DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS
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January 15, 2010

County Clerk/Registrar of Voters (CC/ROV) Memorandum #10022

TO: All County Clerks/Registrars of Voters and Proponent

FROM: Katherine Montgomery
Associate Elections Analyst

RE: Initiative: 1433, Related to Public Employee Benefits

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:

REDUCES PUBLIC PENSION AND RETIREMENT HEALTH-CARE BENEFITS. INITIATIVE CONSTITUTIONAL AMENDMENT.

The proponent of the above-named measure is:

Marcia Fritz
5530 Birdcage Street, Suite 105
Citrus Heights, CA 95610

(916) 966-9366

#1433

REDUCES PUBLIC PENSION AND RETIREMENT HEALTH-CARE BENEFITS. INITIATIVE CONSTITUTIONAL AMENDMENT.

CIRCULATING AND FILING SCHEDULE

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1. Minimum number of signatures required: 694,354
   California Constitution, Article II, Section 8(b)

2. Official Summary Date: ....Thursday, 01/14/10

3. Petitions Sections:

   a. First day Proponent can circulate Sections for signatures (Elec. Code § 336) .... Thursday, 01/14/10

   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)). .... Monday, 06/14/10*

   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))................Thursday, 06/24/10

      (If the Proponent files the petition with the county on a date prior to 06/14/10, 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..Saturday, 07/03/10**

   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))..Friday, 08/13/10

* Date adjusted for official deadline, which falls on a weekend (Elec. Code § 15).
** 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 07/03/10, 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 763,790 or less than 659,637 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 659,637 and 763,790 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of **all** signatures (Elec. Code §§ 9030(f)(g), 9031(a)) ....Monday, 08/23/10*

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, 10/06/10

(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 08/23/10, 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, 10/10/10*

*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

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January 14, 2010

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

JAN 15 2010

Debra Bowen, Secretary of State
By
Deputy Secretary of State

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

Attention: Ms. Katherine Montgomery
Associate Elections Analyst

Dear Secretary Bowen:

Pursuant to Elections Code, section 9004, you are hereby notified that on this day we sent our title and summary for each of the following proposed initiatives to the respective proponent:

- **09-0075, "New Public Employees Benefits Reform Act." [V-1.]**
- **09-0076, "New Public Employees Benefits Reform Act." [V-2.]**
- **09-0080, "Public Employee Pension Limitation Law."**

A copy of the title and summary and text of each initiative is enclosed.

Please contact me if you have any questions. Thank you.

Sincerely,

KParis

KRYSTAL M. PARIS
Initiative Coordinator

For EDMUND G. BROWN JR.
Attorney General

Proponents:

09-0075 & 09-0076
Marcia Fritz, President
California Foundation for Fiscal Responsibility
5530 Birdcage Street, STE 105
Citrus Heights, CA 95610

09-0080
John Romano
pensionlimitationlaw@yahoo.com

Date: January 14, 2010
Initiative 09-0075

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

REDUCES PUBLIC PENSION AND RETIREMENT HEALTH-CARE BENEFITS.

INITIATIVE CONSTITUTIONAL AMENDMENT. For peace officers, firefighters, public safety, and other public employees hired after July 1, 2011, this measure: reduces pension and retirement health-care benefits; increases minimum retirement age; restricts early retirement; increases minimum age and years of employment needed for retirement health-care benefits; and limits post-retirement pension increases. For current and new public employees this measure: prohibits retroactive increases in retirement benefits and requires public employers to make annual payments for future benefit costs. Allows public employers to adjust retirement contribution rates for new employees in future labor agreements. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: **Major reductions in annual public sector pension costs—potentially in the range of 50 percent or more—over the long run. Possible increases in other public employee compensation costs, depending on future decisions made by governmental entities and voters. Major near-term increase in annual governmental payments to prefund retiree health benefits, more than offset in the long run by annual reductions in these costs.** (09-0075.)

