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February 23, 2009

AskDOJ@usdoj.gov

Hon. Eric Holder  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Ave.  
Washington, D.C., 20530-0001

Re: Supplement to Add to the Criminal Complaint and Request for Investigation for Violation of the Implied Right of Honest Services and Other Appropriate Charges Filed February 2, 2009:

- (9) All California Judges Receiving Immunity from Prosecution Pursuant to Senate Bill SBX2 11 Signed by the Governor and “Chaptered” as California Law on February 20, 2009;
- (10) California Supreme Court Chief Justice Ronald M. George;
- (11) California Supreme Court Associate Justice Marvin R. Baxter;
- (12) California Supreme Court Associate Justice Ming Chin; and
- (13) California Associate Supreme Court Justice Carol A. Corrigan.

Dear Attorney General Holder:

On February 2, 2009, the aforementioned “Criminal Complaint” was filed via e mail with a “hard copy” and supporting documents sent by overnight mail. On February 2, 2009, a “Notice of Filing Criminal Complaint” was filed in the California Supreme Court case of *Fine v. State Bar of California*, Supreme Court Case No. S168418. On February 11, 2009, nine days later the lobbyists of the Judicial Council of California, the Los Angeles Superior Court and the California Judges Association, introduced Senate Bill SBX 2 11 through Senate President Pro Tem Darryl Steinberg. According to the Senate Committee Report attached hereto, the “source” of the bill was the “Administrative Office of the Courts”, which is part of the Judicial Council of California. The bill passed the California State Senate on February 14, 2009, passed the California Assembly on February 15, 2009 and was signed into law on February 20, 2009 by Governor Schwarzenegger as part of the “Budget Package”.

Senate Bill SBX2 11 responded directly to the “Criminal Complaint” by granting state immunity to governmental entities and judges who engaged in the illegal acts of paying and receiving county benefits throughout the State of California. Senate Bill SBX 2 11 admitted that the county benefits were illegal in the “Legislative Counsel’s Digest ” as follows:

SB 11, Steinberg. Judges: employment benefits.

**The California Constitution requires the Legislature to prescribe compensation for judges of courts of record. Existing law authorizes a county to deem judges and court employees as county employees for purposes of providing employment benefits. These provisions were held unconstitutional as an impermissible delegation of the obligation of the Legislature to prescribe the compensation of judges of courts of record.**

This bill would provide that judges who received supplemental judicial benefits provided by a county or court, or both, as of July 1, 2008, shall continue to receive supplemental benefits from the county or court then paying the benefits on the same terms and conditions as were in effect on that date. The bill would authorize a county to terminate its obligation to provide benefits upon providing 180 days' written notice to the Administrative Director of the Courts and the impacted judges, but that termination would not be effective as to any judge during his or her current term while that judge continues to serve as a judge in that court or, at the election of the county, when that judge leaves office. The bill also would authorize the county to elect to provide benefits for all judges in that county. The bill would require the Judicial Council to report to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, and both the Senate and Assembly Committees on Judiciary on or before December 31, 2009, analyzing the statewide benefits inconsistencies.

**This bill would provide that no governmental entity, or officer or employee of a governmental entity, shall incur any liability or be subject to prosecution or disciplinary action because of benefits provided to a judge under the official action of a governmental entity prior to the effective date of the bill on the ground that those benefits were not authorized under law. (Emphasis added.)**

Senate Bill SBX 2 11 admitted that the entire California Judicial System was “corrupt” due to the “unconstitutional” payments and then gave the “corrupt” judges, the State, counties, officers and employees of the State and counties “immunity” from state liability, prosecution and disciplinary action.

The people of California received nothing in exchange for this grant of immunity. Senate Bill SBX 2 11 did not fire, or require any of the judges, state or county employees to resign and did not stop the “unconstitutional” payments. In contrast they are keeping their jobs and the judges are still receiving the “unconstitutional” payments.

This leaves the people of California in the worst possible position. California now has a judicial system which the State Legislature has officially designated as “corrupt” and will continue to be corrupt unless the judges resign, the State Assembly impeaches and the State Senate convicts the judges under Article IV, ' 18, of the California Constitution, or the U.S. Department of Justice prosecutes the judges and

others for violation of the “implied [intangible] right to honest services”, 18 U.S.C. 1346 and other appropriate violations of federal law.

The likelihood of the judges resigning or State Legislature doing an impeachment and conviction, given the fact that the Legislature has passed Senate Bill SBX2 11 containing “immunity” is zero. The only other alternative is a “recall” of all of the judges which would require signatures of 20% of the people who voted for each judge in the last election, which is prohibitively expensive in time and money.

