11-0061 Amdt. #1 NS

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ATTORNEY GENERAL'S OFFICE

November 10, 2011

VIA PERSONAL DELIVERY

The Honorable Kamala D. Harris.
Attorney General
1300 I Street, 17th Floor, P.O. Box 944255
Sacramento, CA 95814

Attention: Dawn McFarland, Initiative Coordinator

Re: Request to Make Nonsubstantive Amendment to Initiative No. 11-0061 Amdt. #1S

Dear Ms. Harris:

A typographical error was recently discovered in Initiative No. 11-0061 Amdt. # 1S. On page 5, line 7 of the measure, the word "*or*" in the phrase "Notwithstanding Section 6 *or* Article XIII B" should be "*of*," so that the phrase reads "Notwithstanding Section 6 *of* Article XIII B."

The proponent believes this amendment is non-substantive.

All inquires or correspondence relative to this initiative and the amendments described above should be directed to Nielsen, Merksamer, Parrinello, Gross & Leoni,

LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814, (916) 446-6752, Attention: Cathy Christian.

Thank you for your assistance.

Sincerely,

Paul McIntosh

Paul McIntosh, Proponent

1 This measure shall be known as "The Local Taxpayers, Public Safety and Local Services
2 Protection Act of 2012."

3 **SECTION 1. FINDINGS AND DECLARATIONS.**

4 The people of the State of California find and declare that:

5 (1) In the 2011 Legislative session, the State Legislature transferred from state
6 government to counties and other local governments the responsibility for providing a number of
7 public services, including law enforcement and public safety services, care for abused and
8 neglected seniors and children, mental health and substance abuse recovery programs, and
9 monitoring and detaining specified felony offenders, in a series of legislative enactments known
10 as "2011 Realignment."

11 (2) However, while the Legislature required local governments to provide these services,
12 the State did not provide a guaranteed source of ongoing funding to pay for the delivery of these
13 services beyond one year.

14 (3) Local governments are more accountable to the public and better able to deliver
15 services efficiently and effectively. However, transferring responsibility for services without also
16 guaranteeing State revenue to provide these services jeopardizes local government's ability to
17 provide law enforcement and public safety, mental health and substance abuse recovery, care for
18 abused and neglected children and seniors, and other services vital to Californians.

19 (4) Historically, the State Legislature has repeatedly raided and shifted funds dedicated
20 to local governments, and the State has also failed to adequately reimburse local governments for
21 the costs of providing services that the State mandates local governments provide.

22 (5) It is the intent of this ballot measure to require the State to transfer ongoing State
23 funding to counties and local governments to pay for the cost of providing services that were

1 transferred in 2011 by the State to local government. This measure dedicates *existing* state
2 revenues, and does not raise taxes.
3 (6) The ballot measure prohibits the State Legislature from raiding or otherwise
4 redirecting these existing revenues away from counties and local governments in the future
5 unless the transferred programs are reduced or eliminated.
6 (7) This ballot measure also prohibits the State from passing any new law or regulation
7 that imposes additional costs on local governments to provide services associated with 2011
8 Realignment, unless the State provides ongoing State funding to pay for these services.
9 (8) All revenues from this measure are subject to annual, independent audits by the State
10 Controller to ensure that they will be used only for local public safety responsibilities and other
11 local services that have been transferred to the counties and local governments by the State, and
12 to provide information about whether the cost of providing transferred services exceed the
13 amount of revenues provided by the State.
14 **SECTION 2. STATEMENT OF PURPOSE.**
15 The purpose of this measure is to require the State to provide ongoing, guaranteed funding to
16 counties and other local governments for the cost of providing services that were shifted in 2011
17 from the State to local government; to prohibit the State from reducing funding for 2011
18 Realignment in future years unless there also is a commensurate reduction in local government
19 program responsibilities; and to prohibit the State from passing any new law or regulation that
20 imposes additional costs on local governments to provide these services unless the State
21 provides a source of state funding to pay for the additional costs.
22 **SECTION 3.** Section 36 is added to Article XIII of the California Constitution, to read:
23 SEC. 36. (a) For purposes of this section:

