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## California Cancer Research Act.

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Law Offices of

OLSON

HAGEL &

FISHBURN

LLP

September 22, 2009

09-0034

RECEIVED

SEP 22 2009

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Krystal Paris, Initiative Coordinator  
Office of the Attorney General  
1300 I Street  
Sacramento, CA 95814

**RE: Request to Prepare Title and Summary  
CALIFORNIA CANCER RESEARCH ACT**

Dear Ms. Paris:

This letter is to request that the Attorney General prepare a title and summary for the California Cancer Research Act, a proposed initiative statute.

Enclosed are the text of the proposed initiative statute, the statement required under Elections Code Section 9608, the address at which I am currently registered to vote, and a check payable to the State of California in the amount of \$200.00.

Please direct any inquiries regarding this request to me.

Very truly yours,

**OLSON HAGEL & FISHBURN LLP**

N. EUGENE HILL  
NEH:ab

Enclosure

Lance H. Olson

Bruce J. Hagel

Diane M. Fishburn

Elizabeth L. Gade

Deborah B. Caplan

N. Eugene Hill

Richard C. Midich

Richard R. Rios

Rebecca J. Olson

Christopher W. Waddell

*The people of the State of California do enact as follows:*

## **HOPE 2010: THE CALIFORNIA CANCER RESEARCH ACT**

### **SECTION 1. Findings and Declarations**

- (a) Despite continuing advancements in medical treatment and prevention, cancer remains a leading cause of death in California, responsible for nearly one in every four deaths each year.
- (b) Medical experts expect more than 140,000 Californians to be diagnosed with cancer each year.
- (c) Cigarette smoking and other uses of tobacco remain the leading causes of cancer in California, as well as many other serious health problems, including heart disease, emphysema and other chronic illnesses.
- (d) The treatment of tobacco-related diseases continues to impose a significant burden upon California's overstressed health care system. Tobacco use costs Californians billions of dollars a year in medical expenses and lost productivity.
- (e) Given the urgent need for new and effective treatments for cancer and other tobacco-related illnesses, tobacco tax revenues are an appropriate source of funds for research into the causes, early detection, and effective treatment of cancer, heart disease, emphysema and other chronic diseases and to provide facilities for such research.
- (f) Hope 2010: The California Cancer Research Act will provide an ongoing source of funds to allow California's leading medical and bioscience researchers to advance human understanding and knowledge about the causes, early detection, effective treatment, prevention and potential cures for cancer and other tobacco-related illnesses.

### **SECTION 2. Statement of Purpose**

- (a) The People of California hereby increase the tax on tobacco to fund the following:
  - (1) Grants and loans for biomedical and bioscience research in California to enhance the state of medical knowledge regarding cancer, heart disease, emphysema and other tobacco-related illnesses.
  - (2) Creation, staffing and equipping of California biomedical and bioscience research facilities whose primary focus is to identify and refine promising early detection, treatments, complementary

treatments and potential cures of cancer, heart disease, emphysema and other tobacco-related diseases.

- (b) To implement the purposes of this Act, the California Cancer Research and Life Sciences Innovation Trust Fund is hereby created. All references in this Act to the "Fund" are to the Cancer Research and Life Science Trust Fund. The Hope 2010 Cancer Research Citizens Oversight Committee is hereby created to administer the Fund.

