

October 13, 2015

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

Attention: Ms. Ashley Johansson
Initiative Coordinator

Dear Attorney General Harris:

Pursuant to Elections Code Section 9005, we have reviewed the proposed statutory initiative (A.G. File No. 15-0051, Amendment No. 1) related to voluntary certification of the accuracy of information cited in political advertisements for federal offices.

Background

Elected Federal Offices. Californians vote in elections for Congress, the presidency, and the vice presidency of the United States. The U.S. Constitution establishes these elected offices, including the processes through which individuals elected to these offices may be removed from office before the normal expiration of their constitutional term.

Political Advertisements. A significant portion of money spent in elections is used to produce advertisements on television, radio, and printed or electronic media to convey support or opposition to a candidate for political office.

Proposal

Voluntary Certification of Political Advertisements in Federal Elections. This measure would give individuals who produce campaign advertisements in support or opposition to candidates for elected federal office the opportunity to certify that the information conveyed in the advertisement is accurate. The measure includes language that would be included in any such certification. This certification would be voluntary and submitted to county election officials under penalty of perjury with a maximum sentence of four years in prison. Any investigation or prosecution of perjury would be delayed until after the general election has concluded.

Statewide Website. The measure would require the state to establish an information technology (IT) system to maintain record of all certifications submitted to county election officials. The measure specifies that this IT system would be accessible to the public through the Internet.

Fiscal Effects

Although provisions of this measure likely would be subject to legal challenges, our analysis assumes that the measure would be implemented. As we discuss below, the measure would have one-time and ongoing fiscal effects on state and local governments.

One-Time Fiscal Effect. State and local governments would experience one-time costs—possibly tens of millions of dollars—to establish a new IT system that complies with the measure.

Ongoing Fiscal Effect. The ongoing fiscal effect of the measure would depend on the number of people who choose to certify political advertisements and the number of claims of perjury that are investigated and prosecuted in the future. These ongoing costs to state and local governments could be in the range of millions of dollars each year and include costs to (1) administer the voluntary certification process and (2) investigate and prosecute claims of perjury.

Summary of Fiscal Effects. This measure would have the following major fiscal effect.

- Increased costs to state and local governments. These costs include (1) one-time costs—possibly tens of millions of dollars—to develop new information technology systems and (2) ongoing costs to state and local governments of possibly millions of dollars each year to administer and enforce the new certification process.

Sincerely,

Mac Taylor
Legislative Analyst

Michael Cohen
Director of Finance