

December 29, 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, which is titled the "California Identity Theft and Personal Privacy Protection Act" (File No. SA2005RF0130).

Proposal

The proposed initiative makes the following changes related to the crime of identity theft:

- ***Creates Sentence Enhancements for Identity Theft and Related Crimes.*** The measure establishes sentence enhancements for identity theft committed against multiple victims, minors, uniformed service officers, and the elderly. The measure also includes identity theft—and other related crimes, such as forgery and counterfeiting—among the list of crimes that may be used to establish a pattern of criminal gang activity for which a convicted person may receive a sentence enhancement. It also establishes the practice of internet "phishing" as a crime punishable by imprisonment and a fine of up to \$10,000. Phishing is the unlawful use of the internet to induce another person to provide their personal identifying information by falsely claiming to represent a business.
- ***Establishes a Computer Forensic Analysis Fee.*** The measure establishes a "computer forensic analysis" fee of \$250 for persons convicted of identity theft and other related crimes, and requires that revenues from this fee be used to support the cost of operations, equipment, and staff training of forensic laboratories operated by, or under contract with, state and local governments.
- ***Expands Jurisdiction for Prosecution of Identity Theft Crimes.*** Currently, identity theft and other crimes that involve personal identifying information can be prosecuted in the county where the theft of information occurred or where the information was used for an illegal purpose. The measure makes it possible for

these crimes to be prosecuted in the victim's county of residence. In cases where the victim is a financial institution, the measure specifies that jurisdiction for the crime also includes the main office of the financial institution or the branch office if the main office is not located in California.

Fiscal Effects

This measure would result in unknown, but potentially significant state prison operating costs by requiring lengthier prison sentences for persons convicted of certain identity theft crimes. There would also be unknown, but probably minor costs to local governments to establish, collect, and administer the computer forensic analysis fee established by the measure. Such state and local costs would potentially be offset to an unknown extent by higher revenue from increased fines as well as the newly established fee. The net fiscal effect on state and local governments is unknown and would depend on a number of factors, including the number of future convictions for identity theft against specified individuals or in association with criminal gang activity, and the ability of convicted offenders to pay the increased fines and fees established by the measure.

Summary of Fiscal Effects

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

- Unknown net fiscal impact on state and local governments, depending on the number of future convictions for identity theft against specified individuals and the ability of convicted offenders to pay the increased fines and fees proposed by the measure.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Michael C. Genest
Director of Finance