DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS
1500 11th Street, 5th Floor | Sacramento, CA 95814 | Tel (916) 657-2166 | Fax (916) 653-3214 | www.sos.ca.gov

May 18, 2009

County Clerk/Registrar of Voters (CC/ROV) Memorandum #09082

TO: All County Clerks/Registrars of Voters and Proponent

FROM: Katherine Montgomery
Associate Elections Analyst

RE: Initiative: 1360, Related to Labor

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

TAX ON PENSION DISTRIBUTIONS AND HEALTH CARE BENEFITS. INITIATIVE STATUTE.

The proponent of the above-named measure is:

Paul McCauley
13527 Rye Street #2
Sherman Oaks, CA 91423

Pmcca28169@aol.com

#1360

TAX ON PENSION DISTRIBUTIONS AND HEALTH CARE BENEFITS. INITIATIVE STATUTE.

CIRCULATING AND FILING SCHEDULE

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1. Minimum number of signatures required: 433,971
   California Constitution, Article II, Section 8(b)

2. Official Summary Date: ....Monday, 05/18/09

3. Petitions Sections:

   a. First day Proponent can circulate Sections for
      signatures (Elec. Code § 336) .... Monday, 05/18/09

   b. Last day Proponent can circulate and file with the county.
      All sections are to be filed at the same time within each
      county. (Elec. Codes §§ 336, 9030(a)). ....Thursday, 10/15/09

   c. Last day for county to determine total number of
      signatures affixed to petitions and to transmit total
      to the Secretary of State (Elec. Code § 9030(b))..................Tuesday, 10/27/09

      (If the Proponent files the petition with the county on a date prior to 10/15/09, the county has eight working days from the filing of the petition to determine the total number of signatures affixed to the petition and to transmit the total to the Secretary of State) (Elec. Code § 9030(b)).

   d. Secretary of State determines whether the total number
      of signatures filed with all county clerks/registrars of
      voters meets the minimum number of required signatures
      and notifies the counties..Thursday, 11/05/09*

   e. Last day for county to determine total number of qualified
      voters who signed the petition, and to transmit certificate
      with a blank copy of the petition to the Secretary of State
      (Elec. Code § 9030(d)(e)) .... Tuesday, 12/22/09

* Date varies based on the date of county receipt.

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 11/05/09, the last day is no later than the thirtieth working day after the county's receipt of notification). (Elec. Code § 9030(d)(e)).

f. If the signature count is more than 477,369 or less than 412,273 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 412,273 and 477,369 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures (EC §9030(f)(g); 9031(a))....................................Friday, 01/01/10*

g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (Elec. Code § 9031(b)(c)). .... Wednesday, 02/17/10

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 01/01/10, the last day is no later than the thirtieth working day after the county's receipt of notification.) (Elec. Code § 9031(b)(c).)

h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (Elec. Code §§ 9031(d), 9033)........... Sunday, 02/21/10*

*Date varies based on the date of county receipt.

IMPORTANT POINTS

- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky* v. *Deukmejian* (1981) 124 Cal.App.3d 825, 177 Cal.Rptr. 621; 63 Ops.Cal.Atty.Gen. 37 (1980).

- Please refer to Elections Code sections 100, 101, 104, 9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.

- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq.

- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.

- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.

- When filing the petition with the county elections official, please provide a blank petition for elections official use.

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE

1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555
Telephone: (916) 445-4752
Facsimile: (916) 324-8835
E-Mail: Krystal.Paris@doj.ca.gov

May 18, 2009

FILED
In the office of the Secretary of State
of the State of California

MAY 18 2009

Debra Bowen, Secretary of State
By
Deputy Secretary of State

Honorable Debra Bowen
Secretary of State
1500 11th Street, 5th Floor
Sacramento, CA 95814

Attention: Ms. Katherine Montgomery
Associate Elections Analyst

Re: Initiative 09-0006, "The McCauley Pension Recovery Act."

Official Circulating Title: TAX ON PENSION DISTRIBUTIONS AND HEALTH CARE BENEFITS. INITIATIVE STATUTE.

Dear Secretary Bowen:

Pursuant to Elections Code sections 9004 and 336, you are hereby notified that on this day we mailed our title and summary for Initiative 09-0006, "The McCauley Pension Recovery Act" to the respective proponent.

Enclosed is a copy of that title and summary and text of the proposed measure.

Sincerely,

KRYSTAL M. PARIS
Initiative Coordinator

For EDMUND G. BROWN JR.
Attorney General

kmp:
Enclosures

Proponent:
Paul McCauley
13527 Rye Street, #2
Sherman Oaks, CA 91423

Date: May 18, 2009
Initiative No.: 09-0006

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

TAX ON PENSION DISTRIBUTIONS AND HEALTH CARE BENEFITS. INITIATIVE STATUTE. Imposes additional, annual taxes on California residents who receive income in excess of $40,000 from pension distributions, social security, and the cash value of health care benefits. May impose a one-time, additional tax on non-California residents whose pension benefits exceed $50,000 in a year, and who earned income in California. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Annual state revenue increases of up to $6 billion to $8 billion beginning in 2010 from new taxes on pension benefits. Revenues likely would decline over time due to changes in behavior. (09-0006.)

