

April 27, 2005

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 to amend the California Constitution regarding court orders and judgments (File No. SA2005RF0071).

Proposal

Under current law, a judge may “vacate” (dismiss) or modify an existing court order or judgment if it is determined that the order or judgment was made in error.

Currently, all opinions of the California Supreme Court are published. However, written opinions of the Courts of Appeal are published only under certain circumstances: for example, if it establishes a new rule of law or resolves a conflict in the law. In 2002-03, the latest year for which complete data are available, of the more than 12,000 written appellate court opinions, about 850 opinions were published. Published opinions are generally longer and require more research and preparation.

The proposed initiative would do the following:

- Require that a court order or judgment be vacated if it is proven that any fact supporting the order is false.
- Prohibit the judge vacating the order or judgment from making any further orders or judgments in the case.
- Require that all opinions of the California Supreme Court and Courts of Appeal be published.

Fiscal Effects

Court Operations. This measure would increase the state cost of operating the courts. It is estimated that more than \$10 million annually would be required for additional legal and research staff as well as related expenses to publish over 11,000 written appellate court decisions as the initiative requires. Additionally, because the measure requires certain judgments and orders to be vacated and prohibits the judge vacating the order from modifying such orders, it could result in new trials that would not be required under current practice. The potential cost of these new trials is unknown and would depend on the number of new trials, and the number of staff required to handle the associated workload.

Other State and Local Costs. To the extent that individuals rely on the provisions of this measure to challenge existing court orders or judgments in which there is a state or local interest, there could be unknown but potentially significant costs for state and local governments to defend existing judgments and orders. In addition, there could be unknown state and local costs, potentially a few million dollars, to expand and maintain the law libraries of state and local governments because of the provision increasing the volume of published court opinions.

Summary of Fiscal Effects

In summary, the initiative would have the following fiscal effect:

- Unknown court-related costs exceeding \$10 million annually to the state and potentially in the millions of dollars on a statewide basis to local government.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Tom Campbell
Director of Finance