1 (1) "Public Safety and Other Local Services" includes the programs and services
2 transferred to local agencies in the 2011 Realignment Legislation, including Law Enforcement
3 Subvention Programs.
4 (2) "2011 Realignment Legislation" means the following chaptered bills: Assembly Bills
5 94, 109 (as amended by Assembly Bill 117 of the 2011-2012 Regular Session of the Legislature
6 and Assembly Bill 17 of the 2011-2012 First Extraordinary Session of the Legislature), 111, and
7 118 (as amended by Assembly Bill 16 and Senate Bill 4 of the 2011-2012 First Extraordinary
8 Session of the Legislature) of the 2011-2012 Regular Session of the Legislature; Senate Bills 87
9 and 93 of the 2011-2012 Regular Session of the Legislature; and the programs set forth in Part
10 2.5 (commencing at section 5775) of Division 5 of the Welfare and Institutions Code and Article
11 5 (commencing at section 14680) of Chapter 8.8 of Part 3 of Division 9 of the Welfare and
12 Institutions Code, as those provisions existed on October 9, 2011.
13 (3) Law Enforcement Subvention Programs means the following provisions as they
14 existed on October 9, 2011:
15 (i) The criminal justice payments set forth in Article 12 (commencing at section 29550)
16 of Chapter 2 of Division 3 of Title 3 of the Government Code;
17 (ii) The supplemental local law enforcement services funding set forth in Chapter 6.7
18 (commencing at section 30061) of Division 3 of Title 3 of the Government Code;
19 (iii) Assistance for rural and small county law enforcement services set forth in Chapter
20 6.9 (commencing at section 30070) of Division 3 of Title 3 of the Government Code;
21 (iv) Criminal justice grants set forth in Chapter 3 (commencing at section 13820) of Title
22 6 of Part 4 of the Penal Code; and

1 (v) Juvenile probation funding set forth in Chapter 3.2 (commencing at 18220) of Part 6
2 of Division 9 of the Welfare and Institutions Code.
3 (b) In order to deliver local public safety, protective and preventative services for seniors
4 and children, and other public services that were shifted to local agencies from State government
5 as the result of the 2011 Realignment Legislation, this section creates a guaranteed source of
6 ongoing, dedicated state funding for local agencies, out of existing state funds, that cannot be
7 redirected, shifted or taken by the Legislature in the future unless there also is a commensurate
8 reduction in Public Safety and Other Local Services.
9 (c) Commencing in fiscal year 2011-2012 and continuing thereafter, the following
10 revenues shall be deposited into the Local Revenue Fund 2011, as established by Section 30025
11 of the Government Code:
12 (1) All revenues, less refunds, derived from the taxes described in Sections 6051.15 and
13 6201.15 of the Revenue and Taxation Code, as those sections read on July 1, 2011.
14 (2) All revenues (including penalties) less refunds, derived from the vehicle license fees
15 described in Section 11005 of the Revenue and Taxation Code, as that section read on July 1,
16 2011.
17 (d) (1) Funds deposited in the Local Revenue Fund 2011, less costs of administering the
18 fund, are hereby continuously appropriated to each County Local Revenue Fund 2011, as
19 allocated by the Controller as directed by statute, exclusively to fund Public Safety and Other
20 Local Services. Pending full implementation of the 2011 Realignment Legislation, funds may
21 also be used to reimburse the State for costs incurred in providing Public Safety and Other Local
22 Services on behalf of local agencies.