09-0075

November 5, 2009

RECEIVED
NOV 05 2009
INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

VIA MESSENGER

Initiative Coordinator
Office of the Attorney General
1300 "I" Street
Sacramento, California 95814

Re: Request for Title and Summary for Proposed Initiative

I request that the Attorney General prepare a title for and summary of the attached proposed statewide ballot measure pursuant to Elections Code section 9002. The text of the measure, "New Public Employees Benefits Reform Act," a check for $200 payable to the State of California, the address at which I am registered to vote, and the signed statement required by Elections Code section 9608 are enclosed.

Very truly yours.

Marcia Fritz

Address for correspondence:

Marcia Fritz, President
California Foundation for Fiscal Responsibility
5530 Birdcage Street, STE 105
Citrus Heights, CA 95610
916-966-9366

09-0075

NEW PUBLIC EMPLOYEES BENEFITS REFORM ACT

SECTION 1. Title

This measure shall be known and may be cited as the New Public Employee Benefits Reform Act.

SECTION 2. Findings and Declaration of Purpose

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

(a) Government has an obligation to provide adequate and secure retirement benefits to its employees;

(b) Our police, firefighters and other public safety employees, who risk their lives protecting us, deserve special consideration;

(c) At the same time, government has a responsibility to its employees and to taxpayers to ensure that such benefits are reasonable and adequately funded;

(d) Existing public employees have a right to receive the retirement and other similar benefits that were promised them upon employment. Thus, this Act does not eliminate, limit or affect existing defined benefit pension plans, defined contribution plans, vested retiree health care plans, disability benefits, or death benefits for current public employees or retirees and their families;

(e) However, the current system of retirement benefits is too costly, overly generous, and cannot be sustained for new public employees;

(f) Government finance experts have determined that retirement benefits provided public employees are significantly more generous than in other states and private industry. Under the current system, some public employees can actually receive more income in retirement than they earned while working. The current system could result in billions of dollars in new taxes to meet the retirement obligations for public employees. Many local governments may be threatened with bankruptcy if no change is made.

(g) It is responsible and prudent for the people to impose limitations on retirement benefits offered to new public employees hired after the effective date of this Act and make public pensions more affordable for taxpayers.

(h) Therefore, the people of the State of California hereby enact the New Public Employee Benefits Reform Act to provide for fiscally responsible retirement benefits for new public employees hired on or after the effective date of this Act.

SECTION 3. New Public Employee Benefits Reform Act

Section 12 of Article VII of the California Constitution is added to read:

Sec. 12(a) The state and any other public agency providing retirement and other benefits for its new employees shall be limited as provided in this Section and such limitations are a matter of statewide concern.

(b)(1) A public agency providing retirement pension benefits to new employees under a defined benefit plan shall be limited as follows:

(A) The plan shall provide for full retirement ages of new employees as follows:
(i) for a new employee retiring as a peace officer or firefighter, no less than 58 years of age;
(ii) for a new employee retiring as public safety employee, no less than 60 years of age; and
(iii) for any other new employee retiring from a public agency, no less than the full retirement age, as defined in the United States Social Security Old-Age and Survivors Insurance Program.
(iv) Notwithstanding the minimum retirement ages provided for in this subdivision, a public agency may offer early retirement pension benefits to one or more of its new employees if the fiscal effect would be to reduce the normal cost to the public agency compared to the normal cost of providing the benefits only upon reaching the full retirement ages provided in this subdivision. Such an actuarially reduced benefit may only be provided to public employees beginning five or fewer years prior to the retirement ages specified above.

(B) The plan may not provide retirement pension benefits to any new public employee unless the new public employee has been a full time employee of one or more public agencies for at least five consecutive years. This subsection does not limit defined contribution plans or disability benefits for new public employees or death benefits for families of new public employees.

(C) To enhance the ability of public agencies to fund and pay retirement pension benefits for new public employees as and when due, from and after the effective date of this Act, no public agency may provide retroactive increases in retirement pension benefits for any current employee or new employee under any existing or new defined benefit plan.

