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Constitutional Officers, Legislators and Judges Compensation

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Official Title and Summary Prepared by the Attorney General

CONSTITUTIONAL OFFICERS, LEGISLATORS AND JUDGES COMPENSATION—LEGISLATIVE CONSTITUTIONAL AMENDMENT. Repeals sections of Constitution, articles IV, V and VI relating to payment of compensation, travel and living expenses and retirement benefits for constitutional officers, legislators and judges. Adds article XXII providing for seven member commission which by resolution subject to legislative ratification by majority of each house, biennially sets salary, retirement, insurance and other benefits for above officials. Limits commission's authority to provide health care benefits or insurance. Restricts said officials' use of state automobiles to official business. Prohibits reduction of existing and additional future retirement rights and benefits once granted. Financial impact: Minor increase in state costs to support commission and staff. Otherwise, impact on state costs unpredictable.

FINAL VOTE CAST BY LEGISLATURE ON SCA 45 (PROPOSITION 12)

Assembly—Ayes, 71
Noes, 1

Senate—Ayes, 27
Noes, 2

Analysis by Legislative Analyst

Background:

The Constitution requires the Legislature to set its own pay, travel allowances, daily living allowances and retirement benefits. However, legislative salaries cannot be increased by more than five percent for each year.

The Constitution requires the Legislature to set the pay and retirement benefits for judges.

Finally, the Constitution requires the Legislature to set the pay for the following elected officials:

Governor	Superintendent of Public
Lieutenant Governor	Instruction
Attorney General	Treasurer
Controller	Secretary of State

The pay of these seven officials may not be changed during their four-year term of office.

Proposal:

This proposition would repeal the Legislature's constitutional duty to set pay and benefits for these officials, and would establish the California Elected Officials Compensation Commission. The commission would be required to set the pay and benefits of legislators and other elected officials identified above as well as members of the State Board of Equalization.

The commission would consist of seven members. The Governor would appoint three members from among the current or former presidents or chairmen of the (1) Fair Political Practices Commission, (2) Commission on California State Government Organization and Economy, and (3) State Personnel Board. These three members would elect, by majority vote, two more members from statewide, nonprofit, nonpartisan organizations. One of these two members would have to be from an organization dedicated to educating the electorate or improving government. The other would have to be from an organization that is concerned with efficiency in the collection and expenditure of public funds.

Of the remaining two members, one would be appointed by the Governor and the other would be appointed by the Judicial Council, but the person appointed by the Judicial Council could not be a past or present member of the judiciary.

The proposal contains several specific restrictions on the commission's actions:

1. None of the elected officers covered by this measure (that is, legislators, state officials, and judges) shall be provided an automobile except as authorized by the commission and then only for use on official business.

2. None of these elected officers would be eligible for health care insurance benefits more liberal than those available to the majority of state civil service employees. However, a superior or municipal court judge could elect to receive the benefits provided to county employees in his court area instead of the benefits provided by the state.

3. The commission could not reduce retirement rights or benefits that elected officials had already earned for prior service.

4. Pay and benefits determinations made by the commission would be contained in a resolution adopted by a majority of the members. The resolution, however, would not have the force of law.

5. To become effective, the resolution would have to be approved by the Legislature.

6. All commission meetings would be open to the public.

Once the Legislature approved the resolution or adjourned without approving it, the commission would automatically terminate, and a new commission would be appointed in the next odd-numbered year and the cycle would begin again.

Fiscal Effect:

This proposition would affect state costs in two ways. First, a minor increase in state spending would be necessary to support the operations of the commission. Those commissioners who do not receive a salary from the state would be paid at the same rate as members of the Fair Political Practices Commission (presently \$100 per day) for each day spent on official business for the commission. They could not be paid, however, for more than 45 days. In addition, minor state costs would be incurred for travel expenses for the seven commissioners.

There also would be minor state costs incurred for

providing staff assistance to the commission from the State Personnel Board and the Public Employees' Retirement System.

Second, state costs could be increased or decreased, depending on whether the commission resolution resulted in pay and benefits being set higher or lower than they would have been set by the Legislature under the present method. There is no way of knowing how the commission's resolutions and the Legislature's actions would compare with the results of the present system, and therefore the net fiscal impact of this resolution cannot be predicted.

Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment No. 45 (Statutes of 1978, Resolution Chapter 2) expressly repeals and adds existing sections of the Constitution; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENTS TO ARTICLES IV, V, VI, and XXII

First—That Section 4 of Article IV is repealed.