### **SECTION 3. Hope 2010 Cancer Research Citizens Oversight Committee**

- (a) There is hereby created within the Government of the State of California, the Hope 2010 Cancer Research Citizens Oversight Committee. All references in this Act to the "Committee" are to the Hope 2010 Cancer Research Citizens Oversight Committee. The Committee consists of nine members, appointed as follows:
  - (1) Four members appointed by the Governor for four-year terms, subject to confirmation by the Senate, as follows: Two from among California representatives of California state or national disease advocacy groups whose primary focus is tobacco-related illness, and two representatives from nationally ranked research hospitals and medical schools.
  - (2) One member appointed for a four-year term by the Speaker of the Assembly, and one member appointed for a four-year term by the President Pro Tempore of the Senate, each to be selected from persons who have received treatment for cancer.
  - (3) The Chancellor from each of the California Initiative for Science Innovation (CISI) campuses of the University of California. Each Chancellor may designate a person to attend meetings of the Commission in their place, so long as that person is employed at their respective campus and that employment provides background and experience in qualitative bioscience.
- (b) The members, by majority vote, shall annually select one of their number to serve as chair of the committee and preside over its meetings and perform such other duties as may be delegated by the committee.
- (c) Except for those members who are also public officers or employees, the members of the Committee shall receive \$100 per day for each day occupied with attendance at public meetings of the Committee and reimbursement for their usual and ordinary expenses, as provided by the general law. Members of the Committee who are public officers or employees shall not be otherwise compensated for their service on the Committee.

- (d) Members appointed for a term shall continue to serve until their replacement is selected. If a vacancy occurs within a term, within 30 days of the date of the vacancy the appointing authority shall appoint a replacement member to serve the remainder of the term.
- (e) The Committee is vested with the power and authority to do all of the following:
- (1) Oversee the operations of the California Cancer Research Life Sciences Innovation Trust Fund and act as trustee of trust funds created by this Act.
  - (2) Appoint a Chief Executive Officer who shall be exempt from the civil service pursuant to Article VII, section 4 of the California Constitution, and appoint such other employees as are necessary for the administration of the Fund and the performance of those duties imposed upon the Committee by law.
  - (3) Establish such sub-funds and sub-accounts within the California Cancer Research and Life Sciences Innovation Fund, and apportion money in the Fund into such sub-funds and sub-accounts, as is found necessary and appropriate for administration of this Act.
  - (4) Establish a process for soliciting, reviewing, and awarding grants and loans for research, facilities and patient treatment.
  - (5) Establish and appoint such committees and advisory bodies as it deems necessary and appropriate to carry out its duties.
  - (6) Develop annual and long-term strategic research and financial plans for the Fund, including an annual budget for administration of this Act.
  - (7) Make final decisions on the award of loans and grants, and to revoke or rescind loans and grants which do not conform to approved research standards. Employ auditors to prepare an annual financial audit of the Fund's operations.
  - (8) Issue, at least annually, public reports on the activities of the Committee and the Fund.
  - (9) Establish policies regarding intellectual property rights arising from research funded by the Committee.
  - (10) Establish rules and guidelines for the operation of the Fund and its employees.

(11) Adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of this chapter, and to govern the procedures of the Committee, in accordance with the provisions of the Administrative Procedures Act (Chapter 3.5 (Commencing with section 11425.10), Part 1, Division 3, Title 2, of the Government Code).

(12) Perform all other acts necessary or appropriate in the exercise of its power, authority, and jurisdiction.

(f) Meetings

The Committee, and all subcommittees and advisory bodies created by it, are a "state body" as that term is used in Government Code section 11121 and all meetings of the Committee, its subcommittees and advisory bodies, shall conform to the provisions of the Bagley-Keene Open Meeting Act (Article 9, commencing with section 11120, Chapter 1, Part 1, Division 3, Title 2 of the Government Code).

(g) Records

All records of the Committee shall be public records as those terms are defined in the California Public Records Act (Article 1 (commencing with section 6250), Chapter 3.5, Division 7, Title I of the Government Code) and may only be withheld from public disclosure in accordance with the provisions of that Act.