(D) The plan may not provide retirement pension benefits to any new public employee that, for any year of the new public employee's retirement, exceeds the following percentage of the employee's annual average base wage:
(i) for a new employee retiring as peace officer or firefighter, no more than

2.3 percent multiplied by the number of years of employment;
(ii) for a new employee retiring as a public safety employee, no more than 1.8 percent multiplied by the number of years of employment;
(iii) for any other new employee retiring from a public agency that does not require Social Security contributions from new employees, no more than 1.65 percent multiplied by the number of years of employment, but no less than the Social Security benefits to which such employee would have been entitled if the employee had earned Social Security benefits during such employee's years of employment by that public agency;
(iv) for any other new employee retiring from a public agency that requires Social Security contributions from new employees, no more than 1.25 percent multiplied by the number of years of employment; and
(v) In no case shall annual retirement pension benefits paid to any new employee exceed 75 percent of the employee's annual average base wage.

(E) For purposes of subdivision (D), a new employee's annual average base wage shall be based on no greater than the highest annual average base wage of the employee over a period of three consecutive years of employment by a public agency. Any additional payment, including but not limited to, overtime pay, shift differential pay, bonus pay, severance pay, holiday pay, uniform allowance, certificate pay, advanced officer pay, specialty pay, longevity pay, employer-paid member contribution, payments for accrued but unused vacation, sick days, and similar payments shall be excluded from calculating the annual average base wage.

(F) To enhance the ability of public agencies to fund and pay retirement pension benefits for new public employees as and when due, during the first fiscal year of each public agency beginning after June 30, 2011, and during each fiscal year of the public agency thereafter, the public agency shall make payments to each defined benefit plan for current and new employees of that public agency in amounts that each plan's actuary determines will equal or exceed the normal cost for that fiscal year of the defined benefits under that plan for all current and new employees of that public agency. This subdivision does not require payments with respect to any unfunded liability for fiscal years ending on or before June 30, 2011. In all cases, new employees shall be required to contribute a minimum of 4 percent of base salary (2 percent of base salary if the new employee is employed by a public agency that also requires Social Security contributions from new employees) as an employee contribution to their defined benefit plans.

(G) Notwithstanding subdivision (D), a public agency may choose to increase the amount of defined benefit retirement payments made to new public employees who retire as follows. To offset the effects of inflation, if after five years of retirement, a plan's actuary determines in a written report, made public promptly after it is received by the plan, that there has been an increase in the California Consumer Price Index from the preceding year, the public agency may increase the annual defined benefit pension benefit to such retiree in an amount equal to the increase, but not exceeding 3%.

(2) A public agency providing retiree health care benefits to new employees shall be limited as follows:

(A)(i) Retiree health care benefits shall only be made available to new employees upon attaining the full retirement ages provided in subdivision (b)(1)(A)(i)-(iii); or
(ii) Retiree health care benefits may be offered by a public agency to one or more of its new employees prior to attaining the full retirement ages provided in subdivision (b)(1)(A)(i)-(iii), if the fiscal effect would be to reduce the normal cost to the public agency compared to the normal cost of providing the benefits only upon reaching the employee's full retirement age. Such an actuarially reduced benefit may only be provided to public employees beginning five or fewer years prior to attaining such full retirement ages.

(B) The public agency may not provide retiree health care benefits to any new public employee unless the new public employee has been both a full time employee of one or more public agencies for at least five consecutive years immediately preceding retirement and a full time employee of one or more public agencies for an aggregate of at least ten years. This subsection does not limit defined contribution plans or disability benefits for new public employees or death benefits for families of new public employees.

(C) To enhance the ability of public agencies to fund and pay retiree health care benefits for new public employees as and when due, from and after the effective date of this Act, no public agency may provide retroactive increases in retiree health care benefits for any current employee or new employee.

(D) To enhance the ability of public agencies to fund and pay retiree health care benefits for new public employees as and when due, during the first fiscal year of each public agency beginning after June 30, 2011, and during each fiscal year of the public agency thereafter, the public agency shall make payments to each plan or trust providing retiree health care benefits to current or new employees of that public agency in amounts that each plan's or trust's actuary determines will equal or exceed the normal cost for that fiscal year of any retiree health care plan benefits projected to be paid by the public agency to such current and new employees. This subdivision does not require payments with respect to any unfunded liability for fiscal years ending on or before June 30, 2011.

