

September 5, 2006

Hon. Bill Lockyer
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Patricia Galvan
Initiative Coordinator

Dear Attorney General Lockyer:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative entitled "Save Our License Initiative" (File No. SA2006RF0032).

Background

The U.S. has no universal national identity card, so documenting citizenship or legal immigration status can be complex, even for native-born citizens. Generally, several documents are needed (for example, a U.S. birth certificate to establish the basis for citizenship and a driver's license with a photo to establish identity). However, many people (especially children) do not have a driver's license or other official photo identification. Documenting citizenship for these people may involve additional steps, such as verifying the identity of a child's parents.

Most legal immigrants have an identification card from the U.S. Department of Homeland Security (DHS) to verify their status, such as a "green card" issued to immigrants who are granted permanent residence in our country. The DHS has developed a computer system that government agencies and employers can use to check the validity of most types of immigration documents. No similar nationwide automated system exists to check the validity of birth certificates, which are issued by thousands of local agencies throughout the country.

Under the U.S. Constitution, children born in this country to undocumented immigrant parents are U.S. citizens—just like any other child born here. Many undocumented immigrant families in California have citizen children, who have the same rights and are entitled to the same benefits as any other citizen.

Federal Law and Public Benefits. For purposes of eligibility for public benefits, federal law generally divides immigrants into two categories—*qualified* aliens and *nonqualified* aliens.

- *Qualified* aliens include immigrants who are permanent residents, asylees, refugees, and certain other groups of immigrants who have been granted the legal right to remain in the United States. Qualified aliens are eligible for certain federal public benefits.
- *Nonqualified* aliens include undocumented immigrants and some types of nonresident aliens (such as tourists). The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (the 1996 federal welfare reform law) makes these individuals ineligible for federal public benefits with limited exceptions for emergency and in-kind benefits. The federal welfare reform law also prohibits state and local governments from providing public benefits to nonqualified aliens without state enactment of subsequent authorizing legislation. Examples of programs where California has passed legislation to provide benefits to nonqualified aliens include prenatal care and long-term care benefits in the Medi-Cal program and reduced college tuition at the in-state rather than out-of-state level.

The Federal Real ID Act. Drivers' licenses are issued by the states, not by the federal government. States also issue identification cards for nondrivers. Historically, states set the rules for what data are on the license and what documents must be provided in order to obtain one. The Federal Real ID Act compels states to design their driver's licenses by 2008 to comply with federal antiterrorist standards. Under the act, individuals in a noncompliant state cannot use their license for various activities—such as opening a bank account, traveling on a plane, or collecting social security payments. The California Department of Motor Vehicles (DMV) will be required to issue drivers' licenses that comply with the act beginning in May 2008, with *all* licenses being in compliance by May 2013.

Proposal

This measure prohibits state and local governments from providing public benefits to nonqualified aliens. For example, the state could no longer provide prenatal care, long-term care, or reduced college tuition to nonqualified aliens.

In addition, the measure would preclude the state from providing the following to nonqualified aliens: (1) drivers' licenses and (2) any other public benefit, as defined by federal law.

Fiscal Effect

If this measure is approved by the voters, we estimate that it would have the following fiscal effects.

Costs

State Costs for Verification of Public Benefits. In order to ensure that nonqualified aliens do not receive reduced college tuition or other public benefits, the state would have to verify applicants' citizenship or immigration status. Thus, whenever a person applies for a public benefit, the state would need to verify the applicant's eligibility for benefits. Consequently, the state would likely experience increased administrative costs to comply with the measure's requirements. For example, under the measure, the state would need to verify eligibility for various higher education, health, and social services-related benefits. In the longer run, the information needed to establish applicants' eligibility to receive public benefits will already be collected by DMV under the Federal Real ID Act. Consequently, this measure would likely impose only minor costs on state and local governmental entities to access this information. In the short run, however, state and local governments could incur more significant costs to perform these verifications.

DMV Costs. The measure precludes DMV from issuing drivers' licenses to nonqualified aliens. Because this represents current law, this provision of the measure would not result in any fiscal impact on the state.

Savings

Savings Resulting From Reduced Services. This measure would result in savings because it eliminates the option of the state and local governmental entities to provide public benefits to nonqualified aliens. The magnitude of these savings is unknown, but could be in the low hundreds of millions of dollars annually.

Denying Some Services May Increase Future Costs. Denying some services to nonqualified aliens could result in future increased state health care costs. For example, eliminating prenatal services to nonqualified alien women could result in higher Medi-Cal costs to their infants, who would be citizens. In addition, failure to treat and control serious contagious diseases—such as tuberculosis—among nonqualified aliens could increase future costs to treat the disease in the general population.

Summary of Fiscal Effects

The measure could have the following major fiscal effect:

- Program savings to the state and local governments due to reduced expenditures for certain public services. These savings could be in the low hundreds of millions of dollars annually.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Michael C. Genest
Director of Finance