

July 11, 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 regarding marriage (File No. SA2005RF0083).

Background

Federal Laws. The U. S. Constitution does not define marriage nor does it require states to define marriage. For the receipt of federal benefits or for federal tax purposes, current federal law only recognizes marriage between a man and a woman.

State Laws. The State Constitution currently does not define marriage. Under current California statute, only marriage between a man and a woman is valid and recognized. Couples of the same sex or unmarried couples of the opposite sex where at least one partner is 62 years or older may register as domestic partners. In most instances, registered domestic partners are provided the same rights and benefits as married couples. Spousal rights include, but are not limited to, alimony, community property rights, and child custody.

Major Provisions

This measure amends the State Constitution to recognize only a man and a woman in a marriage as spouses.

Fiscal Effect

The measure could affect some provisions of existing law and prohibit state and local government agencies from authorizing spousal rights for domestic partners in the future. The fiscal effect of the measure would depend on future interpretation by the courts of what constitutes spousal rights, both under existing law and under the measure. For this reason, the fiscal effect of the measure is unknown. Overall, however,

we would not expect the measure to have a significant net fiscal effect on state and local governments.

Fiscal Summary. This measure would have the following fiscal impact:

- Unknown, but probably not significant, fiscal effect on state and local governments. The impact would depend in large part on future court interpretations.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Tom Campbell
Director of Finance