



February 16, 2017

Hon. Xavier Becerra
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Ashley Johansson
Initiative Coordinator

Dear Attorney General Becerra:

Pursuant to Elections Code Section 9005, we have reviewed an initiative (A.G. File No. 16-0012) that would ask voters a question related to presidential elections.

Background

U.S. President Elected by Electoral College. The U.S. Constitution specifies that the President is elected by the Electoral College. The Electoral College consists of 538 electors. Each state is assigned a certain number of electors—California has 55 electors. A candidate must receive at least 270 electoral votes to be elected President. The Constitution allows each state to determine how its electors vote. Most states—including California—award all of the state’s electoral votes to the presidential candidate who wins the popular vote in that state. Under this system, a candidate can be elected President by receiving a majority of electoral votes *without* winning the popular vote nationwide.

National Popular Vote Compact. Ten states—including California in 2011—and the District of Columbia have passed legislation to join the National Popular Vote Compact. When a state passes legislation to join the compact, it pledges that all of that state’s electoral votes will be given to whichever presidential candidate wins the popular vote nationwide. Before the compact can go into effect, the total number of electoral votes across the participating states must exceed 270 electoral votes. The compact currently is not in effect because the ten states that have passed legislation to join the compact represent 165 electoral votes.

Two-Step Process to Change the Constitution. The U.S. Constitution may be changed through a two-step “amendment” process. Under this process, only the U.S. Congress, state legislatures, and—if called by the Congress—constitutional conventions have a role in changing the Constitution.

Proposal

This measure asks if California’s elected officials should use all of their constitutional authority—including, but not limited to, amending the U.S. Constitution or approving the

National Popular Vote Compact—to require a candidate to receive the national popular vote in order to be elected President. This measure appears to be an advisory measure only. It does not appear to require any particular action by Members of Congress or the California Legislature.

Fiscal Effects

Because this measure appears to be advisory only, it would have no direct fiscal effect on state and local governments.

Summary of Fiscal Effects. This measure would have the following fiscal effects:

- No direct fiscal effect on state and local governments.

Sincerely,

Mac Taylor
Legislative Analyst

Michael Cohen
Director of Finance