09-0006

RECEIVED
MAR 27 2009
INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

423

March 25, 2009

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

Dear Ms. Paris:

I request a Title and Summary for the enclosed proposed statutory initiative, *The McCauley Pension Recovery Act.*

Also enclosed is the required proponent's affidavit pursuant to California Elections Code Section 9608 and residential address.

Would you please direct all correspondence and communications regarding the initiative to:

Paul McCauley, CPA
13527 Rye Street #2
Sherman Oaks, CA 91423

pmcca28169@aol.com

I am personally hearing-impaired and much prefer e-mail communications.

Enclosed is a check for $200.

Very truly yours,

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

SECTION 1. This measure shall be known and may be cited as *"The McCauley Pension Recovery Act.*

SECTION 2. For purposes of this part, the following terms have the following meanings:

Pension taxable income includes distributions to any person from an employees' trust described in Internal Revenue Code Section 401(a) which is exempt from tax under Section 501(a). Pension taxable income further includes distributions pursuant to Internal Revenue Code Sections 403 and 408 and social security benefits received under the Federal Insurance Contributions Act. Pension taxable income further includes distributions from public employee pension and deferred compensation plans which provide benefits of the same type as those described in Internal Revenue Code Sections 401, 403 and 408. Pension taxable income shall further include the fair market value of health insurance benefits provided to any person.

SECTION 3. Section 17041 of the Revenue and Taxation Code is amended to read:

17041. (a) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state who is not a part-year resident, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income computed for the taxable year as if the resident were a resident of this state for the entire taxable year and for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions:

If the taxable income is:	The tax is:
Not over $3,650	1% of the taxable income
Over $3,650 but not over $8,650	$36.50 plus 2% of the excess over $3,650
Over $8,650 but not over $13,650	$136.50 plus 4% of the excess over $8,650
Over $13,650 but not over $18,950	$336.50 plus 6% of the excess over $13,650
Over $18,950 but not over $23,950	$654.50 plus 8% of the excess over $18,950
Over $23,950	$1,054.50 plus 9.3% of the excess over $23,950

(2) (A) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, or January 1, 2011, or January 1, 2013, as applicable, the percentages specified in the table in paragraph (1) shall be increased by adding 0.25 percent to each percentage. This subparagraph shall become operative only if the Director of Finance does not provide notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code. This subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2013.
(B) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, or January 1, 2011, or January 1, 2013, as applicable, the percentages specified in the table in paragraph (1) shall be increased by adding 0.125 percent to each percentage. This subparagraph shall become operative only if the Director of Finance does not provide notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code. This subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2013.

(b) (1) There shall be imposed for each taxable year upon the taxable income of every nonresident or part-year resident, except the head of a household as defined in Section 17042, a tax as calculated in paragraph (2).

(2) The tax imposed under paragraph (1) shall be calculated by multiplying the "taxable income of a nonresident or part-year resident," as defined in subdivision (i), by a rate (expressed as a percentage) equal to the tax computed under subdivision (a) on the entire taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(c) (1)There shall be imposed for each taxable year upon the entire taxable income of every resident of this state who is not a part-year resident for that taxable year, when the resident is the head of a household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income computed for the taxable year as if the resident were a resident of the state for the entire taxable year and for all prior taxable years for carryover items, deferred income, suspended losses, or suspended deductions:

If the taxable income is:	The tax is:
Not over $7,300	1% of the taxable income

Over $7,300 but not over $17,300	$73 plus 2% of the excess over $7,300
Over $17,300 but not over $22,300	$273 plus 4% of the excess over $17,300
Over $22,300 but not over $27,600	$473 plus 6% of the excess over $22,300
Over $27,600 but not over $32,600	$791 plus 8% of the excess over $27,600
Over $32,600	$1,191 plus 9.3% of the excess over $32,600

(2) (A) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, or January 1, 2011, or January 1, 2013, as applicable, the percentages specified in the table in paragraph (1) shall be increased by adding 0.25 percent to each percentage. This subparagraph shall become operative only if the Director of Finance does not provide notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code. This subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2013.

(B) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, or January 1, 2011, or January 1, 2013, as applicable, the percentages specified in the table in paragraph (1) shall be increased by adding 0.125 percent to each percentage. This subparagraph shall become operative only if the Director of Finance does not provide notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code. This subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2013.

(d) (1) There shall be imposed for each taxable year upon the taxable income of every nonresident or part-year resident when the nonresident or part-year resident is the head of a household, as defined in Section 17042, a tax as calculated in paragraph (2).