Thus unless the federal government steps in to “clean up” and “eliminate” the “corruption” of the California Judicial System, Californians will continue to be denied their First Amendment right to petition the government to redress grievances and their Fourteenth Amendment right to due process as they do not have judges who are rendering “honest services” due to the continued payment of “unconstitutional” money from the counties to the judges throughout California.

Without federal action and indictments, “California will continue to have the best judiciary that money can buy.”

The reason for now adding all judges who received payments from any county is that Senate Bill SBX2 11 expanded the violation of the February 2, 2009 “criminal complaint” which was limited to the actions of the judges taking “unconstitutional” payments from LA County and not disclosing such, to the entire State of California by giving immunity to the “governmental entity, or officer or employee of a governmental entity” without limiting such to LA County. Now, all payments from every county in California to any judge are encompassed.

The reasons for now adding the California Supreme Court Justices in the charges are that the California Supreme Court Justices both acted and consented to illegally protect the personal interests of the judges and state and county employees, as well as their own personal interests as former Superior Court judges who had received county payments and not disclosed such.

The California Supreme Court Justices affirmatively acted by passing the information of the February 2, 2009 “criminal complaint” to the Judicial Council of California where Chief Justice George is the Chairman, Associate Justice Baxter is the Chairman of the Policy Coordination and Liaison Committee which oversees action with the California Legislature and Associate Justice Ming is the Chairman of the Court Technology Advisory Committee and Chairman of the California Commission for Impartial Courts.

California Supreme Court Chief Justice Ronald M. George is Chairman of the Judicial Council of California which illegally used public funds to draft Senate Bill SBX2 11 and pay its lobbyist in violation of Article XVI, ' 6 of the California Constitution amongst others, with the lobbyists of the Los Angeles Superior Court and the California Judges Association, to and sponsor Senate Bill SBX2 11 for the personal benefit of individual California Superior Court Judges who had received money from California counties in violation of Article VI, ' 19 of the California Constitution and give

such judges immunity for their illegal actions. Senate Bill SBX2 11 does not provide any benefit for the citizens of California. It is only a detriment.

California Supreme Court Associate Justice Marvin R. Baxter is a member of the Judicial Council of California and the Chairman of its Policy Coordination and Liaison Committee which oversees action with the California Legislature.

California Supreme Court Associate Justice Ming Chin is a member of the Judicial Council of California and Chairman of its Court Technology Advisory Committee and Chairman of its California Commission for Impartial Courts, was an Alameda County Superior Court Judge from 1988-1994 who received “unconstitutional” payments from Alameda County and did not disclose such on his Form 700 Statement of Economic Interests in violation of the California Political Reform Act and is a member of the California Judges Association, thus having a personal interest in obtaining the immunity granted by Senate Bill SBX2 11.

California Associate Supreme Court Justice Carol A. Corrigan was an Alameda County Superior Court Judge from 1988-1994 who received “unconstitutional” payments from Alameda County and did not disclose such on her Form 700 Statement of Economic Interests in violation of the California Political Reform Act thus having a personal interest in obtaining immunity granted by Senate Bill SBX2 11.

The Judicial Council of California, with the knowledge of the justices of the California Supreme Court violated Article XVI, ' 6, of the California Constitution (giving public funds to private individuals) by drafting and promoting Senate Bill SBX 2 11 which is legislation for the sole personal benefit of the judges by giving them money directly from the counties, and the personal benefit of the judges, state and county employees by giving them personal immunity.

The Judicial Council of California also acted with the Los Angeles Superior Court who did the same acts by illegally paying Bert Margolin, a lobbyist, \$10,000.00 per month to draft Senate Bill SBX2 11 and shepherd it through the State legislature. The Supreme Court justices knew of this illegality by the LA Superior Court and did nothing to stop it even though the LA Superior Court is subordinate to the California Supreme Court and the California Supreme Court has jurisdiction to stop such illegality on its own motion.

Both the lobbyists of the Judicial Council and the LA Superior Court joined with the lobbyist of the California Judges Association, a private association, to draft and secure the passage of Senate Bill SBX2 11 for the personal benefit of the members of the California Judges Association, some of which are also Associate Justices of the California Supreme Court and members of the Judicial Council of California. According to their official biographies on the California Supreme Court website, Supreme Court Associate Justices Chin, Moreno and Werdegar are members of the California Judges Association.

