



STAFF REPORT

TOWN COUNCIL MEETING OF OCTOBER 13, 2015

To: Town Council
From: Town Manager
Subject: "State of Jefferson" Presentation
Date: September 25, 2015

RECOMMENDATION:

Hear presentation, open Public Comment. No action is requested on this item, this is informational only.

DISCUSSION/BACKGROUND:

At the September 8, 2015 Town Council meeting, the Council directed staff to place the above-referenced item on the October Town Council Agenda. Attached are items of information that was provided to staff for your review. An oral presentation will be made at the Council meeting.

CEQA :

The proposed presentation is exempt from CEQA.

FINANCIAL IMPLICATIONS:

There is no financial impact to the Town at this point.

Attachments: Executive Summary

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 most active effort today is the "Jefferson" state movement which is using the legal method of engineering a state split through the formula required by Article IV Section 3 of the US Constitution.¹ This formula necessitates a greater than 50% 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.

In order for "Jefferson" to be successful, three tenets must be completed or verified. First, counties that want to be part of the new state must have their Supervisory Boards Declare and Petition to Separate from California and join the new state (Declarations) which creates standing for each of those counties. Second, financial viability for the new state must be validated. Third, the state and national legislative actions outlined above must achieve a majority result.

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, six 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 trying to educate the public and reach their supervisors with the message of republican based representation which is guaranteed in Article IV Section 4 of the US Constitution.¹¹

Issue

A basket of Supreme Court Case known collectively as Reynolds v. Sims diluted the representation in rural counties in thirty states in 1964.¹¹¹ Up until that decision, California 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.^{11v} 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. Roughly six senators and assemblymen come from the twenty northern most counties of California while 35 of 120 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.

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 boundaries of the new state. Financial viability must also be proven that shows both the counties and the state have enough funding to sustain them.

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 the grievances borne by the county, the desire to dissolve its relationship with California and join the new state and the legal description of the physical boundary 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 by refusing to 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, 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 February 17, 2015, seven counties have Declarations and 13 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.

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

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

ⁱⁱⁱ Reynolds 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

^v A 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:l:/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

PEOPLE OF PLACER COUNTY, PLACER COUNTY CALIFORNIA

**DECLARATION AND PETITION
TO THE CALIFORNIA STATE LEGISLATURE
FOR THE WITHDRAWAL OF PLACER 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 People of Placer County recognize the lack of representation for rural and frontier counties in the California Legislature, and the People recognize 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 Placer; and

WHEREAS, State and Federal Agencies, through aggressive regulation and by reinterpretation of long-established laws, have denied the County of Placer, 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 Placer County adequate representation; and

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

WHEREAS, the People of Placer County recognize 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 People of Placer County desire, through the involvement of our citizens, and hopefully with the involvement of other California Counties within rural and frontier California, to withdraw Placer 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 People of Placer County 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 Placer County are as follows:

Beginning at a point where the west line of T. 10 N., R. 5 E., M. D. B. & M., intersects the northern line of Sacramento; thence north on range line to the northwest corner of Sec. 6, in T. 10 N., R. 5 E.; thence east on the township line to the southwest corner of Sec. 31, T. 11 N., R. 5 E.; thence north on the range line to the northwest corner of T. 12 N., R. 5 E.; thence east to the southwest corner of Sec. 34, T. 13 N., R. 5 E.; thence north to Bear River; thence on the southern line of Yuba and Nevada, up said river to its source; thence east in a direct line to the eastern line of State of California, forming the northeast corner; thence southerly along said line to the northeast corner of El Dorado; thence westerly, on the northern lines of El Dorado and Sacramento to the place of beginning.

ADOPTED by the People of Placer County through the acquisition of signatures from the registered voters of Placer County. The minimum number of signatures was set to 56,423 which is 50% plus one who made a selection for the governor of California in the November 4, 2014 election. _____ signatures were collected from registered voters in Placer County to adopt this Declaration and Petition which are attached below.

Exhibit 2



County Abstract Generator

Select County->

Abstract for Placer County

Final Budget Year: 2014-15

Data for final budget located at: <http://www.placer.ca.gov/~media/ceo/Budget/14-15%20Budget/Final%20Budget/Complete%20Book.pdf>

K-12 Education Year: 2013-14

Data for K-12 Education located at: ftp://ftp.cde.ca.gov/fiscal/sacs_data/2013-14/sacs1314.exe

\$4,712,216,399 Revenue (which includes Property Taxes, State Personal Income Taxes, Federal Income Taxes Returned, Sales Taxes and Gasoline Taxes)

Breakdown of revenue components:

\$726,413,721 Property Taxes (100% goes to County)
\$710,641,232 total paid on 161,331 secured tax bills issued
\$15,772,489 total paid on 13,019 unsecured tax bills issued

\$1,292,286,893 State Personal Income Taxes (85% goes to County at a selected rate of 8%)
\$1,292,286,893 85% goes to County based on a population of 361,682 making an average per capita of \$52,544 annually taxed at a rate of 8%

\$2,479,482,016 Federal Income Taxes Returned (85% goes to County at a selected rate of 88%)
\$2,479,482,016 Federal taxes returned based on a population of 361,682 with an average per capita tax of \$9,165 where 85% goes to County at a selected return rate from the Feds of 88%

\$163,153,769 Sales Taxes (33% goes to County at a selected rate of 8%)
\$163,153,769 is 33% of gross County sales of \$6,180,067,000 at a selected sale tax rate of 8%

\$50,880,000 Gasoline Taxes (50% goes to County at a selected rate of .53 cents per gallon)
\$50,880,000 is 50% of fuel taxes on 192,000,000 gallons at .53 cents per gallon

\$985,021,162 Less: Expenditures (based on the County budget referenced above)

\$756,778,399 Less: K-12 Expenditures for the County

\$2,970,416,838 Surplus
(Surplus funds are used to finance Cities within the County and items previously supported by State agencies)
(Deficits will be made up by the State of Jefferson budget)

