

1992

## Office of the Auditor General.

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Office of the Auditor General.  
Legislative Constitutional Amendment.

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Official Title and Summary Prepared by the Attorney General

**OFFICE OF THE AUDITOR GENERAL.  
LEGISLATIVE CONSTITUTIONAL AMENDMENT.**

- Establishes the Auditor General as a Constitutional office.
- Requires Office to conduct independent, nonpartisan, professional audits.
- Provides Legislature appoint or remove Auditor General after recommendation by a joint committee composed of no more than 50% of one political party.
- Limits expenditures for Office to conducting audits, duties under the Reporting of Improper Governmental Activities Act, and related expenses.
- Excludes expenditures for Office from Constitution's limit on legislative expenditures adopted by Proposition 140.
- Exempts staff from civil service but requires hiring and promotions to be based on merit and professional qualifications.

Summary of Legislative Analyst's  
Estimate of Net State and Local Government Fiscal Impact:

- Potential state costs and savings from expanded audit activity. Net impact is unknown, but probably not significant.
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Final Votes Cast by the Legislature on SCA 34 (Proposition 159)

Assembly: Ayes 54	Senate: Ayes 32
Noes 19	Noes 2

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## Analysis by the Legislative Analyst

### Background

The Office of the Auditor General, established in 1955, is required by law to conduct financial and other audits of state government. It conducts three types of audits:

- **Financial audits** of state agencies to ensure the legal expenditure of state funds consistent with national auditing standards. The federal government requires independent audits of this type in order for the state to receive federal funds (about \$16 billion annually).
- **Investigative audits** in response to allegations of fraud or abuse by state employees.
- **Performance audits** of specific state programs to assure that they are managed and operated in an efficient and effective way.

State law requires the office to perform financial and investigative audits. Most performance audits are conducted as a result of a specific legislative request.

Before the 1991-92 fiscal year, the office was funded in the annual Budget Act by appropriations considered to be part of legislative spending. In November 1990, the voters approved Proposition 140, which—among other things—reduced legislative spending by about 38 percent and set a limit on future spending. Since the implementation of Proposition 140, the office has not received legislative funds. The office has conducted required audits (primarily financial and investigative audits mandated by state or federal laws) on a contract

basis with the executive branch.

At the time of this analysis, the office was funded at an annual rate of about \$7 million. This is a reduction of about 36 percent from the office's pre-Proposition 140 funding level.

### Proposal

This measure establishes the Office of the Auditor General in the State Constitution. The measure requires the office to (1) conduct independent, nonpartisan, professional audits, as required by state or federal law or as requested by the Legislature, and (2) hire and promote staff on the basis of merit and professional qualifications. The measure specifies that spending for the office is not included as a legislative expenditure for purposes of the Legislature's annual spending limit.

### Fiscal Impact

This measure does not change the Proposition 140 spending limitation. However, removing spending of the Auditor General's Office from the limit could increase state costs. The amount of this increase is unknown, as it generally would depend on the extent to which additional funds are provided to carry out performance audits.

Any increased costs could be offset by savings from implementation of the office's audit findings and recommendations. The net impact of these effects is unknown, but probably not significant.

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For text of Proposition 159 see page 67

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## Argument in Favor of Proposition 159

Proposition 159 assures the continuation of the independent Auditor General in California government.

- A YES VOTE ON PROPOSITION 159 MEANS THE AUDITOR GENERAL'S OFFICE WILL CONTINUE TO SAVE THE STATE MILLIONS OF DOLLARS.
- A YES VOTE ON PROPOSITION 159 MEANS THAT THE NONPARTISAN AUDITOR GENERAL WILL CONTINUE TO SAVE TAXPAYERS \$6 FOR EVERY \$1 SPENT ON AUDITS.
- A YES VOTE ON PROPOSITION 159 MEANS THAT THE AUDITOR GENERAL WILL CONTINUE TO SEEK OUT WAYS TO END INEFFICIENT AND WASTEFUL PRACTICES IN STATE GOVERNMENT.
- A YES VOTE ON PROPOSITION 159 IS AN INVESTMENT IN CALIFORNIA'S FUTURE.

For more than 35 years, the Auditor General has provided the citizens of California with OBJECTIVE AND HARD-HITTING AUDIT REPORTS. The Auditor General serves as the taxpayers' eyes and ears and promotes good government by uncovering fraud and waste and improving state operations. THE AUDITOR GENERAL HAS SAVED CALIFORNIA MORE THAN A HALF BILLION DOLLARS DURING THE LAST TEN YEARS ALONE!