SEC. 4. Compensation of members of the Legislature, and reimbursement for travel and living expenses in connection with their official duties, shall be prescribed by statute passed by ~~releall~~ *releall* vote entered in the journal; ~~two-thirds~~ *two-thirds* of the membership of each house concurring. Commencing with 1967, in any statute enacted making an adjustment of the annual compensation of a member of the Legislature the adjustment may not exceed an amount equal to 5 percent for each calendar year following the operative date of the last adjustment, of the salary in effect when the statute is enacted. Any adjustment in the compensation may not apply until the commencement of the regular session commencing after the next general election following enactment of the statute.

The Legislature may not provide retirement benefits based on any portion of a monthly salary in excess of 500 dollars paid to any member of the Legislature unless the member receives the greater amount while serving as a member in the Legislature. The Legislature may, prior to their retirement, limit the retirement benefits payable to members of the Legislature who serve during or after the term commencing in 1967.

When computing the retirement allowance of a member who serves in the Legislature during the term commencing in 1967 or later, allowance may be made for increases in cost of living if so provided by statute; but only with respect to increases in the cost of living occurring after retirement of the member, except that the Legislature may provide that no member shall be deprived of a cost of living adjustment based on a monthly salary of 500 dollars which has accrued prior to the commencement of the 1967 Regular Session of the Legislature.

Second—That Section 12 of Article V is repealed.

SEC. 12. Compensation of the Governor, Lieutenant Governor, Attorney General, Controller, Secretary of State, Superintendent of Public Instruction, and Treasurer shall be prescribed by statute but may not be increased or decreased during a term.

Third—That Section 19 of Article VI is repealed.

SEC. 19. The Legislature shall prescribe compensation for judges of courts of record.

A judge of a court of record may not receive the salary for the judicial office held by the judge while any cause before the judge remains pending and undetermined for 90 days after it has been submitted for decision.

Fourth—That Section 20 of Article VI is repealed.

SEC. 20. The Legislature shall provide for retirement, with reasonable allowance, of judges of courts of record for age or disability.

Sixth—That Article XXII is added to read:

ARTICLE XXII

CALIFORNIA ELECTED OFFICIALS COMPENSATION COMMISSION

SECTION 1. The California Elected Officials Compensation Commission consists of seven members appointed as provided in this article to establish the compensation and benefits of California elected officials.

SEC. 2. The membership of the commission shall be as follows:

(a) Three members, appointed by the Governor with one member of the Fair Political Practices Commission who is the current or former chairman of that commission, one member of the Commission on California State Government Organization and Economy who is the current or former chairman of that commission, and one member of the State Personnel Board who is the current or former president of that board;

(b) Two members, selected by a majority of the Governor's appointees under subdivision (a), with one from a statewide, nonprofit, nonpartisan organization which is dedicated to the education of the electorate or the improvement of government, and the other from a statewide, nonprofit, nonpartisan organization of California taxpayers concerned with the efficiency in the collection and expenditure of public funds; and

(c) Two public members who shall not be representatives of the categories set forth in this section, with one such member appointed by the Governor and the other by the Judicial Council. Such Judicial Council appointee shall not be a present or past member of the judiciary.

The appointing powers, in selecting the members of the full commission, shall strive to provide a balanced representation of the general population of the state in regard to such factors as age, sex, ethnicity, and income. Any appointee to the commission shall be a person whose salary or other emoluments are not affected by any decisions of the commission.

The Governor shall make the appointments to the commission under subdivisions (a) and (c) on the second Monday after January 1 of each odd-numbered year.

The chairman of the commission shall be selected by the members of the commission.

The members of the commission to be appointed pursuant to subdivision (b) and the Judicial Council pursuant to subdivision (c) shall be appointed within 30 days of the date upon which appointments to the commission are made under subdivisions (a) and (c) by the Governor. The appointing powers shall appoint members to fill vacancies, except vacancies which occur upon the expiration of the term of office of the commissioners, within 30 days of the occurrence of the vacancy. In the event that one or more of the governmental agencies from which the Governor is required to select a commission member is no longer in existence at the time appointments are required, the Governor shall select an appointee from among the former chairmen of such agencies or an appointee from among the chairmen or former chairmen of successor agencies, or if none exists, similar agencies.

In the event the Governor fails to make the appointments within the prescribed time, the current chairman of the agencies or successor agencies, or, if none exists, similar agencies specified in subdivision (a) shall meet within 30 days from the expiration of the time for appointment by the Governor and shall appoint the members of the commission according to the requirements placed upon the Governor by the provisions of this subdivision.