1 (2) The county treasurer, city and county treasurer, or other appropriate official shall
2 create a County Local Revenue Fund 2011 within the treasury of each county or city and county.
3 The money in each County Local Revenue Fund 2011, as created by the county treasurer, city
4 and county treasurer, or other appropriate official in accordance with Section 30025 of the
5 Government Code, shall be exclusively used to fund Public Safety and Other Local Services by
6 local agencies as specified by the 2011 Realignment Legislation.
7 (e) Notwithstanding Section 6 of Article XIII B, or any other constitutional provision, a
8 mandate of a new program or higher level service on a local agency imposed by the 2011
9 Realignment Legislation, or by any regulation adopted or any executive order or administrative
10 directive issued to implement that legislation, shall not constitute a mandate requiring the State
11 to provide a subvention of funds within the meaning of subdivision (b) of that section.
12 (f) (1) The Legislature shall be prohibited from enacting legislation after October 9, 2011,
13 that has an overall effect of increasing the costs or scope of responsibility borne by a local
14 agency for Public Safety and Other Local Services mandated, transferred or realigned to local
15 agencies by the 2011 Realignment Legislation unless the State provides annual, ongoing funding
16 for the increased cost or responsibility. Local agencies shall not be obligated to provide
17 programs or levels of service required by legislation, described in this paragraph, above the level
18 for which funding has actually been provided.
19 (2) Any legislation enacted after October 9, 2011 and prior to the effective date of this
20 paragraph that has an overall effect of increasing the costs or scope of responsibility borne by a
21 local agency for Public Safety and Other Local Services transferred or realigned by the 2011
22 Realignment Legislation shall be void unless the State provides annual, ongoing funding from
23 revenues appropriated by the State for such increased cost or responsibility. Local agencies shall

1 not be obligated to provide programs or levels of service required by legislation, described in this
2 paragraph, above the level for which funding has actually been provided.
3 (3) The State shall be prohibited from enacting regulations, executive orders, or
4 administrative directives, after October 9, 2011, that are not necessary to implement the 2011
5 Realignment Legislation, and that have an overall effect of increasing the costs already borne by
6 a local agency for Public Safety and Other Local Services mandated by the 2011 Realignment
7 Legislation, unless the State provides annual, ongoing funding from revenues appropriated by the
8 State for such increased cost or responsibility. Local agencies shall not be obligated to provide
9 programs or levels of service pursuant to new regulations, executive orders, or administrative
10 directives, described in this paragraph, above the level for which funding has been actually
11 provided.
12 (4) Any new program or higher level of service provided by local agencies, as described
13 in paragraphs (1), (2) and (3), in excess of the provided funding, shall not require a subvention of
14 funds by the State nor otherwise be subject to Section 6 of Article XIII B. This subdivision shall
15 not apply to legislation currently exempt from subvention under paragraph (2) of subdivision (a)
16 of Section 6 of Article XIII B.
17 (5) The State shall not submit to the federal government any plans or waivers, or
18 amendments to those plans or waivers, that have an overall effect of increasing the cost or
19 responsibility borne by a local agency for Public Safety and Other Local Services mandated,
20 transferred or realigned by the 2011 Realignment Legislation, except to the extent that the State
21 provides annual funding for the cost increase.
22 (6) The State shall not be required to provide a subvention of funds pursuant to this
23 subdivision for a mandate that is imposed by the State at the request of a local agency or to

1 comply with federal law. State funds required by this subdivision shall be from a source other
2 than ad valorem property taxes or the Social Services Subaccount of the Sales Tax Account of
3 the Local Revenue Fund, or the Local Revenue Fund 2011.
4 (7) Except as provided in paragraph (8) of this subdivision, nothing in this section
5 prohibits the Legislature from subsequently reducing or eliminating one or more of the Public
6 Safety and Other Local Services. Should the Legislature do so, it may reduce the appropriation
7 of the revenues described in subdivision (c) and allocated to the County Local Revenue Fund
8 2011 by the amount allocated by the State for one or more of the reduced or eliminated Public
9 Safety and Other Local Services during the prior fiscal year. Upon such reduction or
10 elimination, the local agency shall no longer be required under the 2011 Realignment Legislation
11 to provide such services. Any local agency may challenge the amount of the reduction in the
12 appropriation to the County Local Revenue Fund 2011 under this paragraph in a court of
13 competent jurisdiction. Upon a finding by the Court that the Legislature reduced the
14 appropriation in an amount greater than the amount allocated by the State for the reduced or
15 eliminated Public Safety Services during the prior fiscal year, the Controller shall impound and
16 allocate to counties the improperly reduced or unallocated funds from the continuous
17 appropriation provided for in subdivision (d).
18 (8) Notwithstanding paragraph (7) of this subdivision, the Legislature may only reduce,
19 eliminate, or reallocate the funding for, or otherwise make changes to, Law Enforcement
20 Subvention Programs by vote of four-fifths of the membership of both houses of the Legislature.
21 (g) (1) For Public Safety and Other Local Services described in paragraphs (3) to (5),
22 inclusive, of subdivision (i) of Section 30025 of the Government Code, as that section read on
23 July 1, 2011, if there are subsequent changes in the federal statutes or regulations that alter the

