

April 28, 2003

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

Attention: Ms. Tricia Knight  
Initiative Coordinator

Dear Attorney General Lockyer:

As required by Elections Code Section 9002, this letter contains our review of the fiscal effect of the proposed initiative (File Number SA2003RF0009), called the "Parental Approval of Specified Sexual Instruction."

### **Background**

Current law requires public elementary and secondary schools that teach "sex education" (including Acquired Immune Deficiency Syndrome prevention) to notify the parent or guardian of each pupil in writing of such instruction at the beginning of the school year or at the time of the pupil's enrollment. School districts and local school boards must provide parents and guardians with the opportunity to request that their child *not* receive such instruction. An alternative educational activity shall be provided to pupils whose parents or guardians have requested that they *not* receive the instruction. Districts and school boards also are required to inform parents or guardians of their right to inspect any written or audiovisual materials related to sex education. Current law specifies that if a nonschool employee will be providing the instruction, parents must receive the following information: (1) date of the instruction, (2) name of the organization or affiliation of the instructor, and (3) notification regarding the right to request copies of the instructional materials. After the initial notification, if arrangements are made for an outside organization or guest speaker to provide sexual instruction, parents or guardians must be made aware of such changes before the instruction is delivered.

Under existing law, individuals responsible for notifying parents or guardians of the school's sex education courses and related materials may have their certification (teaching or administrative credential) revoked or suspended if they fail to fulfill such responsibilities. Furthermore, persons who require a pupil to attend a sex education

class when the parent requested otherwise can also have their certification revoked or suspended.

## **Proposal**

This measure amends the State Constitution to require parental notification of the instruction of sex education. Specifically, the measure:

- ***Requires Notification Regarding Specific Topics.*** This measure requires additional notification if specific topics within the subject area of sex education are discussed. Specifically, it requires schools to notify the parents or guardians of pupils in grades 7 to 12 in writing before the following topics are discussed in school: sodomy, pederasty, pedophilia, sadism, masochism, transvestitism, homosexuality, lesbianism, bisexuality, transgenderism, transexuality, necrophilia, bestiality, domestic partnerships, cunnilingus, fellatio, orgies, or masturbation.
- ***Requires Approval for Each Instructional Day.*** Current law states that the parent approval is valid for an entire school year. This measure makes such approval effective for only one day and requires schools to notify and obtain approval for each additional day of instruction. Notification must be received no more than 15 days and no less than 10 days in advance of the instruction. The measure also requires that schools obtain the parent's or guardian's written approval for the student to receive such instruction.
- ***Restricts Instruction of Certain Topics to Junior High and High Schools.*** Generally, current law allows for sex education for pupils in all grades—including grades 1 to 6. The measure specifies that the above topics may not be taught to pupils in grades 1 to 6.
- ***Specifies Contents of Parental Notification.*** This measure provides schools with seven guidelines detailing the information that must be included in the notice—as well as what the title of the notice should be. The guidelines require such information as: (1) date and timeframe of instruction, (2) name and contact information of school district employee or contract agency responsible for providing instruction, and (3) detailed and accurate description of the course.
- ***Allows for Copying of Materials or Approval Forms.*** The measure states that parents may obtain copies of the instructional materials 15 days before and 15 days after the instruction. School districts may charge fees to cover the costs of copying the requested materials.
- ***Allows Parents to Collect Damages for Violations.*** This measure allows the parent or guardian to collect financial damages totaling \$5,000 if a district

employee, contractor, agent, or volunteer is determined to be in violation of the above requirements.

### **Fiscal Impact**

The fiscal implications of this measure would depend in large part on how parents and school officials respond to its provisions. It would, however, result in some additional school district costs resulting from more frequent notification of parents or guardians regarding sex education instruction and other related costs.

*Costs of Parent Notification.* The main fiscal impact on school districts would be from the additional and more frequent notification required by the measure, based on available data regarding the costs of similar notification requirements.

*Other Related Costs.* Districts could also incur additional costs related to teacher training, monetary damages, and instructional materials.

We estimate that costs statewide to school districts could be in the low millions of dollars annually.

### **Summary of Fiscal Effects**

This measure would result in additional costs to school districts from parent notification regarding sex education topics, potentially in the low millions of dollars annually.

Sincerely,

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Elizabeth G. Hill  
Legislative Analyst

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Steve Peace  
Director of Finance