(3) All funds held in public agency defined benefit plans that benefit new public employees shall be used exclusively to provide pension benefits for public agency retirees and may not be diverted to any other purpose, including retiree health care benefits. All funds held in public agency retiree health care benefit plans that benefit new public employees shall be used exclusively for retiree health care benefits and shall not be diverted to any other purpose, including pension benefits.

(4) A public agency shall reserve the right to adjust the amount and rate of employee and agency contributions for pension and retiree health care benefits for new public employees in any manner the agency may from time to time find appropriate, subject to the limitations provided in this Section (including the limitation as to minimum employee contributions required by subdivision (b)(1)(F)). A public agency may not enter into any employment contract or collective bargaining agreement that limits or restricts, in any way, a public agency's ability to adjust the amount and rate of such contributions from time to time.

(5) As used in this section:

(A) "Defined benefit plan" means a plan providing a pension benefit determined by a formula based on factors such as age, years of service, and compensation.

(B) "New public employee" and "new employee" mean a person who becomes an employee of a public agency on or after July 1, 2011 and who has not been a full time employee of any public agency prior to July 1, 2011.

(C) "Normal cost" means the actuarially defined present value of the cost of projected benefits credited to employees for service in a stated period.

(D) "Peace officer or firefighter" means a new public employee who is a sworn peace officer or firefighter and either a patrol member (as defined in California Government Code section 20390, as that statute existed on January 1, 2009) or a state peace officer/firefighter member (as defined in California Government Code sections 20391-20398, as those statutes existed on January 1, 2009) or a new employee of a public agency who has duties and responsibilities that are substantially the same as the duties and responsibilities of a patrol member or a state peace officer/firefighter member.

(E) "Public agency" means this State or a local public agency of this State, including, but not limited to, a city, city and county, or county, including a charter city or charter county, district, school district, the Regents of the University of California, California State University, and each other political subdivision or public entity of, or organized under the laws of, this State, or any department, instrumentality, board, commission, authority, or agency thereof.

(F) "Public safety employee" means a new public employee who is a state safety member (as defined in California Government Code sections 20399-20416, as those statutes existed on January 1, 2009), or a new employee of a public agency who has duties and responsibilities that are substantially the same as the duties and responsibilities of a state safety member, and who is not a peace officer or firefighter employee.

(G) "Retiree health care benefits" means a plan or trust providing health care benefits to retirees, such as health care services (including acute and chronic care), payment of capitation fees (including those for the United States Medicare Program), other medical services, and dental and vision services.

(H) "Social Security benefits" and "Social Security contributions" mean benefits and contributions, respectively, under the United States Social Security Old-Age and Survivors Insurance Program.

(c)(1) The Legislature may adopt legislation implementing this Section and to further the purposes of this Section by a bill passed by roll call vote entered into the journal, two-thirds of the members concurring.

(2) Notwithstanding the limits provided for in subdivision (b)(1)(D):
(A) The Legislature may modify those limitations for new employees of the state or the University of California by a bill passed by roll call vote entered into the journal, two-thirds of the members concurring.

(B) A public agency other than the state or the University of California, may modify those limitations for employees of the public agency upon approval of the voters, in that agency, voting on the question in a regularly scheduled statewide general election.

(d) Nothing in this Section is intended to terminate, amend, modify or in any way limit or affect the retirement pension benefits, vested retiree health care benefits, disability, death or other benefits provided for current and retired employees of public agencies. Nothing in this Section is intended to require the termination or closure of any existing defined benefit plan.

(e) Nothing in this Section shall terminate, amend, modify or in any way affect the sole and exclusive fiduciary responsibility of the California Public Employees Retirement System, the California State Teachers' Retirement System, and the University of California Retirement System, or any other public pension retirement board or system over the assets held by each of those systems as provided by Section 17 of Article XVI or otherwise affect the management of those systems except as expressly provided in this Section.

SECTION 4. Severability

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

SECTION 5. Effective Date

This Act shall become effective immediately upon its approval by the voters pursuant to Section 10(a) of Article II.