

CALIFORNIA INITIATIVE REVIEW

Proposition 1F: Elected Officials' Salaries. Initiative Constitutional Amendment

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By

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I. Executive Summary

Proposition 1F seeks to amend the California Constitution to prevent Legislators and statewide elected officials from receiving pay increases in years when California is running a budget deficit. The measure is part of a package of statewide ballot measures, Propositions 1A through 1F, designed to close the state's \$42 billion budget deficit. Proposition 1F encourages the Legislature and the Governor to balance the state budget every year by barring raises for state officials during deficit years. Proposition 1F would also create minor savings for the state's General Fund.¹

The bill creating Proposition 1F, Senate Constitutional Amendment 8 (SCA 8), passed both houses of the Legislature unanimously. A March 2009 Field Poll indicated more than three-quarters, 77 percent, of likely voters supported Proposition 1F.² A more recent poll by the Public Policy Institute of California showed Proposition 1F gaining in public support with 81 percent of likely voters in favor of the measure.³

California voters approved two related measures, Propositions 112 and 140, in 1990. Proposition 112 amended the California Constitution to take away the Legislature's power to set its own salaries. Instead, the California Citizen's Compensation Commission ("Commission"), an independent body, was given control over adjusting salaries and benefits for the 120 members of the Legislature and other elected state officials (including the Governor). Proposition 140 established term limits and prohibited Legislators from earning state retirement benefits while in office. Proposition 1F arguably serves as an additional check on the system because the Commission would be required to consider the state's fiscal condition when determining pay and benefits.

II. The Law

A. Background

From the 1960s to the 1980s, many states moved from part-time to full-time legislatures to address the growing need for year-round oversight and governance of state matters. The "professionalization" of state legislatures brought with it higher salaries and full-time jobs for legislators. In 1966, California voters passed Proposition 1-A, which more than doubled legislative salaries from \$6,000 to \$16,000 and changed Legislators' hours from part-time to full-time. However, Proposition 1-A also placed limits on the salary increases the Legislature could approve in the future.

As other states moved from part-time to full-time legislatures and legislative salaries rose, citizens pushed initiatives proposing to limit legislative salaries, or at take away legislative

¹ The Legislative Analyst, *Proposition 1F Analysis – Official Voter Information Guide, May 19, 2009*, <http://www.voterguide.sos.ca.gov/pdf-guide/props/prop1f-analysis.pdf> (accessed April 3, 2009) [hereinafter *Proposition 1F Analysis*].

² John Marelius, *Support Seen for Initiatives on Budget*, S.D. Union-Trib. (March 3, 2009).

³ John Marelius, *Measure to Halt Lawmaker Raises Amid Deficit Looks Certain to Pass*, S.D. Union-Trib. (April 6, 2009) [hereinafter *Measure Looks Certain to Pass*].

power to raise salaries. In Massachusetts, for example, voters qualified a ballot initiative that would have actually reduced legislative salaries.⁴ Similarly, Oregon voters considered an initiative to repeal the Legislature's power to set its own salaries.⁵

In California, even though the 1966 measure permitted modest raises, legislative salaries did not keep pace with inflation in the 1970s and 1980s. That is why in 1990, then-Senate President pro Tem David Roberti, lead the effort to place Proposition 112 on the California ballot. Proposition 112 proposed an independent commission to review the salaries of Legislators and other elected state officials annually and approve salary increases according to a set of factors.

B. Existing Law

In June 1990, voters approved Proposition 112, which amended the California Constitution and took away the Legislature's power to set its own salaries. Proposition 112 created a seven-member commission, the California Citizens Compensation Commission ("Commission"), with members appointed by the Governor. Proposition 112 gave the Commission the power to set salaries and benefits for the 120 members of the Legislature and other state officers, including the Governor, Lieutenant Governor, Attorney General, Controller, Insurance Commissioner, Secretary of State, Superintendent of Public Instruction, Treasurer, and the four-member Board of Equalization. The Commission considers a number of factors annually in reviewing and adjusting the salary and benefits of state officials. These factors include: the time needed to carry out their official duties, compensation provided to other elected and appointed officials in California with similar duties, and the level of responsibility and scope of authority of the official.⁶

In November 1990, voters approved Proposition 140, which amended the California Constitution to establish term limits and further restrict compensation for Legislators by preventing them from earning state retirement benefits while serving in the state Legislature.⁷