1 conditions under which federal matching funds as described in 2011 Realignment Legislation are
2 obtained that have the overall effect of increasing the costs incurred by a local agency, the State
3 shall provide annual funding of at least 50 percent of the nonfederal share of those costs as
4 determined by the State.

5 (2) When the State is a party to any complaint brought in a federal judicial or
6 administrative proceeding that involves one or more of the Public Safety and Other Local
7 Services described in paragraphs (3) to (5), inclusive, of subdivision (i) of Section 30025 of the
8 Government Code, as that section read on July 1, 2011, and there is a settlement or judicial or
9 administrative order that imposes a cost in the form of a monetary penalty or has the overall
10 effect of increasing the costs already borne by a local agency for Public Safety and Other Local
11 Services mandated, transferred or realigned by the 2011 Realignment Legislation, the State shall
12 provide annual funding of at least 50 percent of the nonfederal share of those costs as determined
13 by the State. Payment by the State is not required if the State determines that the settlement or
14 order relates to one or more local agencies failing to perform a ministerial duty, failing to
15 perform a legal obligation in good faith, or acting in a negligent or reckless manner.

16 (3) The State funds provided in this subdivision shall be from funding sources other than
17 ad valorem property taxes, the Social Services Subaccount of the Sales Tax Account of the Local
18 Revenue Fund, or the Local Revenue Fund 2011.

19 (h) (1) The funds deposited into a County Local Revenue Fund 2011 shall be spent in a
20 manner designed to maintain the State's eligibility for federal matching funds, and to ensure
21 compliance by the State with applicable federal standards governing the State's provision of
22 Public Safety and Other Local Services.

1 (2) The funds deposited into a County Local Revenue Fund 2011 shall not be used by
2 local agencies to supplant other funding for Public Safety and Other Local Services.
3 (3) This section shall not be construed to prevent the Legislature from subsequently
4 imposing, increasing, reducing, or repealing a fee or tax enacted in accordance with this
5 Constitution.
6 (i) If the Legislature reduces or repeals the revenue described in subdivision (c) and
7 adopts an alternative source of revenue to replace them, the alternative source of revenue is
8 hereby continuously appropriated, and shall be deposited into the Local Revenue Fund 2011 in
9 an amount equal to or greater than the aggregate amount that otherwise would have been
10 provided by the revenue described in subdivision (c) in the year the revenue was reduced or
11 repealed. If the Legislature reduces or repeals the revenue described in subdivision (c) and fails
12 to adopt an alternative source of revenue, the funds are hereby appropriated from the General
13 Fund to the Controller who shall transfer therefrom the amount described above in pro rata
14 monthly shares to the Local Revenue Fund 2011. Thereafter, the Controller shall disburse these
15 amounts to local agencies in the manner directed by statute. The State funds provided in this
16 subdivision shall be from funding sources other than ad valorem property tax, the Social Services
17 Subaccount of the Sales Tax Account of the Local Revenue Fund, or the Local Revenue Fund
18 2011. The State shall be obligated to provide the amount described above for so long as the local
19 agencies are required to perform the Public Safety and Other Local Services responsibilities
20 mandated, transferred or realigned by 2011 Realignment Legislation. The State obligations
21 under this subdivision have a lower priority claim to General Fund money than the first priority
22 for money to be set apart under Section 8 of Article XVI and the second priority to pay voter-
23 approved debts and liabilities described in Section 1 of Article XVI.

1 (j) The Controller, pursuant to his or her statutory authority, may perform audits of
2 expenditures from the Local Revenue Fund 2011 and any County Local Revenue Fund to ensure
3 that those funds are used and accounted for in a manner consistent with this section, and to
4 provide information about whether the cost of providing transferred services exceed the amount
5 of revenues provided by the State.