

December 7, 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 constitutional amendment related to the ability of the voters to call for a state constitutional convention (A.G. File No. 09-0066).

Background

State Law Distinguishes Between Constitutional Revisions and Amendments. California law distinguishes between *amendments* and *revisions* to the State Constitution. A constitutional revision generally is broader in scope than an amendment. A revision, for example, may substantially alter the basic governmental framework of the state. Constitutional amendments may be placed before the voters either by a vote of the Legislature or by an initiative petition signed by a requisite number of voters. Proposed revisions, by contrast, may be placed before voters after either a vote of the Legislature, or, as described below, a constitutional convention.

Calling a Constitutional Convention. The Constitution provides that only the Legislature, with a two-thirds vote of each house, may submit to voters the question of whether to call a constitutional convention. If a majority of voters approve such a proposal, the Legislature must provide for the convention within six months. The Constitution, however, specifies that delegates to a convention must be elected from districts as nearly equal in population as may be practicable. The Constitution does not specify how and under what circumstances the convention's proposals subsequently must be placed before voters. Further, the Constitution does not specify what subjects a convention may address.

Proposal

Grants Electorate the Ability to Call a Constitutional Convention. The proposed measure allows voters to call a constitutional convention through a statutory initiative measure no more than once every ten years.

Changes Possible Terms and Conditions of a Convention. The proposed measure removes language from the Constitution requiring delegates to be elected from districts nearly equal in population. Instead, this measure requires those calling for a constitutional convention to specify a “fair method” for selecting delegates. In addition, the proposal would allow the callers of a constitutional convention to limit the subject matter that may be considered in such a convention.

Fiscal Effect

This measure would have no direct fiscal impact, as any effect would depend on future actions by voters regarding an initiative calling for a constitutional convention. Providing the authority to voters to propose such an initiative, however, would make it more likely that there would be such a convention in the future. In such cases, there would be costs of convening a constitutional convention. In addition, the resulting recommendations of a constitutional convention, if approved by the voters, could change the structure of state and local governments substantially. This could result in higher or lower state and local taxes and other revenues. It could also result in more or less state and local spending on particular public programs. The fiscal effects resulting from a convention would depend on a number of factors—including the decisions of the convention itself, the response of voters to the convention’s recommendations, and the actions of future elected state officials.

Fiscal Summary. This measure would have the following fiscal effect:

- No direct fiscal impact, as any effect would depend on whether and how voters used the power to call and accept the recommendations of a constitutional convention in the future. Potentially major fiscal changes in state and local governments could result.

Sincerely,

Mac Taylor
Legislative Analyst

Michael C. Genest
Director of Finance