The Auditor General ENSURES THAT CALIFORNIA RECEIVES \$16 BILLION in federal funding each year by auditing the State's budget, as required by federal law. Auditor General investigations have recovered millions of dollars and led to the arrest or punishment of individuals who violated the public trust.

In passing Proposition 140 in 1990, voters intended to reduce the legislature's budget and limit their ability to employ political staff. But, unknown to voters, the reductions threaten the continued existence of the

NONPOLITICAL AUDITOR GENERAL'S OFFICE. Without a yes vote on Proposition 159, the citizens of California could lose one of their essential checks and balances in state government.

A YES VOTE ON PROPOSITION 159 assures the continuation of critical audits by the Auditor General which now, more than ever, are needed as the spiralling growth of government conflicts with reduced tax revenues during these tough economic times.

A YES VOTE ON PROPOSITION 159 assures that all Auditor General employees continue to be hired and promoted based upon merit and professional qualifications—not political position. Expenditures of the Auditor General are limited to conducting audits and funds cannot be spent for any other purpose.

THE AUDITOR GENERAL'S OFFICE IS NATIONALLY RECOGNIZED BY THE NATIONAL ASSOCIATION OF STATE AUDITORS, COMPTROLLERS AND TREASURERS AND THE FEDERAL GOVERNMENT FOR ITS INDEPENDENCE AND CREDIBILITY. For this reason, PROPOSITION 159 ENJOYS BROAD SUPPORT from taxpayers' and business groups, professional audit organizations, newspaper editorial boards, and government and consumer advocates.

VOTE YES ON PROPOSITION 159 TO SEE THAT GOVERNMENT BUREAUCRATS ARE AUDITED AND HELD ACCOUNTABLE FOR THE DECISIONS THEY MAKE!

D. A. "DEL" WEBER

*President, California Teachers Association*

WILLIAM CAMPBELL

*President, California Manufacturers Association*

ROBYN C. PRUD'HOMME-BAUER

*President, League of Women Voters of California*

## Rebuttal to Argument in Favor of Proposition 159

The legislature wrote Proposition 159 and put it on the ballot for only one reason: it allows legislators to take funds now spent for the Auditor General's office and instead spend them on exactly the kinds of perks that Proposition 140 was designed to stop.

They want us to believe that a vote against Proposition 158 means the inevitable closure of the Auditor General's office.

**IT DOES NOT.**

What it does mean is that the legislature will have to choose between incumbent perks and funding for the Auditor General.

That's a choice they don't want to make.

Instead of cutting frills like taxpayer-subsidized luxury cars, extravagant office remodeling, and personal servants for incumbents, they are threatening to cut the Auditor General's office to meet the voter-approved spending limits.

**PROPOSITION 159 IS THEIR LAST DITCH EFFORT TO KEEP THEIR PERKS. IT'S THAT SIMPLE.**

We need to keep the Auditor General AND we need to uphold the cuts that Proposition 140 imposed on the legislature. A vote *against* Proposition 159 will do just that.

Don't give in to the legislature's threats. Vote NO on Proposition 159.

PETE SCHABARUM

*Co-Author, Proposition 140—Term limits*

MIKE FORD

*Director, Marin United Taxpayer's Association*

LEE A. PHELPS

*Founder/Chairman, Alliance of California Taxpayers & Involved Voters (ACTIV)*

# Office of the Auditor General. Legislative Constitutional Amendment.

159

## Argument Against Proposition 159

A majority of the Legislature passed this proposition with the votes of just about every one of the big-spending incumbents of both houses. Along with Prop. 158, it is another self-interested budgetary manipulation to protect the Legislature's payrolls.

In November of 1990, California's voters added the provisions of Proposition 140 to the State Constitution to limit the terms of legislators and to place a financial lid on the Legislative budget. The voters' clear aim was to reduce the Legislature's expenditures on itself. The purpose of this proposition, however, is to minimize the effects of that reduction. It's an end-run on the limits imposed by Proposition 140.

The Legislature wants to move two highly respected offices—the Legislative Analyst and the Auditor General—off the Legislative budget. Once they are off the budget, the money that would have been spent on them can be spent by incumbents on their own political staffs. This measure applies to the office of the Auditor General.

Why these two agencies? Precisely because they are so much better respected than any of the other staffs in the Legislature. The incumbents figured that voters would want to protect these agencies. But a vote for the initiatives is really a vote to re-inflate the Legislature's budget and to keep their political staffs employed.