Supreme Court Associate Justices Chin (Alameda Superior Court, 1988-1994), Corrigan (Alameda Superior Court 1991-1994), and Moreno (LA Superior Court 1993-

1998) will personally benefit from the immunity portion of Senate Bill SBX2 11 as they received county payments and did not disclose such and Supreme Court Associate Justice Kennard (LA Superior Court 1987-1988) may have benefitted depending if she received the LA County payments which commenced in 1988.

Senate Bill SBX2 11 violates other provisions of the California Constitution, i.e., Article IV, ' 9 (the single subject rule, Senate Bill SBX2 11 is entitled “judicial benefits” but encompasses immunity for governments and government employees and judges which is a subject different from the title and subject of the bill), Article IV, ' 15 (a person who seeks to influence a legislator by dishonest means, or the legislator so influenced, is guilty of a felony), Article IV, ' 17, (Legislature cannot authorize a county to grant extra compensation to a public officer after a service has been rendered, Senate Bill SBX2 11 states the payments are made by the counties to “retain judges” which shows that the payments are for “past services”, the judges are already serving and have served, the payments are not being made for “current services as the judges are state constitutional elected officials and employed by the state, not the counties and are not county employees) and Article VI, ' 19, (only the State Legislature can “prescribe” the compensation of the judges and the duty cannot be delegated). SBX2 11 also violates the Equal Protection Clause of the U.S. Constitution and related as judges are receiving different compensation for performing the identical job and denies litigants appearing before the judges their First Amendment right to petition the government to redress grievances as the prospective judge has been “paid off” and “compromised” by the county’s “unconstitutional” payments to “retain” his/her services.

This was demonstrated by Justice Posner who recently stated in *U.S. v. Black*, 530 F.3d 596 (7<sup>th</sup> Cir. 2008) at 601:

As explained in *United States v. Orsburn*, *supra*, 525 F.3d at 546, section 1346 was added "to deal with people who took cash from third parties (via bribes or kickbacks). *United States v. Holzer*, 816 F.2d 304 (7th Cir.1987), supplies a good example. Judge Holzer accepted bribes from litigants. **What he took from his employer, the state's judicial system, was the honest adjudication service that the public thought it was purchasing in exchange for his salary."** *United States v. Sorich*, 523 F.3d 702, 707-08 (7th Cir.2008); *United States v. Thompson* 484 F.3d 877, 884 (7th Cir. 2007); *Man-Seok Choe v. Torres*, 525 F.3d 733, 737 (9th Cir.2008); *United States v. Kemp*, 500 F.3d 257, 279-80 (3d Cir.2007); *United States v. Rybicki*, *supra*, 354 F.3d at 139-42.

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**Judges who accept bribes invariably argue that they didn't allow the bribes to influence their decisions. But a judge who accepts bribes deprives the judiciary of his honest services even if, as contended by Francis Bacon, the most famous of corrupt judges, he does nothing for the person who bribed him. Such a case does not differ materially from that of the "honest" recipient of a bribe — the recipient who, committed to honor among thieves, performs his side of the illegal bargain.** (Emphasis added.)

Thank you for your immediate attention to this urgent matter. As stated in the February 2, 2009 "Criminal Complaint", the citizens of Los Angeles, California and the nation await your expeditious action on this matter. We eagerly await the day that meaningful access to justice and our constitutional rights are restored.

Sincerely,

/s/

Richard I. Fine

Enclosure: Senate Bill SBX2 11, Senate and Assembly Analyses

cc:

Hon. Dianne Feinstein

Hon. Barbara Boxer

Hon. Patrick J. Leahy, Chm. Senate Judiciary Comm.

Hon. John Conyers Jr., Chm. House Judiciary Comm.

Hon. Henry Waxman

Hon. Brad Sherman

Thomas P. O'Brien, U.S. Attorney

California Chief Justice Ronald M. George

California Attorney General Edmund G. Brown, Jr.

LA District Attorney Steve Cooley

BILL NUMBER: SBX2 11 CHAPTERED  
BILL TEXT

CHAPTER 9  
FILED WITH SECRETARY OF STATE FEBRUARY 20, 2009  
APPROVED BY GOVERNOR FEBRUARY 20, 2009  
PASSED THE SENATE FEBRUARY 14, 2009  
PASSED THE ASSEMBLY FEBRUARY 15, 2009  
AMENDED IN SENATE FEBRUARY 14, 2009

INTRODUCED BY Senator Steinberg

FEBRUARY 11, 2009

An act to add Sections 68220, 68221, and 68222 to the Government Code, relating to judges.

