

October 13, 2009

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 52710, we have reviewed the proposed initiative regarding Christmas music in public primary and secondary schools (A.G. File No. 09-0030).

Background

The current Supreme Court interpretation of the First Amendment allows public schools to study religious practices, including holidays, if the tone of the education is not devotional in nature. That is, art, literature, or music with religious themes may be presented if they serve the academic goals of the school but may not be used as a vehicle to promote religious belief. Additionally, school concerts that present a variety of musical selections may include religious music.

Given existing law and judicial interpretation, schools currently are able to offer Christmas music curricula if the curricula are used for academic rather than devotional purposes. In California, the funding for such curricula likely comes from schools' Proposition 98 funding allocations. Proposition 98 provides a guaranteed minimum amount of funding for K-14 education.

Proposal

Requires Christmas Music Curricula. This measure requires that all public elementary and secondary schools offer opportunities for its pupils to listen to and/or perform Christmas music. Schools are further required to provide appropriate notice to parents and guardians as well as offer alternatives to the Christmas music curricula should some students choose not to participate. These opportunities are to be provided during an art or social studies class, an assembly, or both, at the seasonally appropriate time.

Fiscal Effects

Impact on State School Costs. This initiative would have no fiscal impact at the state level because it does not affect Proposition 98 funding levels.

Impact on Local School District Costs. At the local level, all school districts likely would incur some additional costs due to the parental notification requirement. Districts also could incur costs to provide students opportunities to listen to and/or perform Christmas music and to oversee those students who decide to opt out of listening to Christmas music. These annual costs, which would vary by district, probably would be minor.

Summary of Fiscal Effects

This measure would have the following fiscal impact:

- Probably minor annual costs to school districts.

Sincerely,

Mac Taylor
Legislative Analyst

Michael C. Genest
Director of Finance