

June 25, 2020

Honorable Alex Padilla
Secretary of State
1500 11th Street
Sacramento, CA 95814

RE: Initiative No. 19-0003/1864 - WITHDRAWAL (Conditional)

Secretary Padilla:

Subdivision (a) of Elections Code § 9604 allows individuals to engage in “good faith bargaining between competing interests to secure legislative approval of matters embraced in a statewide...initiative...measure.” Furthermore, subdivisions (b) and (c) of Section 9604 allow initiative proponents to withdraw a measure prior to its certification under Elections Code § 9033 by submitting written notice to the Secretary of State.

Good faith bargaining between competing interests to secure legislative approval of matters embraced in Atty. Gen. Initiative No. 19-0003/Sec. of State Initiative No. 1864 has been extremely difficult due to the COVID-19 pandemic. Within two weeks of submitting 1.5 million signatures from registered voters to qualify Initiative 19-0003/1864 for the 2020 November General Election, state government closures and shelter-in place orders shuttered the both the State Capitol and state legislators’ district offices.

As a result, several months’ worth of time to engage in conversations with the Legislature regarding a compromise proposal were lost. Had the COVID-19 pandemic not intervened, there would have been ample time for negotiations over, and legislative approval of, a compromise measure to be completed on or before June 25, 2020.

Since state legislative offices have re-opened, we have worked diligently, embracing the process set forth in Elections Code § 9604 for good faith bargaining between competing interests to secure legislative approval of policy matters addressed in Initiative No. 19-0003/1864. Despite the unforeseen—and unprecedented—delays and challenges due to government closures and shelter-in-

place orders, we were able to make significant progress, resulting in a bipartisan legislative constitutional amendment intended to replace Initiative No. 19-0003/1864 on the November 2020 ballot. That legislative measure, ACA 11, is co-authored by nearly two dozen members of the state Assembly, has already been approved by two Senate committees, and was approved by the full state Senate earlier today. *However*, the final vote on this legislative compromise is expected to take place on Friday, June 26, 2020 in the California State Assembly.

The significant delay in negotiations caused by the COVID-19 pandemic has thus prevented me from submitting an unconditional withdrawal of Initiative No. 19-0003/1864. If the Legislature's compromise proposal is approved on June 26, 2020, Initiative No. 19-0003/1864 would no longer be necessary, but the State would still incur an estimated \$400,000 to \$800,000 in needless expenses associated with printing Initiative No. 19-0003/1864 in the Voter Information Guide. (Estimates are that each additional page printed for the Voter Information Guide costs taxpayers \$80,000.) Further, Initiative No. 19-0003/1864's presence on the ballot, in addition to ACA 11, would likely cause voter confusion.

Therefore, in light of the interruptions and delays caused by the COVID-19 pandemic; the desire to avoid wasting over a half million dollars of taxpayer money; and an adherence to Section 9604's invitation to engage in "good faith bargaining...to secure legislative approval of matters embraced in a statewide...initiative" (which has resulted in a compromise already approved by the two Senate committees as well as the full Senate, and is pending approval in Assembly) I hereby withdraw the measure if, and only if, the following conditions are satisfied:

1. The June 23, 2020 version of ACA 11 (Mullin) of the 2019-2020 Regular Session is approved by two-thirds of each house of the state Legislature on or before June 26, 2020, to be submitted to the voters at the November 3, 2020 General Election.
2. The June 23, 2020 version of SB 300 (Umberg) of the 2019-2020 Regular Session is approved by a majority of each house of the state Legislature and signed by the Governor on or before July 1, 2020.

If these conditions are ***not*** satisfied, then I hereby do ***not*** withdraw Initiative No. 19-0003/1864 and this letter shall be considered null and void ab initio and shall not be considered as a withdrawal. My counsel, identified below, will provide you with written confirmation if and when the aforementioned conditions are satisfied and this withdrawal may be enforced.

Alternatively, if for any reason you determine that you cannot accept a conditional withdrawal contingent upon the occurrence of the aforementioned events which have been delayed by the COVID-19 pandemic, then I hereby do not consent to any withdrawal of Initiative No. 19-0003/1864, and the measure should be certified pursuant to the procedures set forth in the Elections Code for placement upon the November 3, 2020 General Election ballot.

With respect to your ability to accept a conditional withdrawal, we would point out that Section 2 of SB 300 (Umberg), once enacted, will direct the Secretary of State to submit ACA 11 to the voters at the November 3, 2020 election “[n]otwithstanding...*any other law...*” Given that final legislative approval of ACA 11 may very well depend upon your acceptance of this conditional withdrawal, we believe that SB 300 will provide you with additional authority to do so.

All inquiries or correspondence relative to the conditional withdrawal of Initiative No. 19-0003/1864 should be directed to Kurt Oneto, Nielsen Merksamer LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814, (916) 230-9386, koneto@nmgovlaw.com.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and my original signature appears on the following page.

01/14/2020

Alexander E. Creel

Signature of Alexander E. Creel, Proponent

RECEIVED

TAHOE CITY, CA

Place of Execution