, which shall be posted on the California State Lottery's Internet website.

(c)(1) Each entity receiving lottery funds shall annually report to the Governor and the Legislature on or before May 15 the amount of lottery funds that the entity received and the purposes for which those funds were expended in the prior fiscal year, including administrative costs. The State Department of Education shall report on behalf of K-12 entities. If applicable, the entity shall also report the amount of lottery funds received on the basis of adult education average daily attendance (ADA) and the amount of lottery funds expended for adult education.

(2) Copies of the reports required in paragraph (1) shall be provided to the commission, and shall be posted on the California State Lottery's Internet website.

SECTION 6. Section 8880.63 of the Government Code is amended to read:

8880.63. As nearly as practical, at least 50 percent of the total projected revenue, computed on a fiscal-year basis, accruing from the sales of all lottery tickets or shares shall be apportioned for payment of prizes.

SECTION 7. Section 8880.64 of the Government Code is amended to read:

8880.64. (a) Expenses of the lottery shall include all costs incurred in the operation and administration of the lottery and all costs resulting from any contracts entered into for the purchase or lease of goods and services required by the lottery, including, but not limited to, the costs of supplies, materials, tickets, independent audit services, independent studies, data transmission, advertising, promotion, incentives, public relations, communications, compensation paid to the lottery game retailers, bonding for lottery game retailers, printing, distribution of tickets or shares, reimbursement of costs of services provided to the lottery by other governmental entities, and for the costs for any other goods and services necessary for effectuating the purposes of this chapter. As a promotional expense, the commission may supplement the prize

pool of a game or games upon its determination that a supplement will benefit the public purpose of this chapter.

(b)(1) Not more than ~~16~~ 13 percent of the total annual revenues accruing from the sale of all lottery tickets and shares from all lottery games shall be expended for the payment of the expenses of the lottery.

(2) Expenses recorded as a result of a nonmonetary exchange shall not be considered an expense for the purposes of Section 8880.4 and this section. "Nonmonetary exchange" means a reciprocal transfer, in compliance with generally accepted accounting principles, between the lottery and another entity that results in the lottery acquiring assets or services and the lottery providing assets or services.

SECTION 8. Performance.

(a) This Act shall take effect immediately in accordance with subdivision (a) of Section 10 of Article II of the California Constitution.

(b) If in any of the first five full fiscal years after the effective date of this Act, the Director of Finance and the Controller jointly determine that the total net revenues allocated to the benefit of public education by the California State Lottery Education Fund are less than the total net revenues allocated to the benefit of public education in the last full fiscal year prior to the effective date of this Act, then the provisions of this Act, with the exception of Section 5, are hereby repealed and shall be null and void. If the provisions of this Act are repealed pursuant to terms of this subdivision, the provisions of Section 8880.4, Section 8880.63, and Section 8880.64, as they existed prior to the effective date of this Act, shall be operative and in full force and effect.

SECTION 9. Amendments.

The Legislature may only amend this Act by statute passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, provided that the statute is consistent with, and furthers the purpose of, this Act. Any bill seeking to amend this Act must remain in print in its final form for at least 12 days prior to passage in either house of the Legislature.

SECTION 10. Conflicting Ballot Measures.

In the event that this measure and another measure or measures relating to the allocation of California State Lottery revenues appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void.

SECTION 11. Severability.

It is the intent of the People that the provisions of this Act are severable and that if any provision of this Act, or application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision or application of this Act which can be given effect without the invalid provision or application.