

# Senate Office of Research

Director: Elisabeth Kersten ♦ (916) 445-1727 ♦ Website: [www.sen.ca.gov/sor](http://www.sen.ca.gov/sor)



Established and directed by the Senate Rules Committee, the Senate Office of Research (SOR) serves as the bipartisan strategic research and planning unit for the Senate. SOR produces major policy reports, issues briefs, generates background information on legislation, and occasionally sponsors symposia and conferences.

Any Senator or Senate committee may request SOR's research, briefing, or consulting services. Resulting reports are not always released to the public.

## Major Projects

### 1998 Legislative Accomplishments

*Highlights of the Legislative Accomplishments of 1998* (October 1998) is SOR's summary of some of the significant bills that were sent by the California Legislature in 1998 to the desk of Governor Pete Wilson. SOR's report illustrates a wide range of issues considered and actions taken by the California Legislature prior to its year-end recess on August 31. The Governor was required to sign or veto all measures by September 30, and his actions are noted in the report.

### Redesigning the Unemployment Insurance System

In *Financing Unemployment Insurance: Protecting California's Jobless Workers and Employers in a Changing Economy* (September 1998), SOR discusses the background and financing structure of the state's unemployment insurance (UI) program and provides alternative financing proposals to maintain its future viability in light of the state's expanding labor market, rapidly evolving workforce, and high cost of living. Created as part of the Social Security Act of 1935, unemployment insurance was designed to serve as a safety net, lessening the financial hardships of unemployment and stabilizing local economies during economic downturns.

Since the creation of the UI program, the labor market has undergone fundamental changes, such as an increased dependence on part-time, temporary, and contract employment; the increased population of female workers in the labor force; and increased pay gaps between high-skilled and low-skilled workers—a result of the shift from manufacturing to service industries, continued shortages of highly trained workers, and declines in inflation-adjusted minimum wages.

According to the report, the Social Security Act of 1935 created a unique federal-state UI partnership—federal law provides the guidelines, while each state can design its own eligibility, financing, and coverage provisions. Generally, under the criteria set by states for UI eligibility, a jobless worker must demonstrate a lack of fault for separation from

his/her former job; an availability to take a new job; and a demonstrated willingness to actively seek other employment.

A state can finance its UI system in two ways: "forward-funding" or "pay-as-you-go." In a forward-funding system, employers pay into a UI trust fund during periods of economic prosperity at levels that will support UI benefit payments during a prolonged downturn in the economy. A pay-as-you-go system requires employers to increase their contributions during periods of recession, avoiding the accumulation of large excess reserve accounts but burdening employers when they can usually least afford it. After decades of forward-funding, many states switched to the pay-as-you-go systems in the mid-1980s; California switched to a pay-as-you-go system in 1993.

California's UI system is financed by a state tax paid by employers on the first \$7,000 of a worker's yearly earnings, the base set by the federal government; this tax is in addition to the 0.8% federal tax paid by employers on the \$7,000 base to administer the system. California currently has seven contribution-rate schedules. The annual schedule of payments is based upon the balance in the Unemployment Fund; as the balance decreases, the rate schedule increases. Within the contribution-rate schedule, employers' payments are experience-rated; when an employer lays off employees who, in turn, qualify to receive UI benefits, the employer will pay an increased UI tax rate based on that experience. California's maximum benefit has been \$230 per week since January 1, 1992; this ranks below the maximum weekly benefit of 36 states and Washington, D.C.

**California's maximum benefit has been \$230 per week since January 1, 1992; this ranks below the maximum weekly benefit of 36 states and Washington, D.C.**

According to the report, the challenge for the state's unemployment system is to provide weekly benefits that can adequately tide a worker over a period of unemployment without posing an excessive burden on the employer who pays the costs. In 1995, the federal Advisory Council on Unemployment Compensation recommended that states replace at least 50% of lost earnings, and suggested that each state set its maximum weekly benefit at two-thirds of the state's average weekly wage to achieve this goal. In California, which currently replaces only 38% of lost wages, this formula would produce a weekly benefit of \$370.

SOR recommends the following options for redesigning California's UI benefit program:

(1) A counter-cyclical financing system would increase employers' contributions in strong economic times and avoid new taxes during periods of high unemployment. This would enable the UI fund to sustain itself in periods of economic downturn, give employers relief during difficult periods, and

provide sufficient resources for benefit and coverage increases to keep pace with inflation and workplace changes.

(2) Increasing the taxable-wage base would help protect UI fund solvency. Also, employers of low-wage, part-time, seasonal, and temporary workers currently pay a disproportionately high percentage of their payrolls in UI taxes; increasing the taxable wage-base would help negate this inequity.

(3) Indexing the taxable-wage base to accommodate inflation would ensure that the taxable-wage base keeps pace with growth in workers' wages. According to SOR, the base could first be increased to compensate for erosion over the years. A recent study comparing the financing of the UI system to the Social Security system found that in 1940, both systems had a taxable-wage base of \$3,000, which was equal to average annual earnings at that time. Today, the Social Security system has a wage base of \$68,400 and the UI system has a wage base of \$7,000.

(4) Expanding tax-rate schedules would address apparent flaws in California's experience-rating system; raising the ceiling on California's UI tax would require employers who impose the most layoffs to pay a greater share of the resulting costs.

### SOR Analyzes State Propositions

In August and September 1998, SOR released its analysis of several state propositions on the November 1998 ballot. The following is a summary of those analyses.