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Argument in Favor of Proposition 12

Your YES vote on Proposition 12 means:

- **YOU FAVOR TAKING AWAY THE LEGISLATURE'S POWER TO SET ITS OWN SALARIES, AND THOSE OF ALL OTHER STATE ELECTED OFFICIALS.**
- **YOU SUPPORT CREATION OF AN INDEPENDENT COMMISSION TO DETERMINE SALARIES AND BENEFITS FOR STATE LEGISLATORS, OTHER STATE ELECTED OFFICIALS AND JUDGES.**
- **YOU WANT TO SEE SUCH PAY AND BENEFIT DECISIONS MADE UNDER PUBLIC SCRUTINY WITH CITIZEN PARTICIPATION AT OPEN HEARINGS.**
- **YOU INSIST THAT THE PROCESS BE FREE OF POLITICAL INFLUENCE.**

These changes in the way California sets salaries and benefits for its elected officials and judges will become part of the California Constitution by your YES vote on Proposition 12.

The outcry that goes up each time legislators vote themselves a pay increase clearly demonstrates the public's strong dislike for the current system.

Proposition 12 will, by your YES vote, create a California Elected Officials Compensation Commission.

It will be an independent, seven-member body whose sole duty during its existence will be to determine salaries and benefits for state elected officials and judges.

The commission will be disbanded automatically every two years and a new one chosen. Dissolving the commission biennially will guarantee its impartiality.

The commission will have seven members. The governor will appoint four, three of whom must be:

- **The current or former chairman of the Fair Political Practices Commission.**

- **The current or former chairman of the Commission on California State Government Organization and Economy (The Little Hoover Commission).**
- **The current or former chairman of the State Personnel Board.**

Two members selected by those three commissioners will be:

- **One from a statewide nonprofit, nonpartisan organization dedicated to the education of the voters or government improvement.**
- **One from a statewide, nonprofit organization of California taxpayers concerned with efficiency in the collection and expenditure of public funds.**

Two public members, not from any of the previous categories, chosen as follows:

- **One appointed by the governor.**
- **One appointed by the Judicial Council of California. Such an appointee may not be a present or former judge.**

The legislature will not be represented on the commission. Its only involvement in the compensation process will be a requirement that it ratify the commission's recommendations. Failure by the legislature to approve these recommendations means that they will not go into effect. The legislature will not be able to change the commission's figures.

Your YES vote will take the determination of state elected officials' salaries and fringe benefits out of the political arena and place it in the hands of an independent public commission where it belongs.

A YES VOTE FOR PROPOSITION 12 IS A VOTE FOR GOOD GOVERNMENT.

OLIVER A. THOMAS
President, California Taxpayers' Association

GARY SIRBU
State Chairman, California Common Cause

Rebuttal to Argument in Favor of Proposition 12

I agree with the proponents of Proposition 12 that the public outcry that occurs when legislators vote themselves a pay increase demonstrates the public's strong dislike for the present system of setting elected officials' salaries and benefits. However, the alternative proposed in Proposition 12, while appearing to set up an alternative system, in fact, only embellishes the existing one.

The proponents' statement that a vote for Proposition 12 means you favor taking away the legislators' power to set their own salaries and those of all other state elected officials is misleading. The fact is,

under Proposition 12, the Legislature still has the authority to ultimately decide its own salaries by rejecting any commission proposal it deems inadequate.

Proposition 12 should be opposed because it does not go far enough. The citizens commission established in Proposition 12 should be genuinely independent and its decisions should not be subject to legislative approval.

For these reasons I urge a "no" vote on Proposition 12.

NEWTON R. RUSSELL
State Senator, 21st District

Arguments Against Proposition 12

I urge a no vote on Proposition 12.

The public outcry which occurs whenever the California Legislature increases its own salary is evidence that the people of this State are deeply offended that the members of the Legislature can raise their own salaries. After all, no one else is afforded this privilege.

The citizens commission which Proposition 12 creates, while an improvement over the present system, does not go far enough. Proposition 12 still gives the members of the Legislature the opportunity to set their own salaries—by accepting only the salary and benefit recommendations of the commission which they feel are sufficient—and rejecting any proposal which they feel is not adequate.

If we are going to have a citizens commission which operates independently of, and at arm's length with, the public officials whose compensation it is considering, then it should be created so that its decisions about salaries and benefits are final—and not subject to legislative approval or disapproval.

Because it does not remove from the Legislature the authority to set its own salary and give that authority to a genuinely independent citizens commission, I urge a no vote on Proposition 12.