LEGISLATIVE COUNSEL'S DIGEST

SB 11, Steinberg. Judges: employment benefits.

The California Constitution requires the Legislature to prescribe compensation for judges of courts of record. Existing law authorizes a county to deem judges and court employees as county employees for purposes of providing employment benefits. These provisions were held unconstitutional as an impermissible delegation of the obligation of the Legislature to prescribe the compensation of judges of courts of record.

This bill would provide that judges who received supplemental judicial benefits provided by a county or court, or both, as of July 1, 2008, shall continue to receive supplemental benefits from the county or court then paying the benefits on the same terms and conditions as were in effect on that date. The bill would authorize a county to terminate its obligation to provide benefits upon providing 180 days' written notice to the Administrative Director of the Courts and the impacted judges, but that termination would not be effective as to any judge during his or her current term while that judge continues to serve as a judge in that court or, at the election of the county, when that judge leaves office. The bill also would authorize the county to elect to provide benefits for all judges in that county. The bill would require the Judicial Council to report to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, and both the Senate and Assembly Committees on Judiciary on or before December 31, 2009, analyzing the statewide benefits inconsistencies.

This bill would provide that no governmental entity, or officer or employee of a governmental entity, shall incur any liability or be subject to prosecution or disciplinary action because of benefits provided to a judge under the official action of a governmental entity prior to the effective date of the bill on the ground that those benefits were not authorized under law.

This bill would provide that nothing in its provisions shall require the Judicial Council to increase funding to a court for the purpose of paying judicial benefits or obligate the state or the Judicial Council to pay for benefits previously provided by the county, city and county, or the court.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) It is the intent of the Legislature to address the decision of the Court of Appeal in *Sturgeon v. County of Los Angeles* (2008) 167 Cal.App.4th 630, regarding county-provided benefits for judges.

(b) These county-provided benefits were considered by the Legislature in enacting the Lockyer-Isenberg Trial Court Funding Act of 1997, in which counties could receive a reduction in the county's maintenance of effort obligations if counties elected to provide benefits pursuant to paragraph (1) of subdivision (c) of Section 77201 of the Government Code for trial court judges of that county.

(c) Numerous counties and courts established local or court supplemental benefits to retain qualified applicants for judicial office, and trial court judges relied upon the existence of these longstanding supplemental benefits provided by the counties or the court.

SEC. 2. Section 68220 is added to the Government Code, to read:

68220. (a) Judges of a court whose judges received supplemental judicial benefits provided by the county or court, or both, as of July 1, 2008, shall continue to receive supplemental benefits from the county or court then paying the benefits on the same terms and conditions as were in effect on that date.

(b) A county may terminate its obligation to provide benefits under this section upon providing the Administrative Director of the Courts and the impacted judges with 180 days' written notice. The termination shall not be effective as to any judge during his or her current term while that judge continues to serve as a judge in that court or, at the election of the county, when that judge leaves office. The county is also authorized to elect to provide benefits for all judges in the county.

SEC. 3. Section 68221 is added to the Government Code, to read:

68221. To clarify ambiguities and inconsistencies in terms with regard to judges and justices and to ensure uniformity statewide, the following shall apply for purposes of Sections 68220 to 68222, inclusive:

(a) "Benefits" and "benefit" shall include federally regulated benefits, as described in Section 71627, and deferred compensation plan benefits, such as 401(k) and 457 plans, as described in Section 71628, and may also include professional development allowances.

(b) "Salary" and "compensation" shall have the meaning as set forth in Section 1241.

SEC. 4. Section 68222 is added to the Government Code, to read:

68222. Nothing in this act shall require the Judicial Council to increase funding to a court for the purpose of paying judicial benefits or obligate the state or the Judicial Council to pay for benefits previously provided by the county, city and county, or the court.

SEC. 5. Notwithstanding any other law, no governmental entity, or officer or employee of a governmental entity, shall incur any liability or be subject to prosecution or disciplinary action because of benefits provided to a judge under the official action of a governmental entity prior to the effective date of this act on the ground that those benefits were not authorized under law.

SEC. 6. The Judicial Council shall report to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, and both the Senate and Assembly Committees on Judiciary on or before



December 31, 2009, analyzing the statewide benefits inconsistencies.