C. Changes in the Law

Under Proposition 1F, the Commission would be required to refrain from approving pay increases for state officials in years when the state has a budget deficit. Proposition 1F requires the Director of Finance for the State of California to determine whether the state General Fund is expected to end the fiscal year with a deficit. "Deficit" means there is a negative balance on June 30 (the last day of the fiscal year) in the Special Fund for Economic Uncertainties (the state's "rainy day" fund) that is equal to or greater than one percent (1%) of the General Fund.⁸

Proposition 1F purports to motivate the Legislature and the Governor to pass a balanced budget; however, the California Constitution already mandates that they adopt a balanced budget each

⁴ Rafael Di Tella & Raymond Fisman, *Are Politicians Really Paid Like Bureaucrats?*, 47 J.L. & Econ. 477, 484 (October 2004).

⁵ *Id.*

⁶ Cal. Const. art. III, § 8.

⁷ Cal. Const. art. III, § 7.

⁸ *Proposition 1F Analysis, supra.*

year.⁹ The Constitutional requirement however, only requires the state to pass a balanced budget bill—not to actually end the fiscal year in balance. Proposition 1F, therefore, may provide an additional incentive to anticipate future deficits and prevent them from emerging.¹⁰

D. Fiscal Impact

According to the Legislative Analyst’s Office (LAO), Proposition 1F would save less than \$500,000 if salary increases were withheld in a given budget deficit year. If the salary freeze extended over several years, the savings could amount to millions. However, the overall state budget deficit is currently \$42 billion, so Proposition 1F would not make a significant monetary impact on the budget.¹¹

III. Constitutional Issues

Proposition 1F modifies Article 3, section 8 of the California Constitution, which established the California Citizens Compensation Commission. Specifically, Proposition 1F prevents the Commission from approving salary and benefit increases when the Department of Finance certifies to the Commission that there is a state budget deficit. Proposition 1F makes no other changes to the Commission’s structure, authority, or operation.

Several other provisions of the California Constitution address compensation for members of the Legislature. These provisions will remain unaffected if Proposition 1F is passed by the voters. For example, Article 4, section 4, subdivision (b), provides that the travel and living expenses for members of the Legislature may be prescribed by statute with two-thirds approval from both the state Senate and Assembly. Subdivision (c) sets limits on retirement benefits for legislators. Most importantly, Article 4, section 7.5, specifies that the total aggregate expenditures used to compensate a member of the Legislature, a member’s staff and operating expenses and equipment for the member’s office may not exceed \$950,000 per member.

IV. Public Policy Considerations

A. Arguments in Favor of Proposition 1F

Proponents support Proposition 1F for three main reasons. First, proponents argue that stopping pay raises when the state is in debt makes common sense. When the economy is in a downturn people generally do not usually get raises and neither should Legislators. California’s Legislators are among the highest paid in the nation, with salaries starting at \$116,000 and reaching \$130,000 for those in leadership positions. Moreover, the Governor’s salary is set even higher at \$212,000 (although the current Governor chooses not to accept any compensation). Nonetheless, proponents argue it makes sense for Legislators as well as regular citizens to feel a pinch in bad economic times.

⁹ Cal. Const. art. IV § 12(f).

¹⁰ *Proposition 1F Analysis, supra.*

¹¹ *Id.*

Second, proponents estimate Proposition 1F may save the state millions of dollars in the future. While the LAO estimates that the measure may only save \$500,000 in a given fiscal year, proponents focus on the multi-year benefits, which they estimate could accrue into the millions of dollars.

Third, proponents claim Proposition 1F will make the Legislature and the Governor more accountable and encourage on-time, balanced budgets every year.

Further, some supporters admit Proposition 1F will not make a significant dent in the budget deficit, yet they support the measure as a way for voters to say “we’re mad as hell and we’re not going to take it anymore.”¹²

Supporters of the measure include state Senator Abel Maldonado, who sponsored the bill that created Proposition 1F, California Alliance for Jobs, and the Small Business Action Committee.