(h) Conflicts of Interest

Notwithstanding any other provision of law, no member of the Committee, or those persons appointed by Committee members to attend meetings on their behalf, or those officers or employees employed by the Committee, shall participate in an evaluation, review, recommendation, or decision upon an application or proposal for grant or loan, or other distribution of funds by the Committee, if that person has a direct or indirect financial interest in the applicant or the subject of an application or proposal for a grant or loan or other distribution of funds. If such persons have a financial interest in the application or proposal, it shall be publicly announced at the first meeting of the Committee following disclosure of the interest and recorded in the minutes of the Committee meeting. Notwithstanding any other provision of law to the contrary, where such a financial interest is found to exist, upon such disclosure and disqualification the Committee may otherwise consider and take action upon any application for grant, loan, or other distribution of funds. Nothing herein is intended to limit application of the Political Reform Act (Title 9, commencing with section 81000, of the Government Code) to the Committee or its officers and employees.

(i) Annual Public Report

The Committee shall issue an annual report to the public which sets forth its activities, grants awarded and in progress, research accomplishments, and future program directions. Each annual report shall include, but not be limited to, the following: The number and dollar amounts of research, facilities and treatment grants; the Fund and Committee's administrative expenses; and a summary of research findings.

(j) Independent Financial Audit

The Committee shall annually commission an independent financial audit of its activities from a certified public accounting firm. Any firm that provides consulting services to the Committee shall be disqualified from providing audit services. The resulting audit shall be provided to the State Controller, who shall review the audit and annually issue a public report of that review.

(k) Limitation on Administrative Costs

(a) Not more than five percent (5%) of the annual revenues derived from any tax pursuant to this Act shall be used for the costs of general administration of the Committee or the Fund. The State Controller shall provide the Committee and its Auditor with reports that set forth the allowable costs for general administration. The annual audit shall include a review of the costs of general administration of the Committee and the Fund.

**SECTION 4. Hope 2010 Cancer Research Cigarette Excise Tax**

Article 2.5 (commencing with Section 30130.5) is added to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, to read:

*Article 2.5. Hope 2010 Cancer Research Cigarette and Tobacco Products Excise Tax*

*30130.5. (a) In addition to any other tax imposed under this part, a separate excise tax is hereby imposed upon every distributor of cigarettes upon the distribution of cigarettes at the rate of fifty mills (\$0.050) for each cigarette distributed on and after the first day of the first calendar quarter commencing more than 90 days after the effective date of this section.*

*(b) (1) In addition to any other tax imposed under the part, every dealer and wholesaler, for the privilege of holding or storing cigarettes for sale, use, or consumption, shall pay a floor stock tax for each cigarette in his or her possession or under his or her control in this state at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective*

date of this section at the rate of fifty mills (\$0.050) for each cigarette.

(2) Every dealer and wholesaler shall file a return with the State Board of Equalization on or before the first day of the first calendar quarter commencing more than 180 days after the effective date of this section on a form prescribed by the board, showing the number of cigarettes in his or her possession or under his or her control at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this section. The amount of tax shall be computed and shown on the return.

(3) Notwithstanding any other provisions of law, the tax created by the HOPE: 2010 Cancer Research Act and the revenue derived there from, including investment interest, shall be considered trust funds, to be expended solely for the purposes set forth in this Act and shall not be considered to be part of the General Fund, as that term used in Chapter 1, Part 2, Division 4 of the Government Code, commencing with section 16300, and shall not be considered General Fund revenue for purposes of section 8 of Article XVI, and its implementing statutes.

## **SECTION 5. Hope 2010 Funds**

- (a) The California Cancer Research Life Sciences Innovation Trust Fund, and within that Fund, the Hope 2010 Research Fund, the Hope 2010 Facilities Fund, the Hope 2010 Smoking Cessation Fund and the HOPE 2010 Committee Account, are hereby established in the Treasury of the State of California.
- (b) Notwithstanding any other provision of law, the California Cancer Research Life Sciences Innovation Trust Fund and all Funds, Sub-Funds or Sub-Accounts of that Fund, are trust funds established solely to carry out the purposes of this Act.
- (c) All revenues received by the State of California, or State Officials, pursuant to the provisions of Act, shall be deposited into the California Cancer Research Life Sciences Innovation Trust Fund.
- (d) Revenue deposited into the California Cancer Research Life Sciences Innovation Trust Fund shall be apportioned and deposited as follows:
  - (1) Fifty percent (50%) shall be deposited into the Hope 2010 Research Fund for the purpose of grants and loans to support research into the prevention, early detection, treatment, complementary treatment and potential cures of cancer, heart disease, emphysema and other tobacco-related diseases, including but not limited to coronary heart disease, cerebrovascular disease, and chronic obstructive lung disease.