NEWTON R. RUSSELL
State Senator, 21st District

Proposition 12 should be rejected because, under the present system, the legislature has the sole responsibility for its salaries and those of other elected state officials.

When the voters revised the State Constitution in 1966, putting the legislature on a full time basis, they expected the legislature would be responsible for its own compensation.

The voters never intended that responsibility to be handed over to a nonelective group who could not be held accountable to the voters at election time.

Proposition 12 will dilute that responsibility.

The only way the people of California can retain their present control over the salaries of their legislators is by voting NO on Proposition 12.

Your NO vote on Proposition 12 will tell the legislators they and no one else will be held accountable for the size of their salaries. A NO vote will maintain the present system.

HENRY J. MELLO
Member of the Assembly, 28th District

Rebuttal to Arguments Against Proposition 12

Contrary to claims in the opposing arguments, this commission will substitute accountability and impartiality for politics in determining elected state officials' compensation.

Creation of this commission will place salary and benefit determination for elected officials under a bright public spotlight. That's accountability.

The commissioners will give an objective evaluation since they will be unaffected by the conclusions they reach. That's impartiality.

Most important, the final accounting will be in the

voters' hands since responsibility for enacting the commission's recommendations into law rests with the politicians, who must answer to the voters for their actions.

Your YES vote on Proposition 12 will provide the machinery to equitably deal with a political sore spot that is troubling the public.

OLIVER A. THOMAS
President, California Taxpayers' Association

GARY SIRBU
State Chairman, California Common Cause

to provide for payment of the municipality's share of the cost of the eligible project.

(c) In addition to the powers set forth in subdivision (b) of this section, the board is authorized to enter into contracts with municipalities for grants for eligible state assisted projects.

Any contract for an eligible state assisted project pursuant to this section may include such provisions as may be agreed upon by the parties thereto, provided, however, that the amount of moneys which may be granted or otherwise committed to municipalities for such projects shall not exceed fifty million dollars (\$50,000,000) in the aggregate.

Any contract concerning an eligible state assisted project shall include, in substance, the following provisions:

(1) An estimate of the reasonable cost of the eligible state assisted project;

(2) An agreement by the board to pay to the municipality, during the progress of construction or following completion of construction, as may be agreed upon by the parties, an amount which at least equals the local share of the cost of construction of such projects as determined pursuant to applicable federal and state laws and regulations;

(3) An agreement by the municipality (i) to proceed expeditiously with, and complete, such project, (ii) to commence operation of such project on completion thereof, and to properly operate and maintain such project in accordance with applicable provisions of law, (iii) to provide for payment of the municipality's share of the cost of such project (iv) if appropriate, to apply for and make reasonable efforts to secure federal assistance, other than that available pursuant to Title II of the Federal Water Pollution Control Act, for such project and to secure the approval of the board before applying for federal assistance in order to maximize the amounts of such assistance received or to be received for all eligible state assisted projects.

(d) The board may make direct grants to any municipality or by contract or otherwise undertake plans, surveys, research, development and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the board pursuant to this division and to prepare recommendations with regard thereto, including the preparation of comprehensive statewide or areawide studies and reports on the collection, treatment and disposal of waste under a comprehensive cooperative plan.

(e) The board may from time to time with the approval of the committee transfer moneys in the fund to the State Water Quality Control Fund to be available for loans to public agencies pursuant to Chapter 6 (commencing with Section 13400) of this division.

(f) As much of the moneys in the fund as is necessary shall be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code.

(g) The board may adopt rules and regulations governing the making and enforcing of contracts pursuant to this section.

13963. All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereon.

There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition

to the ordinary revenues of the state, as shall be required to pay the principal and interest on said bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of said revenue, to do and perform each and every act which shall be necessary to collect said additional sum.

All money deposited in the fund which has been derived from premium and accrued interest on bonds sold shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

13964. All money deposited in the fund pursuant to any provision of law requiring repayments to the state for assistance financed by the proceeds of the bonds authorized by this chapter shall be available for transfer to the General Fund. When transferred to the General Fund such money shall be applied as a reimbursement to the General Fund on account of principal and interest on the bonds which has been paid from the General Fund.

13965. There is hereby appropriated from the General Fund in the State Treasury for the purpose of this chapter such an amount as will equal the following:

(a) Such sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this chapter, as said principal and interest become due and payable.

(b) Such sum as is necessary to carry out the provisions of Section 13966, which sum is appropriated without regard to fiscal years.

13966. For the purpose of carrying out the provisions of this chapter, the Director of Finance may by executive order authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund and shall be disbursed by the board in accordance with this chapter. Any moneys made available under this section to the board shall be returned by the board to the General Fund from moneys received from the sale of bonds sold for the purpose of carrying out this chapter.

