

March 28, 2006

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. SA2006RF0024).

Background

Federal Laws. The U.S. Constitution does not define marriage nor does it require states to define marriage. Current federal law only recognizes marriage between a man and a woman. (The law affects matters such as the receipt of federal benefits and federal taxes.)

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. Rights of marriage include, but are not limited to, alimony and community property rights. Unlike married couples, domestic partners may not file joint returns for income tax purposes.

Major Provisions

This measure amends the State Constitution to authorize marriage between any two people, regardless of gender. The measure also includes statutory changes to specify that individuals in same-sex marriages have the same rights and benefits as individuals in opposite-sex marriages.

Fiscal Effect

By authorizing additional marriages, governments could experience some increased costs to process marriage licenses. These costs generally are covered by license fees. In addition, under the measure, married same-gender couples presumably could file joint state income tax returns. In many cases, this change in filing status would reduce the

total amount of state income taxes paid by these married couples compared to the amount that they would have paid as single filers. (This would occur in cases where the two individuals had unequal incomes.) The magnitude of any such change would depend largely on the number of additional marriages under the measure, but could be in excess of \$10 million annually. If federal practices were changed to recognize same-sex couples for federal benefits, state and local governments could experience reduced costs for some health and social service programs with income eligibility requirements.

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

- Annual state revenue loss potentially in excess of \$10 million.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Michael C. Genest
Director of Finance