

SA2005RF0029

January 13, 2005

VIA MESSENGER

Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814

Attention: Tricia Knight

RECEIVED
JAN 13 2005

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: *The Corporate Tax Accountability Act*

Dear Ms. Knight:

Pursuant to Elections Code section 9002, we request that the Attorney General prepare a title and summary of a measure entitled the "Corporate Tax Accountability Act." The text of the measure, a check for \$200.00, the address at which we are registered to vote and the signed statement certifying that we will not willfully allow initiative signatures to be used for purposes other than qualification of the measure are enclosed.

Please direct all correspondence and inquiries regarding this measure to:

Roberta B. Johansen
James C. Harrison
Remcho, Johansen & Purcell
201 Dolores Avenue
San Leandro, CA 94577
Phone: (510) 346-6200
FAX: (510) 346-6201

Sincerely,

Roberta B. Johansen

James C. Harrison

Section 1: Title.

This measure shall be known and may be cited as the "Corporate Tax Accountability Act."

Section 2: Findings and Purpose.

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

1. The Corporation Tax has become riddled with so many special interest credits, exemptions, exclusions and other tax preferences that many corporations pay little or no tax in California.
2. These tax preferences have shifted the burden of taxes to ordinary taxpayers, so that the share of the state's tax burden borne by corporations has declined by 37% since 1985.
3. So many new corporate tax preferences have been added since 1985 that, despite periods of rapid economic growth, corporate tax revenues needed to fund our schools, health care, public safety, and other services have not kept pace with economic growth.
4. New corporate tax preferences and rate reductions adopted since 1985 have lowered taxes on corporate profits by 45%. In 1985, corporations paid 9.6% of their profits in California taxes. By 2000, corporations were paying only 5.3% of their profits in taxes.
5. Corporate lobbyists claim more and more new corporate tax preferences are needed to create new jobs and investment. However, once these preferences are adopted, they continue in effect without scrutiny whether or not they result in a single new job or dollar of investment.
6. Unequal vote requirements protect the corporate beneficiaries of tax preferences from accountability at the expense of ordinary taxpayers. Current law makes it easy to pass corporate tax preferences and hard to repeal or reduce them once they are adopted. Corporate tax preferences can be enacted by a simple majority vote, but a two-thirds vote is required to repeal corporate tax preferences or to amend them to reduce their cost.

Section 3. Purpose and Intent.

1. In order to hold corporations more accountable for the tax preferences they receive, the People of the State of California do hereby enact the Corporate Tax Accountability Act. This measure is intended to accomplish its purpose by amending the California Constitution and the statutes of California to:

- a) Allow the Legislature to repeal or reduce corporate tax preferences based on the same vote requirement that applies to their enactment.

b) Require the Legislature to review corporate tax preferences annually as part of the budget process to determine their cost, purpose, effectiveness and fairness.

c) Require that all corporate tax preferences enacted or expanded after January 1 of the year this Act goes into effect can stay in effect no more than five years unless they are reenacted for a period of up to five years by the Legislature.

d) Require any additional revenues that result from repealing or reducing a corporate tax preference be deposited in the Prudent State Reserve Fund, which can only be used when General Fund revenues fall below current service levels or to respond to an emergency declared by the Governor. Funds in the Reserve can only be used for these purposes and cannot be used to increase spending.

Section 4: Article XIII A, section 3 of the California Constitution is amended to read:

Sec. 3. (a) From and after the effective date of this article, any changes in state taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by increased rates or changes in methods of computation must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed.

(b) Notwithstanding subdivision (a) of this Section or any other provision of law or of this Constitution, the Legislature may repeal or amend any corporate tax preference by the same vote requirement necessary to pass the bill in which it was enacted.

(c) The Legislature shall review each corporate tax preference annually as part of the budget process and shall determine the cost of the preference, whether the preference serves an important public purpose, whether the public benefits achieved by the preference are commensurate with its costs, and whether the private benefits of the preference are fairly distributed.

(d) Any statute creating or expanding a corporate tax preference enacted after January 1 of the year this Act goes into effect is repealed five years from the date of the enactment unless enacted for successive periods of no more than five years each.

(e) The Department of Finance shall calculate the amount of additional revenues that result from every repeal or amendment of any tax preference enacted after January 1, 1985, and the amount shall be deposited in the Prudent State Reserve Fund established pursuant to Section 5.5 of Article XIII B. Appropriations from the fund may be made only in years in which revenues are not sufficient to fund current General Fund service levels or in response to a state of emergency declared by the Governor. Appropriations from the fund may only be used for these purposes and may not be used to increase expenditures. Notwithstanding Section 5 of Article XIII B, contributions to the fund shall not constitute appropriations subject to limitation until they are appropriated for expenditure from the fund.

(f) For purposes of this Section, a corporate tax preference shall mean any credit, deduction not consistent with generally accepted accounting principles, special tax rate lower than the rate or rates applying generally to corporate taxpayers, exemption, exclusion, or election which reduces the tax liability of a corporation and was adopted after January 1, 1985.

Section 5: Section 9518 is hereby added to the Government Code to read as follows:

9518. For the purposes of Article XIII A, section 3, subdivision (e) of the California Constitution, "current General Fund service levels" shall mean levels of service as of June 30 of the prior fiscal year necessary to meet the constitutional, statutory, and contractual obligations of the state adjusted for population and cost of living as provided in Article XIII B, Section 8 of the Constitution as of the effective date of this measure.

Section 6. Severability.

If any of the provisions of this measure or the applicability of any provision of this measure to any person or circumstances shall be found to be unconstitutional or otherwise invalid, such finding shall not affect the remaining provision or applications of this measure to other persons or circumstances, and to that extent the provisions of this measure are deemed to be severable.

Section 7: Amendment.

By rollcall vote entered in the journal of each house, fifty-five percent of the membership concurring, the Legislature may amend Section 9518 of the Government Code to further the purposes of this Act.

Section 8: Conflicting Initiatives.

In the event that this measure and another measure or measures relating to the legislative votes required to increase taxes, reduce corporate tax preferences, or enact or increase fees shall 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 receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure relating to the legislative votes required to increase taxes, reduce corporate tax preferences, or enact or increase fees shall be null and void.