13967. Upon request of the board, supported by a statement of the proposed arrangements to be made pursuant to Section 13962 for the purposes therein stated, the committee shall determine whether or not it is necessary or desirable to issue any bonds authorized under this chapter in order to make such arrangements, and if so, the amount of bonds then to be issued and sold. Successive issues of bonds may be authorized and sold to make such arrangements progressively, and it shall not be necessary that all of the bonds herein authorized to be issued shall be sold at any one time.

13968. The committee may authorize the State Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the State Treasurer.

13969. All proceeds from the sale of bonds, except those derived from premiums and accrued interest, shall be available for the purpose provided in Section 13962 but shall not be available for transfer to the General Fund to pay principal and interest on bonds. The money in the fund may be expended only as herein provided.

TEXT OF PROPOSITION 12—Continued from page 53

SEC. 3. The commission, after public notice, shall hold public meetings to accomplish its duties. The commission shall by the end of the then current fiscal year, by a single resolution adopted by a majority of the membership, establish the annual salary, retirement, insurance, and other benefits of the Governor, the Lieutenant Governor, the Attorney General, the Controller, the State Treasurer, the Secretary of State, the Superintendent of Public Instruction, the members of the State Board of Equalization, justices and judges of courts of record, and Members of the Legislature. The commission shall also establish, by the same resolution, the rate for the reimbursement of travel expenses and living expenses, including the amount of per diem, if any, incurred by such officials. Such salary, retirement, insurance, and other benefits, and expenses and the commission's resolution shall become effective on the commencement of the regular session commencing after the next general election following the ratification of the resolution by a concurrent resolution of the Legislature, adopted by a majority vote of the members of each house thereof.

SEC. 4. On and after the effective date of this article, the salary, retirement, insurance, and other benefits of the Governor, the Lieutenant Governor, the Attorney General, the Controller, the State Treasurer, the Secretary of State, the Superintendent of Public Instruction, the members of the State Board of Equalization, justices and judges of courts of record, and Members of the Legislature shall be established or, as provided in this article. However, until so established, each such elected official shall continue to receive the same salary, retirement, insurance, and other benefits as such elected

official was eligible to receive immediately prior to the effective date of this article and, in addition thereto, any increases authorized prior to the effective date of this article commencing after such date.

SEC. 5. Subsequent to January 1 next following ratification of the commission's resolution, no elected official subject to this section shall be provided with an automobile except as established by the commission for official business. Such vehicles, when authorized, shall be made available for such uses as are reasonably necessary to make the official available for, and to carry out, the official's duties and responsibilities.

SEC. 6. No elected official subject to this article shall be eligible for health care benefits or insurance, except to the extent such benefits and insurance are established by the commission and do not exceed the benefits and insurance that are available to the majority of state employees in the civil service; provided, that a judge of the superior or municipal court may elect, in lieu of coverage by the state, to be covered by health care benefits or insurance provided to officers or employees of the county in which the judge sits.

SEC. 7. For service rendered prior to the effective date of a resolution of the commission establishing the retirement rights and retirement benefits, such rights and benefits shall be fixed on the basis of the law as it existed on the effective date of this article and such rights and benefits shall not be diminished by action of the commission. For service rendered after the effective date of a resolution of the commission establishing such rights and benefits, those rights and benefits shall be fixed on the basis of the resolution

of the commission in effect during the time the service was rendered and shall not thereafter be diminished by action of the commission.

SEC. 8. Upon ratification of the commission's resolution, or in the event that such resolution is not ratified, upon the adjournment sine die of each session of the Legislature, the term of office of the commissioners shall expire. Successor commissioners shall be appointed in the manner prescribed by Section 2 and their terms of office shall expire as provided in this section.

SEC. 9. All commissioners shall receive their actual and necessary expenses, including travel expenses, incurred in the performance of their duties. Each member of the commission who does not hold any other salaried state office shall be compensated at the same rate as members, other than the chairman, of the Fair Political Practices Commission for each day engaged in official duties,

not to exceed 45 paid working days. All meetings of the commission shall be public.

SEC. 10. The State Personnel Board and the Public Employees' Retirement System or its successor shall furnish such additional staff and services to the commission as are required for performance of the commission's duties.

SEC. 11. The Legislature shall provide funds for the support of the commission.

SEC. 12. If any part or provision of this article, or the application thereof to any person or circumstance, is held invalid, the remainder of the article, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this article are severable.

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