

State of Jefferson White Paper

Executive Summary

Since 1965, northern California has not had adequate representation in the state legislature. The most expeditious way to restore representation to the counties of northern California is to create a new state with those counties that want representation restored. The only viable plan to restore representation is the “Jefferson” state movement which is using the only legal method of engineering a state split through the formula required by Article IV, Section 3 of the US Constitution.ⁱ This formula necessitates a simple majority of both houses of the state legislature and Congress approve the split in order to create a state out of an existing state or states. This process has created four new states in our nation's history.

In order for “Jefferson” to be successful, two tenets must be completed and one verified. First, counties that want to be part of the new state must give the Jefferson Committee some indication of support. Typically this is done by the Board of Supervisors affirming a Declaration and Petition to Withdraw from the State of California. This is not the only avenue open to a County. Second, the state and national legislative actions outlined above must achieve a simple majority result. Third, although not required by Article IV, Section 3, the Committees will illustrate the financial viability of the new State to its citizens.

As of January 1, 2015, six counties have Declared and Petitioned to Separate from California and join the new state of “Jefferson”. Both the California Legislative Analyst’s Office (LAO) and an internally generated financial model have shown that “Jefferson” is a viable entity. By the end of January 2015, four counties will have had their Declarations filed with the Secretary of State of California which could initiate the legislative phase of state separation. The legislative action will be delayed long enough to determine if additional counties would like to join the new state. There are 14 additional counties that have active committees educating the public and reaching their supervisors with the message of republican based representation which is guaranteed in Article IV, Section 4 of the US Constitution.ⁱⁱ

Issue

A basket of Supreme Court opinions, finalized by Reynolds v. Sims diluted the representation in rural counties in thirty states in 1964.ⁱⁱⁱ Up until that decision, California, and many other states, had roughly one state senator for each county. This was consistent with the Connecticut Compromise as implemented in Article I, Sections 2 and 3 of the US Constitution where the House of Representatives is determined by population and the Senate is comprised of two individuals from each state ensuring small or less populous states have an equal footing in Congress.^{iv} The Warren Court in 1964 invalidated this form of government for thirty states by manufacturing the doctrine of “one man, one vote” from the 14th Amendment which used population as the sole arbiter of representation in both houses of the state legislature.

The California state senate became a mirrored representation structure of the assembly. Based on population, roughly three senators and assemblymen total come from the twenty northern most counties of California while 35 of 120 legislators come from Los Angeles County alone as shown in Exhibit 2. As go the large population centers, so goes the entire state. For nearly fifty years, adequate representation has not existed for the counties of northern California. Rural counties are taxed but have no representation to determine how tax monies are spent.

Solution

Creating the new state requires a number of defined steps to be achieved. Declarations and Petitions to withdraw from the State of California and join the new state of “Jefferson” must be made by the counties who want to be involved and these must then be filed with the Secretary of State of California. Once filed, legislation must be crafted that acknowledges the Declarations, the participants and the legal description defining the boundaries of the new state.

Declarations

The Declaration component is a critical step in the formation of a new state. The key to the language contained within the Declaration defines grievances borne by each county, the desire to dissolve its relationship with California and join the new state and the legal description of the physical boundaries of the county. The combination of these elements creates *standing* for each county. Standing is the first component required for any judicial action. An example of a Declaration is attached as Exhibit 1.

Legislation

Scenario #1

If the State of California, ignores our Petition, by either, refusing to increase representation, or draft legislation, or failing to pass legislation authorizing the separation of the counties that have Declarations, creates the condition referred to as *harm* and triggers the second element for judicial action. Using the basis that the counties have standing and now have been harmed, the courts can adjudicate the issue and provide a *remedy* for the lack of representation for the counties.

The remedy could be additional representation in proportions that would make the California legislative houses unwieldy (over 1200), or bring back one senator for each county. Using the formula proposed by George Washington in 1787 where one for 30,000 was democracy and one for 40,000 was tyranny, there would be 1,266 members of the California Assembly.^v Knowing the potential judicial outcomes may stimulate a constructive response in the California legislative houses.

