

June 23, 2004

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 amending California's Code of Civil Procedure Section 128.7 (File No. SA2004RF0021).

Proposed Measure

The proposed measure would allow a party to a civil lawsuit to declare the lawsuit "frivolous" and would require judges to prepare a written explanation for dismissing or continuing a lawsuit after it has been declared frivolous. The measure defines frivolous lawsuit. Also, the measure would require the loser of a frivolous lawsuit to pay the legal costs of the other side. Further, the initiative would require the court to notify the State Bar of the sanctions it imposes on a party for filing a frivolous lawsuit. Finally, it would require the State Bar to recommend discipline after receiving three notifications of sanctions from the court for the same attorney or law firm within a five-year period.

Current law provides a process for parties to a lawsuit to file counter motions when it believes a motion filed by the opposing party is for improper purposes, and requires judges to rule on such motions. Further, the court may award the prevailing party on the motion reasonable expenses including attorney's fees incurred for presenting or opposing the motion. Finally, current law requires that attorneys report to the State Bar of California sanctions over \$1,000 imposed on him/her.

Fiscal Effect

State Government. This measure would have an unknown, but probably minor absorbable cost to the state General Fund. This is because the measure does not appear to significantly change existing court operations. There is already a process in place for challenging the merit of lawsuits. While the measure would require judges to prepare a written explanation of his/her reasoning for continuing or dismissing a frivolous

lawsuit, any additional workload resulting from this requirement could likely be absorbed within existing resources.

Local Government. This measure would have no fiscal impact on local government.

Summary of Fiscal Effects

This measure would result in an unknown, but probably minor absorbable cost to the state.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Donna Arduin
Director of Finance