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08-0018

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INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

**Amdt. #1S**

November 18, 2008

Office of the Attorney General  
Ms. Krystal Paris, Initiative Coordinator  
1300 I Street, Suite 125  
P.O. Box 944255  
Sacramento, CA 94244-2550

Dear Krystal:

I am submitting an amended version of the *The McCauley Public-Employee Pension Reform Act* (08-0018).

The Legislative Analyst identified a problem area and so the amendment.

I have enclosed a mark up version which identifies the new language added to the original measure. No language was deleted.

## INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

SECTION 1. This measure shall be known and may be cited as "*The McCauley Public-Employee Pension Reform Act.*"

SECTION 2. THE PEOPLE OF THE STATE OF CALIFORNIA MAKE THE FOLLOWING FINDINGS AND DECLARATIONS:

- 1) Past promises made to public employees for future pension entitlements were excessive at the time made and were based upon undue influence by means of campaign contributions paid to the public officials who made the promises for the pensions. The public believes that there was no meeting of the minds between the taxpayers and the public employees and therefore no contractual obligation obtained.
- 2) The stock market collapse of 2008 has substantially impaired the taxpayers' ability to pay the promised pensions.
- 3) The credit market collapse of 2008 has substantially impaired the taxpayers' ability to meet a plethora of public needs in addition to paying the promised pensions.
- 4) The tax burden that the public will be compelled to bear in order to fulfill the excessive promises for pensions that have been made will substantially impair the taxpayers' ability to pay for essential fire protection, police protection, public education, health care and to pay for other essential public services and necessities.
- 5) The State of California requires regular and substantial taxpayer investments in transportation systems, including public transit systems to replace private automobiles; energy infrastructure, including nuclear power plant construction; restoration of wetlands, the coast, mountains, deserts and to urgently respond to the impact of global warming.
- 6) The pension promises made, which appear to be largely unattainable even in the best of circumstances, will be wholly unattainable in a future economic recession, depression or inflationary environment, without impairing the public health and safety.
- 7) The pension promises made to public employees at all levels of government in California are so out of proportion to pensions of non-government employees as well as pensions paid to public servants as recently as fifteen years ago as to cause a loss of confidence of the general public in the fairness in the administration of public affairs.
- 8) The State of California lacks the option of seeking renegotiation or repudiation of its pension commitments in United States Bankruptcy Court.
- 9) The excessive financial burdens on taxpayers to pay the promised pensions and to meet funding requirements of existing pension contracts will require a substantial curtailment of public employment at a time of weakening private-sector employment causing an unacceptable level of job loss and unemployment.

- 10) Pension outlays in a number of major metropolitan areas in California already exceed salary and wage outlays for currently-active employees. More is paid to retirees of the Los Angeles Police Department than is paid to active Los Angeles Police Officers; this, at a time when gang violence, drug abuse and other public disorders necessitate more police protection for the public safety.
- 11) Rising unemployment in California is eroding the tax base from which public-employee pensions are to be paid as well as all other essential public services enumerated above and otherwise.
- 12) The cost of maintaining California's prison population and the cost of meeting federal mandates for health care for inmates as well as amelioration of overcrowding in the prisons necessitate that an increasing share of public revenues must be devoted to prison expenditures leaving less funds available to meet pension entitlements and other essential public needs.
- 13) Taxpayers' elected representatives must have the flexibility to respond to present and future public service needs that only a renegotiation of pension contracts would allow. The present budget deficit, lack of access to credit markets, anticipated deterioration in the tax base, anticipated inflation and a host of unknowns mandates a policy of flexibility to renegotiate public-employee pension entitlements to an affordable level.
- 14) For the reasons enumerated, the People of the State of California propose to amend their constitution as follows:

SECTION 3. CALIFORNIA CONSTITUTION ARTICLE 1, SEC. 9 is amended to read:

SEC. 9. A bill of attainder, ex post facto law, or law impairing the obligation of contracts may not be passed, *except that public-employee pension contracts may be renegotiated, including reducing vested benefits for existing and prospective retirees, for the limited purposes enumerated hereinafter.*

1. *To enable the state government, local governments and taxing districts to meet the essential public services of fire and police protection, public health, education and prisons.*
2. *To enable California and its political subdivisions to meet long-term public investment needs to provide for fire and police protection, public health, education, prisons, transportation and energy needs as well as to make an urgent response to global warming effects on the environment.*