

February 20, 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 9005, we have reviewed the proposed initiative regarding domestic partnerships (A.G. File No. 09-0003).

Background

In November 2008, voters passed Proposition 8, which amended the State Constitution to specify that only marriage between a man and a woman is valid or recognized in California. Other state laws define who is eligible for marriage as well as the rights, benefits, and responsibilities that marriage entails. For example, a person who is married has a right under state law to alimony and community property. Licenses to be married can be obtained in each county in California for individuals of different sexes.

Currently, state law allows couples of the same sex where both partners are at least 18, or unmarried couples of the opposite sex where at least one partner is 62 years or older, to register as domestic partners. In most instances, registered domestic partners are provided the same rights and benefits as married couples. However, domestic partnerships are different from marriages in a few ways. For example, domestic partners register with the Secretary of State (SOS) instead of obtaining a license from a county.

Proposal

This measure states its intention that state law be changed to replace the term “marriage” with “domestic partnership.” The measure further states that marriage becomes a social ceremony that is recognized only by nongovernmental institutions. The measure also states that it would nullify Proposition 8. However, the language in this measure does not actually amend particular provisions of the Constitution or statutes to make these proposed changes.

Fiscal Effect

This measure would have an unknown fiscal effect on state and local governments. This is because the language of the measure is vague in a number of respects and does not actually amend particular provisions of the Constitution or statute. Depending on how the measure is interpreted and implemented, its fiscal effect could vary significantly. For instance, it is not clear whether, as a result of this measure, domestic partnerships would register with the SOS or obtain licenses from counties, and, thus, how state and local registration or licensing fee revenues and administrative costs would be affected.

Fiscal Summary. This measure would have an unknown fiscal effect on state and local governments.

Sincerely,

Mac Taylor
Legislative Analyst

Michael C. Genest
Director of Finance