(2) The tax imposed under paragraph (1) shall be calculated by multiplying the "taxable income of a nonresident or part-year resident," as defined in subdivision (i), by a rate (expressed as a percentage) equal to the tax computed under subdivision (c) on the entire taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all

prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(e) There shall be imposed for each taxable year upon the taxable income of every estate, trust, or common trust fund taxes equal to the amount computed under subdivision (a) for an individual having the same amount of taxable income.

(f) ~~The~~ A tax imposed by this part is not a surtax.

(g) (1) Section 1(g) of the Internal Revenue Code, relating to certain unearned income of minor children taxed as if the parent's income, shall apply, except as otherwise provided.
(2) Section 1(g) (7) (B) (ii) (II) of the Internal Revenue Code, relating to income included on a parent's return, is modified, for purposes of this part, by substituting "1 percent" for "15 percent."

(h) For each taxable year beginning on or after January 1, 1988, the Franchise Tax Board shall recompute the income tax brackets prescribed in subdivisions (a) and (c). That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall do both of the following:

(A) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and dividing the result by 100.

(B) Multiply the preceding taxable year income tax brackets by the inflation adjustment factor determined in subparagraph (A) and round off the resulting products to the nearest one dollar ($1).

(i) (1) For purposes of this part, the term "taxable income of a nonresident or part-year resident" includes each of the following:

(A) For any part of the taxable year during which the taxpayer was a resident of this state (as defined by Section 17014), all items of gross income and all deductions, regardless of source.
(B) For any part of the taxable year during which the taxpayer was not a resident of this state, gross income and deductions derived from sources within this state, determined in accordance with Article 9 of Chapter 3 (commencing with Section 17301) and Chapter 11 (commencing with Section 17951).

(2) For purposes of computing "taxable income of a nonresident or part-year resident" under paragraph (1), the amount of any net operating loss sustained in any taxable

year during any part of which the taxpayer was not a resident of this state shall be limited to the sum of the following:

(A) The amount of the loss attributable to the part of the taxable year in which the taxpayer was a resident.

(B) The amount of the loss which, during the part of the taxable year the taxpayer is not a resident, is attributable to California source income and deductions allowable in arriving at taxable income of a nonresident or part-year resident.

(3) For purposes of computing "taxable income of a nonresident or part-year resident" under paragraph (1), any carryover items, deferred income, suspended losses, or suspended deductions shall only be includable or allowable to the extent that the carryover item, deferred income, suspended loss, or suspended deduction was derived from sources within this state, calculated as if the nonresident or part-year resident, for the portion of the year he or she was a nonresident, had been a nonresident for all prior years.

(j) (1) For each taxable year beginning on and after January 1, 2010, there shall be imposed on every taxpayer who is a resident and whose pension taxable income for the year exceeds $40,000 an additional tax according to the following schedule. The additional tax is in addition to all other taxes provided for in this section.

Over $40,000 but not over $50,000	$5,000 plus 20% of the pension taxable income over $40,000
Over $50,000 but not over $75,000	$7,000 plus 35% of the pension taxable income over $50,000
Over $75,000 but not over $100,000	$15,750 plus 40% of the pension taxable income over $75,000
Over $100,000 but not over $150,000	$25,750 plus 50% of the pension taxable income over $100,000
Over $150,000	$50,750 plus 60% of the pension taxable income over $150,000

(2) For persons who were nonresidents of California on the date of enactment and for persons who become nonresidents thereafter, an excise tax on the fair market value of excess vested benefits shall be computed and paid in lieu of the additional tax. The excise tax so computed shall be paid either in a single payment or ratably over the life expectancy of the pensioner using mortality tables promulgated by the Franchise Tax Board. Persons whose pension taxable income exceeds $50,000 in any taxable year shall be liable for the excise tax. The excise tax is calculated at a rate of thirty-five percent (35%) on the amount by which:

(a) The fair market value of all vested pension benefits of all pension trusts in which the individual has a vested interest, calculated on the individual's life expectancy, exceeds the fair market value of an assumed annuity of $50,000 paid out over the annuitant's life expectancy.

(b) The Franchise Tax Board shall have the right to collect the tax provided for by this subdivision at its source.

(c) The Franchise Tax Board shall use the same actuarial assumptions in calculating the fair market value of vested pension benefits provided for in this subdivision.

(d) This subdivision shall apply only to vested pension benefits obtained through employment of any person within the State of California and derived from sources within California. It applies to persons who earned vested pension benefits as well as to persons who are successors in interest to any such vested pension benefits.

(e) For persons who were nonresidents on the date of enactment, the excise tax shall be determined as of the date of enactment. For persons who were residents on the date of enactment but who became non-residents at any time after the date of enactment, the excise tax shall be computed as of the date nonresidency begins.

(3) No person receiving a benefit of any kind whatsoever in consideration of the loss of life of a police officer or firefighter in the line of duty shall be liable for the tax provided by this subdivision.

SECTION 4. The provisions of this measure are severable. If any provision of this measure or the application of the provisions of this measure is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 5. This measure is operative for each taxable year beginning on and after January 1, 2010 or the earliest date provided by law.