Scenario #2

The California legislature drafts a bill that acknowledges the Declarations filed by the counties and determines the boundaries of the new state. After drafting the legislation, both the California Senate and Assembly must pass the measure with a majority in each house. If the measure fails in one or both houses, then Scenario 1 above would be the next course of action.

Assuming the California state legislature does pass the measure in both houses, similar legislation must be drafted and passed in both houses of Congress. Once this occurs, the new state would legally exist and a state constitution would need to be drafted. Again, failure to pass legislation in Congress would trigger judicial action outline in Scenario 1 above.

Financial Viability

The financial viability has been demonstrated by two separate studies. The first was the result of the failed Six State Initiative that produced the LAO report on financial viability of the new six states.^{vi} Although not the wealthiest of the six states, Jefferson had a projected financial outlook similar to the State of New Mexico. The second study conducted resulted in a Variable Jefferson Viability Model that uses the population, tax rates, tax collections, county budget expenditures and K-12 education expenses for the proposed 20 counties and includes a payment plan to reimburse California for its portion of the debt owed by the population of “Jefferson”.^{vii} The model allows the user to include/remove counties and adjust tax rates and tax splits between the new state and its counties. The base model uses the current California tax structure and demonstrates that the new state is viable on day one.

Conclusion

The formula to create a new state as outlined in Article IV, Section 3 of the US Constitution is fairly simple but achieving the end result requires dedication and a thorough understanding of all parties involved.

“Jefferson” must be shown to be a win-win for both the new state and California. For “Jefferson”, representation would be restored and how it chooses to govern itself will be determined within its borders. What remains of California will be two-thirds of its original land mass but greater than 95% of its population. This should enable the California legislature and governor’s office to be more efficient and effective in creating and executing laws that directly relate to the population they govern. The concentrated urban centers would benefit from a government that is familiar with the issues and solutions required of an increased population density. Those within “Jefferson” face completely different challenges that would best be met by those who share similar circumstances.

The steps to achieving a legal separation are currently underway. As of January 1, 2015, six counties have Declarations and 14 additional counties are in various stages of completing that goal. Two separate studies have found “Jefferson” to be a financial viable entity. After compiling all the Declarations from all the counties that seek to become part of “Jefferson”, legislation will be authored and a majority in the California Senate and Assembly must pass the measure. If successful, Congress must perform the same steps as the state legislature.

In the absence of successful legislation at the state or national level, the issue would be adjudicated in the courts where the remedy defined in the cases related to Reynolds v Sims will require review and constitutionally valid solutions enacted. If a republican form of government as guaranteed in Article IV, Section 4 of the US Constitution and applied in Article I, Sections 2 and 3 of the US Constitution are sufficient for the federal government, then they should be successfully applied at the state level as well.

It is the preference of those seeking the new state of “Jefferson” to work with our local, state and federal representatives to achieve an amicable state split as defined by the US Constitution and required by Article 2, Section 1 of the California Constitution.^{viii} It would be regrettable to all parties to have this issue decided in our court system where it would most likely affect the legislative operations in thirty or more states.

ⁱUS Constitution, Madison, Morris, Sherman, et al. 1787,
http://www.archives.gov/exhibits/charters/constitution_transcript.html

ⁱⁱUS Constitution, Madison, Morris, Sherman, et al. 1787,
http://www.archives.gov/exhibits/charters/constitution_transcript.html

ⁱⁱⁱReynolds v Sims, 377 U.S. 533 (1964), <https://supreme.justia.com/cases/federal/us/377/533/case.html>

^{iv}US Constitution, Madison, Morris, Sherman, et al. 1787,
http://www.archives.gov/exhibits/charters/constitution_transcript.html

^vA Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774 – 1875,
http://lcweb2.loc.gov/cgi-bin/ampage?collId=llfr&fileName=002/llfr002.db&recNum=649&itemLink=D?hlaw:1:./temp/~ammem_EbLL::%230020650&linkText=1

^{vi}California Legislative Analyst's Office, Report on Six State Viability, January 2014,
<http://www.lao.ca.gov/ballot/2013/130771.aspx>

