

September 14, 2011

Hon. Kamala D. Harris
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Dawn McFarland
Initiative Coordinator

Dear Attorney General Harris:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative regarding the purchase of materials by California's state and local governments (A.G. File No. 11-0027).

Background

California state and local governments spent over \$400 billion in 2008, with the largest portion of this amount spent on services and personnel. While state and local government spending on goods and other materials is not known, we estimate that it might constitute about 5 percent of total spending.

State and local government procurement of goods and materials is subject to many statutory requirements, such as those to promote open competition and to provide preferences for veterans, small businesses, and other groups. Except for some purchases using federal funds, state and local governments typically do not consider whether a product is manufactured in the United States when making purchasing decisions. Some purchases of foreign-made goods are subject to international trade agreements. For example, the state of California is a signatory to the World Trade Organization's General Procurement Agreement, which requires that goods from member countries be treated no less favorably than domestic suppliers in state government procurement decisions. Local governments, in contrast, are not covered by the terms of this agreement.

Proposal

This measure requires, effective January 1, 2014, state and local government entities to purchase goods and materials manufactured in the United States "substantially all from materials produced in the United States." The requirement applies to government

purchases of tangible personal property and any materials or structural components to be incorporated into real property.

Some Goods Excluded. The measure excludes some goods such as spare parts for existing equipment, books or other media, and historical or cultural artifacts. The measure also allows the Legislature to exempt specific items through a majority-vote bill signed by the Governor. Additionally, state purchases of certain foreign-made goods would be allowed if required pursuant to federal law (presumably also including federally recognized international trade agreements).

Fiscal Effects

Currently, state and local governments purchasing goods and materials request bids from a wide array of suppliers and make these purchase decisions based, in part, on lowest cost. Under the measure, state and local governments would be prohibited from purchasing foreign-manufactured goods—including those that would have been the lowest cost. This would result in government paying more for some goods and materials. Information is not readily available on the foreign/domestic makeup of state and local procurements. If, however, the measure resulted in an overall 1 percent average increase in the price of goods purchased, state and local government costs would increase by about \$200 million annually. The actual increase in government costs could be higher or lower than this amount depending on the size of any price increase and the percentage of government spending on goods and other materials.

Factors That Could Reduce the Fiscal Effect on State and Local Governments. Various factors could reduce the fiscal impact of this measure on state and local governments, particularly over time. Specifically, the Legislature and Governor could exempt various types of products from the United States manufacturing requirement. Additionally, state and local governments could interpret the measure's broad provisions so that many products were considered to be manufactured in the United States or exempt due to international trade agreements. Lastly, in response to the measure, additional suppliers could enter the domestic market to meet state and local government demand for goods produced in the United States. Each of these responses—Legislative exemptions, a flexible interpretation of the United States manufacturing standard and exemptions under trade agreements, and an increase in domestic suppliers—would lessen the cost impact on state and local governments noted above.

Administrative Costs. State and local governments also would experience mostly one-time administrative costs to modify procurement procedures and verify whether products meet the requirements of the measure.

Fiscal Summary

This measure would have the following major fiscal effects on state and local governments:

- Increased state and local government costs to purchase goods and materials, potentially in the range of hundreds of millions of dollars annually.

Sincerely,

Mac Taylor
Legislative Analyst

Ana J. Matosantos
Director of Finance