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November 5, 2001

Hon. Bill Lockyer
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Tricia Knight
Initiative Coordinator

Dear Attorney General Lockyer:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative cited as the "Racial Privacy Initiative" (File No. SA2001RF0027). As Section 9005 directs, our review addresses the potential effects of the measure on state and local governments costs and revenues.

Proposal

This constitutional initiative prohibits state and local governments from collecting data on a person's race, ethnicity, color, or national origin for the purposes of public education, contracting, and employment. This prohibition also would apply to state and local governments operations generally, unless the Legislature passes by a two-thirds majority and the Governor signs legislation approving the collection of such data to "serve a compelling state interest." In addition, the initiative prohibits the Governor, Legislature, or any statewide agency from requiring law enforcement agencies to track individuals based on race-related information and from withholding funds on the basis of their failure to do so. The measure includes an exception for the Department of Fair Employment and Housing (DFEH) for ten years with respect to DFEH-conducted classifications in place as of March 5, 2002. The measure also has exemptions related to (1) certain law enforcement activities, (2) court orders and consent decrees, and (3) federal requirements. The measure would take effect January 1, 2005.

Fiscal Effect on State and Local Programs

Currently, the state and local governments collect race-related information on their personnel and for programmatic purposes. In most cases, the federal government requires this information to ensure compliance with federal nondiscrimination laws (particularly equal employment opportunity laws) and as a condition of receiving various federal funds (for education and Medi-Cal, for example). As noted above, pursuant to the provisions of the proposed initiative, agencies would continue to collect these data as required by the federal government.

In those cases not covered by the federal exemption, the state and local governments would have to stop collecting this information, resulting in some savings. We would not expect these savings to be significant.

Impact on DFEH. The department, which currently has a budget of about \$22 million, ensures compliance with and investigates violations of state civil rights laws governing employment, housing, public accommodations, and hate crimes. Businesses with at least 100 employees and those contracting with the state must file forms on the composition of their workforces (including race and ethnicity data) with DFEH. In addition, the department's investigations of alleged violations of civil rights law often involve using these types of data to build evidence of a pattern of discrimination. After the ten-year exemption, the department's workload would be reduced under the provisions of the initiative. As a result, the state would experience annual savings potentially ranging from several million dollars to in excess of \$10 million beginning in 2015.

Fiscal Summary. This initiative would have the following major fiscal impact:

- Annual state savings potentially ranging from several million dollars to in excess of \$10 million beginning in 2015.

Sincerely,

Elizabeth Hill
Legislative Analyst

B. Timothy Gage
Director of Finance