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California Nationhood. Initiative Constitutional Amendment and Statute

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Ms. Ashley Johansson
Initiative Coordinator
Office of the Attorney General
1300 I Street
Sacramento, California 95814-2919

RECEIVED**DEC 23 2016**

December 22, 2016

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: amendment to proposed initiative

Pursuant to Article I, Section 9002(b) of the Elections Code, this letter respectfully requests that the Attorney General's Initiative Coordinator accept the enclosed amendment to the previously proposed initiative measure: "Calexit: The California Independence Plebiscite of 2019" (16-0011). The amendment amends the date of the proposed independence plebiscite and I request that the Attorney General's Office prepare a circulating title and summary for initiative measure 16-0011, as amended.

In accordance with the provisions of the Elections Code, I, Marcus Evans, the sole proponent of ballot measure 16-0011, hereby submit this signed request. Enclosed is a copy of the ballot measure as it reads with the amendment, which is reasonably germane to the theme, purpose, and subject of initiative measure 16-0011 as originally proposed on November 21, 2016.

Thank you for your prompt attention to this matter.



Marcus Evans
Vice President, Yes California Independence Campaign
6083 N. Figarden Drive, #356
Fresno, California, 93722
president@yescalifornia.org

CALEXIT: THE CALIFORNIA INDEPENDENCE PLEBISCITE OF 2019

An act to repeal Article III, Section 1 of the California Constitution and to add Division 22 to the Elections Code, relating to the establishment of an independence plebiscite.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. AN AMENDMENT TO THE CALIFORNIA CONSTITUTION

Article III, Section 1 of the California Constitution is hereby repealed, as follows:

~~The State of California is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land.~~

SECTION 2. THE INDEPENDENCE PLEBISCITE OF 2019

Division 22 is hereby added to the Elections Code, to read:

DIVISION 22. THE INDEPENDENCE PLEBISCITE OF 2019

22002. On March 05, 2019, the election date for odd-year elections established by Division 1 of this Code, the Secretary of State shall submit the following independence plebiscite question to the voters: "Should California become a free, sovereign, and independent country?"

22003. The words "Yes" and "No" on separate lines with an enclosed voting space to the right of each shall be placed to the right of the independence plebiscite question.

22004. The independence plebiscite shall constitute a Declaration of Independence from the United States of America if both the following conditions are met:

- (1) At least 50% of registered voters participate.
- (2) At least 55% vote "Yes".

22005. Pursuant to the conditions in Section 22004 having been met, the Governor shall carry and shepherd an application for the newly-independent Republic of California to join the United Nations. The Governor shall have the authority to appoint an ambassador to whom he may delegate this duty.



AP16:004

FOR IMMEDIATE RELEASE

January 26, 2017

CONTACT: Sam Mahood

(916) 653-6575

Proposed Initiative Enters Circulation

California Nationhood. Initiative Constitutional Amendment and Statute.

SACRAMENTO – Secretary of State Alex Padilla announced the proponent of a new initiative was cleared to begin collecting petition signatures today.

The Attorney General prepares the legal title and summary that is required to appear on initiative petitions. When the official language is complete, the Attorney General forwards it to the proponent and to the Secretary of State, and the initiative may be circulated for signatures. The Secretary of State then provides calendar deadlines to the proponent and to county elections officials. The Attorney General's official title and summary for the measure is as follows:

CALIFORNIA NATIONHOOD. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE. Repeals provision in California Constitution stating California is an inseparable part of the United States and that the United States Constitution is the supreme law of the land. Places question of whether California should become a separate country on a future ballot. Treats result of such future vote as declaration of independence from the United States if 50 percent of registered voters participate and 55 percent of those voting approve. Requires Governor to request California admission to the United Nations if voters approve independence. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: **The fiscal impact of this measure is dependent on various factors, including a vote by the people on this measure, a subsequent vote on California independence, possible legal challenges, and implementation issues. Assuming that California actually became an independent nation, the state and its local governments would experience major, but unknown, budgetary impacts. This measure also would result in tens of millions of dollars of one-time state and local election costs.** (16-0011.)

The Secretary of State's tracking number for this measure is 1795 and the Attorney General's tracking number is 16-0011.

The proponent of the measure, Marcus Evans, must collect the signatures of 585,407 registered voters (eight percent of the total votes cast for Governor in the November 2014 general election) in order to qualify it for the ballot. The proponent has 180 days to circulate petitions for the measure, meaning the signatures must be submitted to county elections officials by July 25, 2017. The proponent can be reached at president@yescalifornia.org. No phone number was provided.

###

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The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

CALIFORNIA NATIONHOOD. INITIATIVE CONSTITUTIONAL AMENDMENT

AND STATUTE. Repeals provision in California Constitution stating California is an inseparable part of the United States and that the United States Constitution is the supreme law of the land. Places question of whether California should become a separate country on a future ballot. Treats result of such future vote as declaration of independence from the United States if 50 percent of registered voters participate and 55 percent of those voting approve. Requires Governor to request California admission to the United Nations if voters approve independence. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: **The fiscal impact of this measure is dependent on various factors, including a vote by the people on this measure, a subsequent vote on California independence, possible legal challenges, and implementation issues. Assuming that California actually became an independent nation, the state and its local governments would experience major, but unknown, budgetary impacts. This measure also would result in tens of millions of dollars of one-time state and local election costs.** (16-0011.)

