



July 10, 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 a constitutional and statutory initiative (A.G. File No. 17-0005) that would express the intent of California voters to seek changes in the state's relationship with the United States of America.

Background

California's Constitution. In 1850, Congress and President Fillmore approved the act admitting California as one of the United States of America. Section 1 of Article III of the current State Constitution provides that California "is an inseparable part of the United States of America." The State Constitution provides that the U.S. Constitution is the supreme law of the land.

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 an autonomous 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 to the Union "was final." "There was no place for reconsideration, or revocation," the court said, "except through revolution, or through consent of the states."

Initiatives and Constitutional Revisions. In 1911, California voters approved Proposition 7, which amended the State Constitution to create the statewide voter initiative process. A voter initiative, such as this proposal, may not institute changes—known as constitutional revisions—that substantially alter the basic governmental framework of the state. Only the Legislature or a state constitutional convention may place proposed constitutional revisions before the voters.

Proposal

Constitutional Changes Concerning U.S./California Relationship. This measure amends the State Constitution, which now provides that California "is an inseparable part of the United States of America," to read instead that California "is a part of the United States of America." Further, this measure adds a new section to the Constitution declaring the intent of California

voters “that California become a fully-functioning sovereign and autonomous nation, whether within continued association with the United States of America or as an independent country, peacefully through negotiation with the federal government of the United States.” The Governor would lead these negotiations. Other details of the negotiations could be specified in state laws adopted in the future.

U.S./California Settlement Would Have to Be Approved at Future Elections. The measure provides that a future negotiated settlement with the U.S. government on these matters would not take effect until approved by the state’s voters as a revision to the State Constitution. As such, at a future date after the passage of this measure, a settlement would have to be approved in one of the following ways (as provided under current constitutional provisions):

- ***Legislative and Voter Approval.*** Under this option, two-thirds of each house of the Legislature would approve the revision for a statewide ballot. A majority of voters then would have to approve the revision for it to take effect.
- ***Constitutional Convention and Voter Approval.*** Under this option, two-thirds of each house of the Legislature would approve submitting to voters the question of whether or not to call a constitutional convention. If a majority of voters approve a convention, the convention delegates—elected by voters from districts across the state—would meet to consider a proposed U.S./California settlement and perhaps other matters. A proposed settlement, if approved by the convention, would then have to be approved by voters on another statewide ballot.

New State Commission. This measure creates a 13-member state commission on autonomy and independence. The commission would advise the Governor and other elected officials about the state’s transition to being a sovereign and autonomous nation. The commission’s members would be appointed by the Governor and the leaders of the Legislature. No more than 7 of the 13 members could be from the same political party. Its annual funding could be no less than 0.001 percent of the state’s General Fund budget (currently about \$1.25 million).

Fiscal Effects

Cost of Advisory Commission. The new advisory commission would cost the state at least \$1.25 million per year, with this minimum amount growing over time.

Major Economic and Fiscal Changes if California Becomes Sovereign Nation. Assuming that California actually became a sovereign and independent nation, there could be major economic and budgetary changes for the state and local governments. The details of these changes are unknown. They would depend on the terms of any arrangement reached between California and the United States, which would have to be approved by voters at some point in the future after the approval of this measure.

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

- At least \$1.25 million in added state costs per year for an advisory commission on California autonomy and independence.

- Unknown, potentially major, fiscal effects if California voters approved changes to the state's relationship with the United States at a future election after the approval of this measure.

Sincerely,

Mac Taylor
Legislative Analyst

Michael Cohen
Director of Finance