- (2) Forty per cent (40%) shall be deposited into the Hope 2010 Facilities Fund for the purposes of grants and loans to provide facilities, including but not limited to those buildings, building leases and capital equipment as may be found necessary and appropriate by the Committee, to further biomedical and bioscience research whose primary focus is to identify and refine promising prevention, early detection, treatments, complementary treatments and potential cures of cancer, heart disease, emphysema and other tobacco-related diseases.
- (3) Five per cent (5%) shall be deposited into the Hope 2010 Smoking Cessation Fund for the purpose of grants and loans for programs to prevent tobacco use and to provide cessation programs and services to assist adult and minor tobacco users to quit tobacco use, including, but not limited to counseling, referral and support services, pharmaceutical tobacco cessation products, and training and technical assistance activities.
- (4) Five percent (5%) shall be deposited into a HOPE 2010 Committee Account which may be used by the Committee for the costs and expenses of administering this Act.
- (e) Funds deposited into the California Cancer Research Life Sciences Innovation Trust Fund or any sub-fund or sub-account of that Fund, may be placed into the Pooled Money Investment Account for investment only, and interest earned shall be credited to the Fund and expended only for the purposes of this Act.
- (f) Funds deposited into the California Cancer Research Life Sciences Innovation Trust Fund, together with interest earned by the fund or any sub-fund, are hereby continuously appropriated for the purposes of this act without regard to fiscal year, and shall be used solely for the purposes of this Act and shall not be subject to appropriation, reversion or transfer by the Legislature, the Governor or the Director of Finance for any other purpose and may not be loaned to the General Fund, or any other fund, for any purpose.
- (g) If the Committee deems it necessary or appropriate for the administration of the Act, it may create additional sub-funds or sub-accounts within the HOPE 2010 Research Fund, the HOPE 2010 Facilities Fund, the HOPE 2010 Smoking Cessation Fund, and the HOPE 2010 Committee Account and apportion funds received and deposited pursuant to this Act, into such sub-accounts or sub-funds, so long as such funds are expended in accordance with the purposes and mission of the Act.

## **SECTION 6. Tax Levy**

This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect.

## **SECTION 7. Severability**

If the provisions of this Act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect and to this end the provisions of this Act are severable.

## **SECTION 8. Conflicting Measures**

- (a) It is the intent of the People that in the event that this measure and another measure relating to the taxation of tobacco shall appear on the same statewide election ballot, the provisions of the other measure or measures shall not be deemed to be in conflict with this measure, and if approved by the voters, this measure shall take effect notwithstanding approval by the voters of another measure relating to the taxation of tobacco by a greater number of affirmative votes.
- (b) If this measure is approved the voters but superseded by law by any other conflicting ballot measure approved by the voters at the same election and the conflicting measure is later held invalid, this measure shall be self-executing and given the full force of law.

## **SECTION 9. Amendments**

- (a) Except as hereafter provided, the Act may only be amended by the electors as provided in Article II, section 10 (c) of the California Constitution.
- (b) Notwithstanding the provisions of subdivision (a) of this section, the Legislature may amend the provisions of Section 3 of this act to further its purposes by a statute passed in each house by roll-call vote entered in the journal, two-thirds of the membership concurring.

## **SECTION 10. Statutory References**

Unless otherwise stated, all references in this Act refer to existing statutes as they existed on December 31, 2009.