◆ **Proposition 4.** On September 2, SOR released its analysis of Proposition 4, which prohibits the use of body-gripping, leg-hold, or snare traps for sport or commercial trapping; makes it illegal to buy, sell, or trade in furs taken with those types of traps; makes it illegal for anyone, including governmental employees, to use steel-jawed leg-hold traps to capture mammals, including cats and dogs, except in extraordinary cases to protect public health and safety; and prohibits the use of two types of poisons to kill animals. Violations are punishable by a \$300–\$2,000 fine, by imprisonment for up to one year in a county jail, or both.

The report concludes that the elimination of leg-hold traps and the two poisons (compound 1080 and sodium cyanide) could make it more difficult or costly for the agricultural community and wildlife personnel to control depredation. According to SOR, while snare, "instant-kill," and cage traps remain available for use, the measure might increase the use of firearms and alternative methods such as fencing, guard animals, and other nonlethal means to keep predators away from livestock.

Proposition 4 was approved by the California voters by a 57%–43% margin.

◆ **Proposition 6.** On September 2, SOR released its analysis of Proposition 6, the "Prohibition of Horse Slaughter and Sale of Horsemeat for Human Consumption Act of 1998," which makes it a felony to possess or transfer a horse, pony, burro, mule, or other equine with the intent of having it killed for human consumption; the measure also provides that the sale of horsemeat for use as human food is a misdemeanor, and

subsequent violations may be punished as felonies.

According to SOR, the initiative raises several areas of concern. First, a felony conviction under this measure could qualify as a "third strike" under California's three strikes law, which sends repeat felons to state prison for 25 years to life on conviction of a third felony if their previous two were violent or serious. Second, although it prevents the slaughter of horses within the state for the purpose of human consumption, the initiative cannot stop out-of-state buyers from purchasing horses for that purpose from in-state sellers if the out-of-state buyer does not disclose the purpose of the sale.

Third, the Legislative Counsel's Office, which advises the legislature on legal matters, issued an opinion that the initiative is constitutionally challengeable, in part, because it violates the commerce clause of the U.S. Constitution by placing an excessive and

unconstitutional burden on commerce by attempting to prohibit the import or export of California horses for human consumption.

Proposition 6 was approved by the California voters by a 59%–41% margin.

◆ **Proposition 7.** On September 2, SOR released its analysis of Proposition 7, the "California Air Quality Improvement Act of 1998," which would have granted \$218 million annually in state tax credits, until 2011, to individuals and businesses to offset their voluntary expenses for certain purchases that reduce air pollution. The report notes that approximately 39,170 tons of air pollution emissions are produced daily in California; Proposition 7 would have addressed pollution sources that produce only 1,384 tons of that total. However, the measure sought to curb the production of reactive organic gases, as well as particular matter and oxides of nitrogen, the two kinds of pollutants expected to rise in coming years. Proposition 7 was rejected by the California voters by a 56%–44% margin.

◆ **Proposition 8.** On September 8, SOR released its analysis of Proposition 8, the "Permanent Class Size Reduction and Educational Opportunities Act," which would have made several changes to the laws governing California's K–12 public schools system.

Proposition 8 would have created the state Office of the Chief Inspector of the Public Schools. The Chief Inspector would be appointed by the Governor, without legislative confirmation, for a single ten-year period; removal from office would require a two-thirds vote of the legislature. The Office would be financed through funds redirected from the California Department of Education (CDE); according to SOR, unless new state funds were appropriated for CDE, it would lose significant funding for its operations, some of which are required by law.

The measure would have required all teachers to pass subject matter tests approved by the Commission on Teacher Credentialing and submit portfolios of lesson plans before school districts could assign them to teach subjects outside

**In August and September 1998, SOR released its analysis of several state propositions on the November 1998 ballot.**

of their credentialed areas. SOR noted that while this provision is intended to assure competency, the proposed exams could reduce the number of newly-credentialed teachers at a time when they are already in short supply.

Proposition 8 would have required the expulsion of any pupil found to be in possession of a controlled substance at school; first-time possession of a small amount of marijuana would be excepted from this requirement. According to SOR, because the measure mandates the expulsion of students who bring illegal drugs to school, it would remove discretion from school districts to determine whether other consequences might be more appropriate and perhaps less costly for particular students.

The initiative would also have required the state to annually set aside funds in the state treasury for the existing Class Size Reduction program in grades K-3. SOR noted that while the initiative would restrict changes in funding for the program, it would probably not result in any additional state costs, as the program is considered to be adequately funded at the current time.

Proposition 8 would have required all schools in California to establish school-site governing councils as a condition of receiving state funds for special programs; required

that all members of the school-site governing councils be parents and teachers—with parents comprising at least two-thirds of each council; and provided school-site governing councils with broad authority over curriculum decisions and budgets. Among other things, SOR noted that—under such a system—different schools could make very different decisions about their curricula, perhaps conflicting with district policies or direction. SOR further noted that while the California Constitution requires education funds to be “under the control of officers of the public schools,” the initiative would give curricula and budgetary powers to the councils—semi-autonomous bodies without any direct connection to locally elected governing boards.

Finally, Proposition 8 would have given school principals full authority for evaluating, hiring, and removing school-site personnel, including teachers. SOR explained that current law authorizes school districts’ governing boards to establish personnel policies affecting the employment of school-site personnel, and expanding principals’ authority to make personnel decisions at school sites would represent a major shift for most school districts.

Proposition 8 was rejected by the California voters by a 63%-37% margin.