

Smooth Transition for California's New Attorney General

03.07.17 | Linda J. Rosenthal, JD



Elections have consequences. Because California's then-Attorney General Kamala Harris was elected on November 8, 2016, to become the Golden State's new junior Senator, a vacancy was created in her former job, which includes being this state's top charity regulator. Under California law, the governor nominates a replacement who must then be confirmed by the legislature.

What Does an Attorney General Do?

The Attorney General's office may be – to many citizens – low profile, but it's an elective position with great importance in the workings of the state government. In addition, these state top legal officers occupy an additional role: oversight of the state's charitable organizations and charitable trusts.

In recent weeks and days, the office of state attorney general has taken on a prominence around the nation rarely seen before. In the new era of GOP control at the federal level, large states – which happen to be dominated in most cases by Democrats – have taken on the role of pushing back against rapid rollback of Obama-era policies and protections. And as the chief law enforcement officers of these states, a coalition of blue-state attorneys general are filing lawsuits and otherwise aggressively heading up opposition measures. These efforts are now – and will continue to be – on topics of interest to nonprofit organizations: immigrants and refugees, LGBTQ rights, criminal justice reform.

Smooth Transition for New, Top Charity Regulator

If a governor is from a different political party than the outgoing attorney general, then there could be cause for concern about the continuation of policies and positions. In early December,

California's Democratic Governor Jerry Brown proposed Congressman Xavier Becerra to complete the remaining two years of Kamala Harris's term. The Democratic-controlled Senate and Assembly easily confirmed this nomination, and Mr. Becerra took the oath of office in January 2017.

Ms. Harris is of mixed-minority heritage, and Mr. Becerra is Latino. Both were, and are, strong supporters of minority rights.

Former Rep. Becerra, 58, is a graduate of Stanford, with an undergraduate degree in economics and a law degree. He served in Congress from 1992 until his recent appointment. He was chair of the House Democratic Caucus and the first Latino member of the prestigious Ways and Means Committee, which has a key role in tax policy. He was the ranking member of the Ways and Means Subcommittee on Social Security.

Before he was elected to Congress, he served in the State Assembly from 1990 to 1992. He was also deputy attorney general from 1987 and 1990.

"Becerra isn't expected to stray far from Harris' perspective on charity regulation," according to the Nonprofit Times, which noted that the "California Attorney General's Office has been embroiled in litigation regarding its regulations to require filing donor information for a number of years." During a hearing in Congress in May 2016 on a GOP-sponsored bill that would prohibit the Treasury Secretary from requiring that the identity of contributors to nonprofits be included in annual returns (H.R. 5053), Becerra warned that the legislation could create a loophole for foreign governments or others to use their money to influence government without disclosure."

Conclusion

Because of his past elective and appointive experience, he is not a blank slate in connection with charitable issues. While he has "been engaged and had a strong relationship with philanthropies and charities in his own district," according to Hadar Susskind, senior vice president for the Council on Foundations, nevertheless, he has "raised questions at times that have not been easy to answer, around diversity and priorities in giving." But Susskind added: "He's done so in a way where he's trying to produce the best outcomes for his constituencies."