

August 28, 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 Section 9005 of the Elections Code, we have reviewed an initiative (A.G. File No. 15-0037) that proposes to amend California state statutes and institute regular statewide votes on whether California's relationship with the United States of America should change.

Background

California Was the 31st State Admitted to the U.S. In 1850, Congress and President Fillmore approved the act admitting California as one of the United States of America.

California Required to Be Part of U.S. Section 1 of Article III of the State Constitution provides that California "is an inseparable part of the United States of America."

U.S. Constitution Does Not Provide for Secession. The U.S. Constitution includes neither a mechanism for a state to secede from the United States nor a provision for a single state to be a "nation within the United States." In 1869, following the Civil War, the U.S. Supreme Court ruled in *Texas v. White* that the initial act admitting a state into the Union "was final." "There was no place for reconsideration, or revocation," the court said, "except through revolution, or through consent of the states."

Proposal

Statutory Changes Proposed. This measure proposes to amend California statutory law. State statutory law generally cannot override the State Constitution or the U.S. Constitution. This measure proposes no constitutional amendments. (Voter initiative measures such as this one also may not institute changes, known as revisions, that, among other things, alter the "basic governmental framework" set forth in the State Constitution.)

Quadrennial "Nationhood Referenda." A statute proposed by this measure would place before California's voters every four years a "nationhood referendum," asking whether California "should acquire the exclusive power to make its laws, levy its taxes and establish its own

relations abroad—in other words, sovereignty—and at the same time to maintain with United States an economic, political, and military partnership." If a majority votes yes, the California government must present a formal offer to the United States for a partnership that "redefines California as a 'distinct society'—a nation within the United States." Any formal offer accepted by the United States would not take effect until approved by California voters in a subsequent election.

Possible Secession From the U.S. If the United States fails to accept such a formal offer, California's Secretary of State would be required by statute to place on a statewide ballot the question of whether California should "be an independent country." This measure states that if this "independence referendum" is approved, a state commission would be created to declare California's independence from the United States. Procedures for the resulting Republic of California to request admission to the United Nations are specified.

Fiscal Effects

Legal Uncertainties. There are many legal uncertainties concerning this measure and, therefore, its fiscal effects.

Potentially Large Fiscal Effects If Relationship With U.S. Changes. Assuming that this measure can be implemented legally, that voters approve changes to California's relationship with the United States in later elections, and that these changes actually occur, many aspects of California's economy and public budgets could change. The precise nature and magnitude of these changes cannot be predicted, but the net changes could be significant.

This measure may have the following fiscal effects:

- Potentially large changes in California public budgets, assuming that this measure can be implemented legally, that voters approve changes to California's relationship with the United States in later elections, and that these changes actually occur.

Sincerely,

Mac Taylor
Legislative Analyst

Michael Cohen
Director of Finance