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The Salary Limitation Initiative: Description and Analysis

Assembly Committee on Ways and Means

Senate Committee on Budget and Fiscal Review

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THE SALARY LIMITATION INITIATIVE

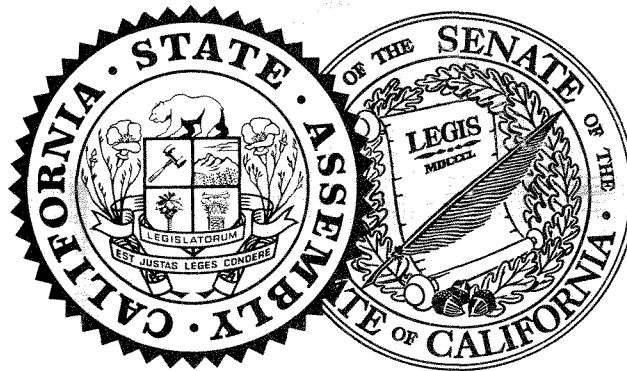
Description and Analysis

Joint Hearing

Assembly Committee on Ways and Means

and

Senate Committee on Budget and Fiscal Review



July 1, 1986
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State Capitol

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July 1, 1986
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INTRODUCTION

The Salary Limitation Initiative has qualified for the November 4, 1986, ballot. This description and analysis of the measure has been prepared by the Senate and Assembly Offices of Research as a background paper for a joint hearing on this subject held by the Senate Budget and Fiscal Review Committee and the Assembly Ways and Means Committee.

For the purposes of this analysis, it is assumed that all provisions of this constitutional and statutory Initiative are valid. Certain provisions of the Initiative, however, are unclear or appear to conflict and are subject to alternative interpretation. This analysis identifies and attempts to harmonize these provisions. The alternative effects of the Initiative on a particular area of government are presented when possible.

This paper begins with a description and general analysis of the Salary Limitation Initiative and focuses on the impact of the Initiative on state government. There follows a detailed analysis of the effect of the Initiative on public safety, higher education and lower education, hospitals, contracting, and personnel practices.

THE SALARY LIMITATION INITIATIVE

Description and Analysis

SALARY LIMITATIONS

The Initiative adds Section 26 to the California Constitution, titled "Public Salary Limitations," and repeals Government Code Sections 11550 through 11569, which fix the salaries of specified state government officials. On the effective date of the Initiative, November 5, 1986, the salary of the Governor would be set at \$80,000 per year. The salaries of all other constitutional officers and members of the Board of Equalization would be set at \$52,000 per year.

No state, city, county, city and county, or special district employee elected or appointed may receive compensation in excess of 80 percent of the Governor's salary (\$64,000). This limitation also applies to individuals working under contract.

Analysis

The Initiative would make the Governor the highest paid public official in the state. There is no rational relationship between the salary of an elected public official and the salaries of top level public administrators and technical and professional personnel. State and local governments compete amongst each other and against the private sector within and without the state to attract and retain competent and qualified employees. An arbitrary salary limitation will seriously impair the

ability of state and local government to compete successfully for top level personnel. Many will leave government service. As a result, the Initiative would result in an increase in mismanagement and the inefficient delivery of government services. The delivery of certain governmental services would be curtailed.

An assessment of the initial impact of the salary limitation hinges on an interpretation of the applicability of the limit. It is assumed that the reference to "special district" includes school districts and all other local government entities. Further, "appointed" employee means all state and local government employees.

As described above, the Initiative would limit the compensation of public employees to 80 percent of the Governor's salary. In a subsequent section, however, the Initiative would limit the salaries of public employees. The reference to compensation is vexatious. The term salary is used generally throughout the Initiative and, indeed, is referenced in the title. Salary customarily means the amount an employee receives in a paycheck; the amount on an employee W-2 form. Compensation means the total amount of remuneration for services including health and welfare benefits such as vacation and sick leave, medical insurance and employer contributions to retirement. The salary limit is \$64,000. A compensation limit, assuming an average value of health and welfare benefits for state civil service employees (excluding the value of vacation and sick leave) corresponds to a salary of about \$49,000. A compensation limit would significantly increase the number of state civil service workers affected by the Initiative vis-a-vis those affected by a salary limit. For the purposes of this analysis, it is assumed that the terms of the Initiative limit the salary, not compensation, of public officials and employees.