SEC. 7. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

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11XX | SENATE RULES COMMITTEE | SB  
| Office of Senate Floor Analyses |  
| 1020 N Street, Suite 524 |  
| (916) 651-1520 Fax: (916) |  
| 327-4478 |  
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THIRD READING

Bill No: SB 11XX  
Author: Steinberg (D)  
Amended: 2/14/09  
Vote: 21

WITHOUT REFERENCE TO COMMITTEE

SUBJECT : Budget Act of 2008: judicial benefits

SOURCE : Administrative Office of the Courts

DIGEST : Senate Floor Amendments of 2/14/09 delete the prior version of the bill expressing the intent of the Legislature to enact statutory changes relating to the Budget Act of 2008.

This bill now responds to a recent state court of appeal decision by authorizing counties and courts to continue providing existing local benefits to trial court judges.

ANALYSIS : The Lockyer-Isenberg Trial Court Funding Act of 1997 (AB 233, Escutia) consolidated all trial court funding decisions at the state level. However, even as the State assumed a greater responsibility for trial court operations, counties and courts were permitted to continue providing supplemental benefits to trial court judges, as had been the practice prior to 1997. In 2008, the Court of Appeal, in Sturgeon v. County of Los Angeles (2008) 167 Cal.App.4th 630, held that in order to comply with article VI, section 19 of the California Constitution, state laws

CONTINUED

SB 11XX

must expressly authorize such supplemental benefits. This bill addresses the Court's holding in Sturgeon by expressly authorizing counties and courts to continue providing existing local benefits to trial court judges.

This bill contains findings and declarations that set forth the Legislature's intent to address the Sturgeon decision. Specifically, the bill states that county-provided benefits were considered by the Legislature in enacting the Lockyer-Isenberg Trial Court Funding Act of 1997, in which counties could receive a reduction in the county's maintenance of effort obligations if counties elected to provide benefits pursuant to Government Code Section 77201(c)(1) for trial court judges of that county. This bill also notes that numerous counties and courts established supplemental benefits to retain qualified applicants for judicial office, and that trial court judges relied upon the existence of these long-standing supplemental benefits.

This bill permits counties and courts that provided supplemental benefits to trial judges as of July 1, 2008, to continue doing so on the same terms and conditions as were in effect on that date. This bill further permits a county to terminate its supplemental benefits at any time. However, a county will be required to continue providing benefits to sitting judges for the remainder of their six-year term.

This bill provides that neither the State nor the Judicial Council is obligated to pay for benefits previously provided by a county, city and county, or the court.

This bill further provides that no governmental entity, or officer or employee of a governmental entity, shall incur any liability or be subject to prosecution or disciplinary action because of benefits provided to a judge under the official action of a governmental entity prior to the effective date of this act on the ground that those benefits were not authorized by law.

This bill requires that the Judicial Council report to the Legislature on or before December 31, 2009, analyzing inconsistencies in statewide benefits.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No  
Local: No

DLW:do 2/13/09 Senate Floor Analyses

SUPPORT/OPPOSITION: NONE RECEIVED

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(Without Reference to File)

SENATE THIRD READING  
SB 11 X2 (Steinberg)  
As Amended February 14, 2009  
Majority vote

SENATE VOTE :Vote not relevant

SUMMARY : Makes statutory changes to address the decision of the Court of Appeal in the Sturgeon v. County of Los Angeles, (2008) 167 Cal. App. 4th 630, regarding county-provided benefits for judges.

1)Provides that counties and courts who, subsequent to the Lockyer-Isenberg Trial Court Funding Act of 1997, established supplemental benefits to retain qualified applicants for judicial office and where paying such benefits as of July 1, 2008:

a) Shall continue to provide supplemental benefits to judges on the same terms and conditions were in effect on July 1, 2008; and,

b) May terminate its obligation to provide benefits under this section upon providing the Administrative Director of the Courts and the impacted judges with 180 days' written notice. This provision shall not be effective as to any judge during his or her current term while that judge continues to serve as a judge in that court or, at the election of the county, when that judge leaves office. The county is also authorized to elect to provide benefits for all judges in the county.

1)Makes technical changes to clarifies terms and ensure uniformity with regard benefits and compensation for judges and justices statewide.

2)Provides that nothing in this act shall require the Judicial Council to increase funding to a court for the purpose of paying judicial benefits or obligate the state or the Judicial Council to pay for benefits previously provided by the

local government or court.

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X2

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3)Provides that there shall be no liability for any employee of or a governmental entity that provided benefits to a judge, as specified, prior to the effective date of this act.

Analysis Prepared by : Joe Stephenshaw / BUDGET / (916)  
319-2099

FN:

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