

November 6, 2007

Hon. Edmund G. Brown Jr.
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Krystal Paris
Initiative Coordinator

Dear Attorney General Brown:

Pursuant to Elections Code Section 9005, we have reviewed the proposed statutory initiative related to property rights (A.G. File No. 07-0060).

Major Provisions

The measure specifies that no state or local governmental entity may “make any law or ordinance that prevents any citizen from owning or acquiring legally, property nor shall there be a limit to the amount of property acquired, grown or produced or owned.” The measure does not specify the types of property subject to the measure’s provisions or define its terms.

Currently, some state and local laws restrict people’s right to possess certain property, even if the person acquired the property elsewhere legally. For example, state laws prohibit people from keeping pet ferrets or short-barreled shotguns within the state’s borders. Similarly, some city laws limit people’s authority to acquire, grow, or produce certain property (such as farm animals, hazardous substances, and domesticated animals) at their residence.

The extent to which this measure might affect existing and future laws and government programs is not clear and would depend on how the measure is (1) interpreted by the courts and (2) implemented by state and local governments. For example, the effect of this measure would be limited to the extent the courts did not consider most existing state and local government property restrictions to be constraints on the *ownership* of property. (They might instead view such restrictions as being on the use or location of the property.) Similarly, the effect of the measure might be limited if governmental agencies could adopt alternative policies to achieve their policy objectives, such as imposing regulatory and user fees, license requirements, and use restrictions relating to the property they wish to discourage. On the other hand, if the terms of the measure

were interpreted broadly, or government could not enact replacement policies to achieve its policy objectives, the effect of this measure could be significant.

Fiscal Effect

It is not possible to determine the net effect of this measure on state and local government costs and revenues because this effect would hinge on how the measure's broad terms are interpreted by courts and implemented by state and local governments.

Summary. The fiscal effect of this measure cannot be determined, as it would depend largely on how the measure's terms are interpreted by the courts and implemented by government.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Michael C. Genest
Director of Finance