The salary limitation would initially affect approximately 6,000 positions at the state level including employees and officials in state departments, the University of California, the California State University System, and the judiciary. About the same number of employees would be affected at the local level. Virtually all of the Governor's appointed agency chiefs and department directors would be affected as would all justices of the supreme and appellate courts and judges of courts of record. Top level administrators, medical and health professionals and those in legal positions constitute the majority of employees in the state civil service who would be subject to the salary limitation.

The areas of state government that appear to be affected the most by the salary limitation are public safety (Department of Justice, California Highway Patrol, Department of Corrections, and the Department of the Youth Authority), Medical and Social Services (Department of Developmental Services, Department of Health Services, Department of Mental Health, and the Veteran's Home in Yountville), transportation (Caltrans), and agencies involved in the administrative adjudication of complaints (Workers' Compensation Appeals Board, Unemployment Insurance Appeals Board, Office of Administrative Hearings).

SALARY INCREASES

No increase in the salary of any constitutional officer, member of the Board of Equalization, member of the Legislature, supreme or appellate court justice, or judge of a court of record may be increased unless approved by a majority of the voters at a statewide election. Similarly, salary increases for local elected officials must be approved by the voters in the local jurisdiction.

Analysis

The Initiative freezes the salaries of members of the Legislature and local elected officials on the effective date of the Initiative, unless they exceed \$64,000, in which case they would be rolled back to that level. Any subsequent increases must be approved by the voters, however, unless the salary of the Governor is simultaneously increased, any increase must be within the \$64,000 limit.

The Initiative does not specify a procedure whereby a proposed salary increase would be placed on the statewide ballot. Currently, the Legislature is neither authorized nor prohibited from placing a statute on the ballot. The Initiative may provide this authorization. Thus, the Governor would have the power to approve or veto legislation providing for a salary increase. Alternatively, the Legislature, both houses concurring by two-thirds vote, or the voters, could place a constitutional amendment on the ballot regardless of the provisions of the Initiative.

Unless the salary of the Governor is increased, all salary increases for elected and appointed officials and employees must be within the \$64,000 limit. Over time, merit and cost-of-living adjustments will inevitably result in salary compaction. Many employees would receive salaries of roughly the same magnitude regardless of levels of responsibility and skill.

VACATION AND SICK LEAVE

No elected or appointed official or any employee subject to the Initiative may accumulate sick leave or vacation time from one calendar year to another.

Analysis

This provision may result in significant one-time and ongoing costs to state and local governments. Perhaps a majority of public employees in this state may credit a portion of their sick leave toward their total years of service for the purpose of computing retirement benefits. Since this is a vested retirement benefit, it is assumed that all sick leave accumulated as of December 31, 1986, would continue to be credited toward retirement. It is not clear if the effect of the Initiative on sick leave would be prospective only, that is, previously accumulated leave could be carried forward. Alternatively, on January 1, 1987, such leave could not be used in case of illness or injury and all future accumulations must be expended by the end of 1987 and subsequent years. This may have the perverse effect of encouraging employees to expend sick leave even if there is no illness or injury and increase the rate of absenteeism in public employment.

Employees who are unable to work because of illness or injury suffered outside the employment setting are eligible for disability benefits. State government is self-insured in this regard; that is, disability benefits are appropriated out of the General Fund. To the extent sick leave cannot be accumulated, or is voluntarily expended because it cannot be accumulated, General Fund costs for disability benefits will be that much higher.

An employee's right to paid vacation time vests as labor is rendered and once vested is protected from forfeiture. That is, paid vacation time is considered the same as wages or salary. As with sick leave, it is not clear if the effect of the Initiative on vacation time would be

prospective, that is, previously accumulated vacation time could be carried forward. Alternatively, all accumulated vacation leave on December 31, 1986, if it cannot be carried over into the next calendar year, would be due and payable to employees. For state civil service workers, the total amount of paid vacation leave payable to employees is about \$260 million, excluding associated employer social security and retirement contributions.

DOUBLE DIPPING

Any public employee on the state or local level who serves in more than one public position in this state may not receive a total aggregate compensation, including pension payments derived in whole or in part from public funds, in excess of 80 percent of the Governor's salary.

Analysis

The number of individuals who serve in more than one public position and receive total compensation in excess of \$64,000, including pension payments, is unknown, but is assumed to be relatively small. On its face, the intent of this provision would appear to be to eliminate so-called pension double dipping. However, the Initiative does not prohibit an employee who serves in only one public position and receives a pension from earning more than \$64,000.

