



January 8, 2025

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Hon. Rob Bonta
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Jan 08 2025

Attention: Ms. Anabel Renteria
Initiative Coordinator

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Dear Attorney General Bonta:

Pursuant to Elections Code Section 9005, we have reviewed the proposed statutory initiative that would express the intent of California voters to seek changes in the state's relationship with the United States of America (A.G. File No. 24-0001, Amendment #2).

Background

California's Constitution. In 1850, the United States Congress and President Fillmore approved the act admitting California into the United States of America. Section 1 of Article III of the State Constitution provides that California "is an inseparable part of the United States of America." The State Constitution also 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 does not include a mechanism for a state to secede from 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." The court said: "There was no place for reconsideration, or revocation, 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 one, may not institute changes that substantially alter California's basic governmental framework. These are known as "constitutional revisions" and only the Legislature or a state constitutional convention may propose them.


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Proposal

Proposes Statutory Changes. This measure proposes to enact new California statutory law. (It does not propose any constitutional amendments.) However, state statutory law cannot override the State Constitution or the U.S. Constitution. In addition, a voter initiative—such as this one—may not, through statute, alter the basic governmental framework in the state constitution.

Creates New State Commission to Study California Independence. This measure creates a 20-member state commission on California sovereignty and independence from the United States. The commission would begin meeting in August 2027. By 2028, the commission would be required to produce a public report on the ability of California to govern itself as an independent nation. To form the commission, the Secretary of State would randomly select commissioners from a pool of eligible applicants with specific requirements for the sex and racial composition of the members. To be eligible, the applicants would need to establish that they meet various qualifications, including receiving signature nomination by one hundred registered voters, establishing California residency for at least five years, and having earned a degree.

Calls Statewide Election on Independence. This measure also calls for voters to consider a question related to California’s independence on November 7, 2028—a date when a statewide election is scheduled to be held. At this election, voters would be asked: “Should California leave the United States and become a free and independent country?” The measure states this election “shall constitute a vote of no confidence in the United States of America and an expression of the will of the people of California to become a free and independent country” if both of the following conditions are met:

- At least 50 percent of registered voters participate.
- At least 55 percent vote “Yes.”

If so, this measure would require the state to remove the national flag of the United States of America from all state buildings and properties. The measure does not state when or how California would become an independent country.

Fiscal Effects

Various Fiscal Uncertainties. There are many legal uncertainties concerning this measure and, therefore, uncertainties about its economic and fiscal effects. For example, this measure could be found by courts to be unconstitutional, either (1) preventing it from ever reaching the ballot or (2) invalidating it in whole or in part if voters approved it at an election. Even if voters approved this measure and a later vote for independence, it is not clear that there would be any change in California’s sovereignty without the consent of the rest of the United States.

Statewide Election Costs. The measure proposes setting forth a new question to voters on California independence and printing a summary of the commission’s findings in the Voter Information Guide. This would involve higher state costs, primarily for added printing costs associated with a longer Voter Information Guide. Counties would also have increased printing

costs associated with a longer ballot, and possibly also higher mailing costs. These costs could be in the millions of dollars on a one-time basis.

Cost of New State Commission. The measure would also involve added state costs on a one-time basis for the Secretary of State to collect applications, ensure candidates meet the criteria for selection, and randomly select members. In addition, counties would face costs to verify signatures of the registered voters that nominate the commission's applicants. Together, these costs could be a few million dollars on a one-time basis. The measure would also involve ongoing costs—through 2028 or later—to fund the activities of the commission. These costs would vary depending on decisions by the Legislature. However, existing state commissions of similar sizes have budgets around \$2 million annually.

Summary of Fiscal Impact. If approved, this measure would have the following fiscal effects:

- Around \$10 million dollars in one-time election-related costs and to form the new commission on national sovereignty and independence.
- Around \$2 million in annual state costs to operate the commission.

Sincerely,



for Gabriel Petek
Legislative Analyst



for Joe Stephenshaw
Director of Finance