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JAN 11 2017

January 10, 2017

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Ms. Kathleen Kenealy
Acting Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Ashley Johansson
Initiative Coordinator

Dear Ms. Kenealy:

Pursuant to Elections Code Section 9005, we have reviewed an initiative (A.G. File No. 16-0011, Amdt. #1) proposing state constitutional and statutory amendments to ask voters if California should be an independent country.

Background

U.S. Constitution, Laws, and Treaties Are Supreme Law. Article VI of the U.S. Constitution provides that the U.S. Constitution itself, the laws of the United States, and treaties made under the federal government's authority are "the supreme law of the land." Article VI requires that judges in every state be bound by this supreme law, notwithstanding any contrary provisions of state constitutions or state laws. The U.S. Constitution and its amendments assign certain public powers to the federal government, while reserving others for the states and the people. Since passage of the Bill of Rights in 1791, Congress and the states have amended the U.S. Constitution 17 times.

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." This section of the State Constitution also states that the U.S. Constitution is "the supreme law of land." Early in the 20th Century, the State Constitution was amended to establish the voter initiative process. A voter initiative, such as this proposal, may not institute changes—known as revisions—that make "far reaching changes in the nature of our basic governmental plan" or "substantially alter the basic governmental framework set forth in our Constitution." Only the Legislature or a state constitutional convention may place proposed revisions before the voters.

U.S. Constitution Does Not Provide for Secession. The U.S. Constitution includes no mechanism for a state to secede from the United States of America. 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

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Union “was final.” “There was no place for reconsideration, or revocation,” the court said, “except through revolution, or through consent of the states.”

International Institutions. The United Nations (UN) Charter states that one of its purposes is to promote respect for the principle of “self-determination of peoples,” but the Charter generally does not authorize intervention in “matters which are essentially within the domestic jurisdiction of any state.” International institutions, however, sometimes play a role in helping aspiring nations secure independent statehood status. One of the most recent examples was Timor-Leste (also known as East Timor). After decades of violent struggle between separatist groups and the Indonesian military, the Indonesian government agreed to a UN-supervised referendum on Timor-Leste’s status in 1999. The UN Security Council (which includes the U.S. as one of its five permanent members) established a transitional administration to keep order in Timor-Leste after the referendum. Timor-Leste became a new sovereign state in 2002 and was admitted to the United Nations as a Member State. As part of the process to be admitted to the United Nations, Chapter II of the UN Charter provides that an applicant state’s admission must be submitted to the Security Council. To be approved at this stage of the process, the application must be approved by 9 of the council’s 15 members, provided that none of the council’s permanent members (including the U.S.) vote against the application. In general, therefore, the U.S. government has a significant say in whether institutions like the UN assist an aspiring nation in achieving independent statehood.

Proposal

This measure amends the State Constitution and adds a new section to California’s Elections Code concerning a statewide vote on independence.

Repeals Section 1 of Article III of State Constitution. This measure repeals the part of the State Constitution that declares California to be “an inseparable part of the United States of America” and describes the U.S. Constitution as the “supreme law of the land.”

Calls Statewide Election on Independence in March 2019. This measure calls a statewide election related to independence in March 2019—on a date when some local elections are scheduled to be held. At this election, voters would be asked, “Should California become a free, sovereign, and independent country?” The measure states this election “shall constitute a Declaration of Independence from the United States of America” if both of the following conditions are met:

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

If both of these conditions are met, this measure requires the Governor (or an “ambassador” he or she appoints) to submit to the UN the application of the “newly-independent Republic of California” to be a UN member state. The measure does not state explicitly when California would become an independent country.

Fiscal Effects

Various Uncertainties. There are many legal uncertainties concerning this measure and, therefore, its economic and fiscal effects. For example, this measure could be found by courts to be an unconstitutional revision of California’s basic governmental framework, 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 without the consent of the rest of the United States.

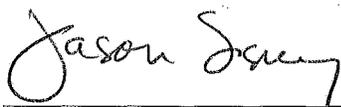
Major Impacts if California Actually Realized Independence. Assuming that California actually became an independent nation, there would be major economic and budgetary impacts for the state and its local governments. The details of these impacts are unknown. These details would depend, for example, on the sorting out of the liabilities, property holdings, border arrangements, military infrastructure, and other details relevant to both the smaller U.S. and the newly independent California. They also would depend on details of California’s military, trade, customs, and other relationships with other countries.

Increased Election Costs. This measure would increase state and local election administration costs on a one-time basis by requiring an additional statewide election in March 2019. Additional elections-related costs would total in the tens of millions of dollars.

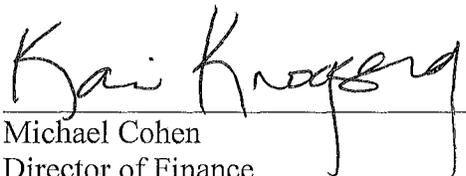
Summary of Fiscal Impact. This measure would have the following fiscal effects:

- The fiscal impact of this measure is dependent on various factors, including a vote by the people on this measure, a subsequent vote on California independence, possible legal challenges, and implementation issues. Assuming that California actually became an independent nation, the state and its local governments would experience major, but unknown, budgetary impacts. This measure also would result in tens of millions of dollars of one-time state and local election costs.

Sincerely,



for Mac Taylor
Legislative Analyst



for Michael Cohen
Director of Finance