^{vii}Jefferson Viability Model, www.soj51.net/finances

^{viii}California Constitution, http://www.leginfo.ca.gov/.const/.article_2

Exhibit 1

BOARD OF SUPERVISORS, _____ COUNTY CALIFORNIA

**DECLARATION AND PETITION
TO THE CALIFORNIA STATE LEGISLATURE
FOR THE WITHDRAWAL OF _____ COUNTY
FROM THE STATE OF CALIFORNIA AND TO FORM
THE STATE OF JEFFERSON**

WHEREAS, there are times in our history when it is apparent that the political separation of one people from another has become necessary, both for the survival of the one, as well as the continued wellbeing of the other; and

WHEREAS, the _____ County Board of Supervisors recognizes the lack of representation for rural and frontier counties in the California Legislature, and the Board recognizes an increasing tendency by the State of California to exercise legislative and fiscal malfeasance in the form of an illegal fire tax, the State of California's disregard of payment in lieu of taxes owed to many rural counties, in the excesses of the California EPA and CARB regulation more suited for Urban standards, in property rights violations, and in assaults upon Second Amendment rights, as well as disregard for other inalienable right of the Citizens of _____; and

WHEREAS, State and Federal Agencies, through aggressive regulation and by reinterpretation of long-established laws, have denied the County of _____, its businesses, and its citizens, access to our most abundant natural resources and fishing grounds, causing untold harm to our economy, as well as to our health and public safety; and

WHEREAS, State and Federal Agencies have, through a process commonly known as "sue and settle", compromised longstanding principles and priorities of beneficial use and stewardship of our natural resources while sacrificing public process and open government; and

WHEREAS, Counties played an integral part of California history as we note that each original county had a representative in the original Constitutional Convention in 1849; that each county had a representative in 1878/1879 Convention; that each County originally had a representative in both Chambers of the legislature; and that Property Taxes for State Bonds as well as other taxes are assessed in each County; and

WHEREAS, this current State Legislature's system of leaving the number of representatives in both chambers static at 40 Senators and 80 Assembly members and most rural counties without representation, is arbitrary, and has the undesirable result that, as the population grows, it dilutes the share of each County in its governing role, whereby forcing Counties to share its Senators and Assembly members with more Counties as the decades go by, diluting and abridging the votes of the citizens of the Counties themselves in this process; and

WHEREAS, dilution of the individual voter's representation in California, to a ratio of almost 450,000 citizens to one representative in the Assembly and almost 950,000 to one in the Senate, has denied the voters of _____ County adequate representation; and

WHEREAS, the Board of Supervisors of the County of _____ has come to the realization that the State of California is ungovernable in its present form, and the People of _____ have asked the Board to support this resolution for the Health, Welfare, and Public Safety of the people; and

WHEREAS, the Board of Supervisors recognizes that soon after California statehood, credible efforts were made to split the state, with 45 proposals by 1998, including the strong Jefferson State movement of 1941 and the election results of June 2, 1992, when citizens of 27 Counties by county advisory votes, voted in favor of splitting the State of California.

NOW, THEREFORE, IT IS HEREBY DECLARED that the _____ County Board of Supervisors desire, with the involvement of our citizens, and hopefully with the involvement of other California Counties within rural and frontier California, to withdraw _____ County from the State of California and start over by forming a new state which represents the needs, provides opportunity, and protects the rights, liberties, public health, and safety of the people of a new State of Jefferson; and

BE IT FURTHER DECLARED that, pursuant to the requirements of Section 3 of Article IV of the United States Constitution, the _____ County Board of Supervisors requests that the California Legislature redress the above grievances and or approve the withdrawal from the State of California of the lands described below.

The boundaries of _____ County are as follows:
Legal description of _____ as found in <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=23001-24000&file=23100-23158>

PASSED AND ADOPTED by the _____ County Board of Supervisors at a regular meeting of said Board held on the nth day of Month, Year, by the following vote.

AYES: Supervisors
NOES: Supervisors
ABSENT: Supervisors

Chairperson, Board of Supervisors

ATTEST:

Executive Clerk/Board of Supervisors

Exhibit 2