By taking these two agencies off its budget, the Legislature saves \$14 million to spend on its own political functionaries—the personal staff and political aides who, year after year, have swollen the Legislature's payroll.

If we stop the funds from being manipulated in this way, the Legislature will be forced to choose—either to cut the bloated political payroll or to risk public outrage

and cut the policy staffs. In a time of recession and budgetary cutbacks in the rest of the economy, shouldn't we require the Legislature to get its own financial house in order?

The real staff priorities of legislators were made very clear last year when the Legislature gave out "Golden Handshakes" to its personal staff. Valuable severances—up to five months salary—were denied to the policy staffers, who had to leave their jobs later when the severance benefits offer had been terminated.

Now, once again, some incumbents have signaled their true priorities and, once again, they thumb their noses at the public. Proposition 159 is another legislative shell game—a cynical budgetary maneuver to maintain politics as usual. It's just like the hardened drug addict who wants a free fix to keep him from overdosing!

In November 1990, with Proposition 140, California's voters clearly indicated their intent to limit expenditures for political functionaries.

Don't be fooled by these scare tactics coming from Sacramento. Don't be fooled by the Legislature's financial sleight of hand. The Office of the Auditor General belongs in the Legislative budget and should be kept under the cap that the voters placed on that budget.

Vote NO on Prop. 159.

**PETE SCHABARUM**

*Co-Author, Proposition 140 Term Limits*

**LEW UHLER**

*President, National Tax Limitation Committee*

**TOM McCLINTOCK**

*Member, California State Assembly*

## Rebuttal to Argument Against Proposition 159

A YES VOTE ON PROPOSITION 159 is a vote for GOOD GOVERNMENT, not an "end-run" on the intent of Proposition 140. It WILL NOT PROVIDE A SINGLE DOLLAR for the legislature to spend. The opponents failed to consider one very important fact—the independent Auditor General's office WASN'T IN THE LEGISLATURE'S BUDGET prior to Proposition 140. So how could Proposition 159 move the Auditor General off the legislative budget?

Passing Proposition 159 won't relieve the legislature of spending \$7 million for the Auditor General because the LEGISLATURE DIDN'T PAY FOR THE OFFICE IN THE FIRST PLACE! For years the Auditor General has been funded directly by the State's general fund to reflect that its valuable and objective AUDITS DIRECTLY BENEFIT ALL CALIFORNIANS. Since these state funds go directly to the Auditor General to only pay for audits, PASSING PROPOSITION 159 WILL NOT ADD ANY ADDITIONAL MONEY TO THE LEGISLATURE'S BUDGET.

California law places the Auditor General's office in the legislative branch as the INDEPENDENT AUDITOR of the State's executive and judicial branches. However,

because of the Auditor General's location in the legislative branch, it was INADVERTENTLY INCLUDED IN PROPOSITION 140'S PROVISIONS.

In passing Proposition 140, the voters intended to reduce political staffers, NOT ELIMINATE THE NONPARTISAN AUDITOR GENERAL'S OFFICE.

Don't let the OPPONENT'S ERRORS mislead you. VOTE YES ON PROPOSITION 159 to assure the Auditor General's office:

- Continues to SAVE TAXPAYERS MILLIONS OF DOLLARS;
- Seeks out ways to END INEFFICIENT AND WASTEFUL GOVERNMENT practices; and,
- Holds GOVERNMENT BUREAUCRATS ACCOUNTABLE.

**HOWARD L. OWENS**

*President, Congress of California Seniors*

**JACOB MATHEWS**

*President, California Business Alliance*

**KATHLEEN A. DWELLY**

*President, Society of California Accountants*

of Division 3 of Title 2 of the Government Code, as specified in Section 2702.06.

(b) The amount that may be transferred pursuant to subdivision (a) shall not exceed the amount expended from those accounts for those capital improvements and acquisitions of rolling stock.

2702.17. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for purposes of this chapter. The amount of the request shall not exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of this chapter, less any amount borrowed pursuant to Section 2702.18. The board shall execute such documents as required by the Pooled Money Investment Board to obtain and repay the loan. Any amount loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

2702.18. For the purpose of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of unsold bonds which have been authorized by the committee to be sold for the purpose of carrying out this chapter, less any amount borrowed pursuant to Section 2702.17. Any amount withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from the sale of bonds for the purpose of carrying out this chapter.

2702.19. All money deposited in the fund which is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

2702.20. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of the State General Obligation Bond Law.