B. Arguments Against Proposition 1F

Opponents put forth three main arguments against Proposition 1F. First, opponents point out that freezing legislators’ salaries during a budget deficit is unlikely to cause Legislators to compromise their ideological commitments and expediently agree on what programs to cut and how to raise taxes in poor economic times. Moreover, withholding pay increases likely will not make Legislators more willing to compromise on tough issues, such as raising taxes and cutting government programs to achieve a balanced budget. In fact, some opponents argue that Proposition 1F could have the absurd effect of encouraging Legislators to act too hastily in approving future budgets in order to receive pay raises. Georgia Williams, Secretary of the Central Committee of the Peace and Freedom Party, which opposes all six of the budget-related measures placed on the ballot, stated: “This pay freeze would tend to force legislators to approve any budget, including a very bad budget, against their better judgment... 1-F is a red herring, and not at all helpful.”¹³

Second, opponents point out that California Legislators earn salaries that are appropriate for the work they do. Legislators work full-time representing the people who elect them. In fact, most if not all Legislators work more than full-time. Legislators typically travel back and forth to from their hometowns to Sacramento twice a week so that they can attend Legislative sessions from Monday through Thursday. On Fridays and weekends, most legislators can be found meeting with constituents in their district offices and attending community events. While Legislators earn \$116,000 (which as opponents correctly point out is the highest legislator pay in the nation), California also has the second highest cost of living in the country, following Hawaii, a very small state with a part-time legislature.¹⁴

¹² *Editorial: California Voters Should Approve 4 of 6 Measures on May 19 Ballot*, Contra Costa Times, (March 22, 2009).

¹³ California Political Desk, *Peace and Freedom Party Opposes Budget Props on May 19 Ballot*, (March 24, 2009).

¹⁴ State.org, *Cost of Living by State 2008 Statistics*, <http://www.costoflivingbystate.org/cost-of-living-by-state.html> (accessed April 20, 2009).

Moreover, opponents point out that California Legislators oversee the largest state economy in the country and the seventh-largest economy in the world. Opponents point out that the CEOs and boards of major corporations earn millions of dollars every year, while state legislators earn a middle-class income to steward what could be viewed as a massive “corporation” with a budget exceeding \$100 billion.¹⁵

Third, opponents point out that Proposition 1F will create only minor savings to the state and will not solve the current state fiscal crisis. Furthermore, former-senator Ray Haynes commented, “Proposition 1F merely codifies existing practices in the awarding of legislative pay increases. The commission has never given a pay raise in the midst of a budget crisis. To enact 1F is no reform and makes no change to existing practice.”¹⁶ However, this assertion isn’t entirely accurate. In 2007, the Commission approved pay raises despite a growing state budget deficit.¹⁷

Opponents include the California Peace and Freedom Party, which recently decided to oppose all of the measures on the Special Election ballot, and Pete Stahl, who has operated a website evaluating propositions since 1996.¹⁸ Other major opponents have not come forward.¹⁹

C. Financial Supporters

According to the Secretary of State, the state agency which receives and publishes data on campaign contributions and expenditures, no campaign committees have been formed and no money has been contributed to specifically support or oppose Proposition 1F.²⁰

V. Conclusion

Voters and the media will likely focus most attention on the larger, more complex measures in the package of state budget measures on the Special Election ballot. However, Proposition 1F gives voters a chance to send a message to the Legislature. A yes vote could nudge future Legislatures into passing a balanced budget and could save the state a few million dollars in pay raises withheld from Legislators and other elected state officers. A no vote keeps the status quo, and the California Citizen’s Compensation Commission would retain full discretion to approve future pay raises. While in the past the Commission has typically refrained from giving raises in deficit years, Proposition 1F would constitutionally guarantee no pay raises to Legislators, the Governor, and other state officers in deficit years.

¹⁵ John Howard, *California: Anchoring the Pacific Rim*, Capitol Weekly, (September 18, 2008).

¹⁶ *Measure Looks Certain to Pass*, *supra*.

¹⁷ Jim Sanders, *Capitol Raises on Tap Amid Deficit*, Sacramento Bee (December 3, 2007).

¹⁸ Pete Stahl, *Pete Rates the Propositions, Special Election on May 19th*, <http://www.peterates.com> (accessed April 23, 2009).

¹⁹ Steve Wiegand, *One Guy Defends Legislative Pay Hikes*, Sacramento Bee (February 27, 2009).

²⁰ Secretary of State, Political Reform Division, *Campaign Finance: Proposition 001F*, <http://cal-access.sos.ca.gov/Campaign/Measures/Detail.aspx?id=1316062&session=2009> (accessed April 6, 2009).