2702.21. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

2702.22. Notwithstanding any provision of the State General Obligation Bond Law with regard to the proceeds from the sale of bonds authorized by this chapter that are subject to investment under Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, the Treasurer may maintain a separate account for investment earnings, order the payment of those earnings to comply with any rebate requirement applicable under federal law, and may otherwise direct the use and investment of those proceeds so as to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

### Proposition 157: Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment 27 (Statutes of 1992, Resolution Chapter 6) expressly amends the Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

#### PROPOSED AMENDMENT TO ARTICLE XX

SEC. 7. (a) Any toll road or toll highway owned by the State and leased to a

private entity shall be permanently toll free upon the expiration of the lease or after tolls have been collected for a total of 35 years, whichever occurs first.

(b) The Legislature may suspend the application of subdivision (a) to any toll road or toll highway by a statute passed in each house, by a rollcall vote entered in the journal, with two-thirds vote of the membership of each house concurring.

### Proposition 158: Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment 33 (Statutes of 1992, Resolution Chapter 7) expressly amends the Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

#### PROPOSED AMENDMENT TO ARTICLE IV

Second—That Section 7.4 is added to Article IV thereof, to read:

SEC. 7.4. (a) There is in State government the Office of the California Analyst which shall assist the Legislature in its fiscal and policy functions. The office shall make recommendations to the Legislature on the annual State budget, the revenues and expenditures of the State, and the organization and structure of

State government, in order to make State governmental operations more effective and efficient.

(b) The office shall conduct its work in a strictly nonpartisan manner.

(c) The Joint Legislative Budget Committee authorized in statute shall appoint the California Analyst and employees of the office. The employees of the office shall be appointed and promoted on the basis of merit and professional qualifications.

(d) Expenditures of the Office of the California Analyst shall not be included in the "total aggregate expenditures of the Legislature" for purposes of Section 7.5 of this article.

### Proposition 159: Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment 34 (Statutes of 1992, Resolution Chapter 8) expressly amends the Constitution by adding a section thereto and amending a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

#### PROPOSED AMENDMENT TO ARTICLE IV AND ARTICLE VII, SECTION 4

Second—That Section 23 is added to Article IV thereof, to read:

SEC. 23. (a) There is in state government an Office of the Auditor General, which shall conduct independent, nonpartisan, professional audits as required by state or federal law or as requested by the Legislature.

(b) Not more than 50 percent of the Joint Legislative Audit Committee shall be composed of members of the same political party.

(c) After recommendation by the Joint Legislative Audit Committee or its successor, the Legislature shall appoint or remove the Auditor General by concurrent resolution.

(d) Expenditures for the Office of the Auditor General shall be used only to pay for the cost of conducting audits, the cost of performing its duties under the Reporting of Improper Governmental Activities Act (Article 3 (commencing with Section 10540) of Chapter 4 of Part 2 of Division 2 of Title 2 of the Government Code), and related expenses. Expenditures of the Office of the Auditor General shall not be included in the "total aggregate expenditures of the Legislature" for purposes of Section 7.5 of this article.

(e) The staff of the Office of the Auditor General shall be hired and promoted on the basis of merit and professional qualifications.

Third—That Section 4 of Article VII thereof is amended to read:

SEC. 4. The following are exempt from civil service:

(a) Officers and employees appointed or employed by the Legislature, either

house, or legislative committees or by the Auditor General.

(b) Officers and employees appointed or employed by councils, commissions or public corporations in the judicial branch or by a court of record or officer thereof.

(c) Officers elected by the people and a deputy and an employee selected by each elected officer.

(d) Members of boards and commissions.

(e) A deputy or employee selected by each board or commission either appointed by the Governor or authorized by statute.

(f) State officers directly appointed by the Governor with or without the consent or confirmation of the Senate and the employees of the Governor's office, and the employees of the Lieutenant Governor's office directly appointed or employed by the Lieutenant Governor.

(g) A deputy or employee selected by each officer, except members of boards and commissions, exempted under Section 4(f).

(h) Officers and employees of the University of California and the California State Colleges.

(i) The teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction.

(j) Member, inmate, and patient help in state homes, charitable or correctional institutions, and state facilities for mentally ill or retarded persons.

(k) Members of the militia while engaged in military service.

(l) Officers and employees of district agricultural associations employed less than 6 months in a calendar year.

(m) In addition to positions exempted by other provisions of this section, the Attorney General may appoint or employ six deputies or employees, the Public Utilities Commission may appoint or employ one deputy or employee, and the Legislative Counsel may appoint or employ two deputies or employees.