CONTRACTING

The Initiative contains two provisions relating to contracts:

1. Under special circumstances the Legislature may appropriate funds for employee services contracted for by agencies in state government in excess of 80 percent of the Governor's salary if the contract does not exceed four years in length.
2. The Legislature shall enact no laws authorizing any public official to engage the services of private subcontractors wherein the contractual amount of compensation exceeds \$75.00 per hour and no contract may exceed two years in duration, and in no event may the total compensation for an individual exceed \$64,000.

Analysis

The Initiative does not define the "special circumstances" under which the Legislature may provide for contracted employee services which exceed \$64,000. Further, it is not clear if this provision applies to individual or group contracts. In addition, the reference to "employee services" is unclear. It may mean "personal services." Finally, the Initiative does not appear to provide a special circumstances exemption for local government.

The contracting proscription would prevent agencies from contracting with individuals who can command a much higher salary in the private sector. For example, the State Teachers' Retirement System (STRS) contracts with individuals to analyze and monitor investment portfolios. This limitation on contracting would prevent STRS from contracting with these highly qualified and uniquely skilled individuals.

The precise effect of these provisions on existing law is unclear, at best. However, it will be assumed that the Initiative intends to impose specific limits on contracting. "Services of subcontractors" will be assumed to mean contractors performing services as opposed to construction and similar work. These services may be distinct from employee services referred to above.

This limitation on contracting would prevent state and local governments from contracting with individuals and firms to furnish specialized services which may be more efficiently performed by the private sector. Examples of such services include the preparation of environmental impact reports, investment portfolio management, financial and compliance audits, and power plant siting studies. In addition, it is unclear if the requirement that the total compensation of an individual not exceed \$64,000 applies to each contract awarded or to all contracts awarded a firm. The latter interpretation is consistent with the "double dipping" provision. In this case, a firm could be awarded relatively few contracts before this compensation limit is reached.

LAW ENFORCEMENT

Introduction

For the purposes of analyzing the possible effects and consequences of the Salary Limitation Initiative on law enforcement, this subject will be divided into three separate, though obviously related, parts:

- Public Safety Agencies: police, fire and sheriff departments;
- Judicial Process: the courts and related agencies such as district attorneys, public defenders, city attorneys, county counsels, and the State Department of Justice;
- Corrections Agencies: state prisons, local jails, probation and parole offices.

Each of these components of California's system of law enforcement will be affected by the proposed Initiative. As detailed below, the major effects of the Initiative include:

- Immediate salary reductions for top law enforcement personnel throughout the State with the impact reaching into mid-ranks and, in some cases, to the cop on the street if compensation is limited;
- Serious restrictions on management flexibility and the ability of law enforcement agencies to meet scheduling and service demands due to the Initiative's sick leave and vacation provisions;
- Serious restrictions on the ability of public safety and corrections agencies to maintain full work shifts due to the Initiative's limits on overtime pay;
- Restrictions on the ability of law enforcement agencies to supplement agency equipment and services during emergencies due to the Initiative's contract provisions.

The consequences of these probable effects could include:

- An immediate and continuing "drain" of top law enforcement personnel from all levels of public safety, judicial, and corrections agencies in California;

- Serious restrictions on the ability of state and local law enforcement agencies to successfully recruit qualified personnel;
- Potentially significant costs from increased retirements and "buy-outs" of accrued vacation and sick time;
- A diminution of the quality and availability of law enforcement services as a result of the collective impact of both the effects and consequences of the Initiative.

POLICE, SHERIFF AND FIRE DEPARTMENTS

Salary Provisions

The San Francisco Police Department provides a vivid example of the potential impact of the Initiative's salary provisions. The San Francisco Police Department has a force of nearly two thousand sworn officers. If the Initiative is assumed to limit only salaries, the entire top command of the department, the chief, four division chiefs, and three commanders, would have their salaries reduced or frozen. But, if the Initiative limits total compensation, all 1,971 officers in the department would be affected, the majority by immediate reductions in compensation.

Although total compensation levels for police officers in San Francisco are somewhat above the state average, the impact on the department reflects the probable impact of the Initiative on public safety agencies throughout the State. Salary limits would impose salary caps and/or reductions for top public safety officials, such as county sheriffs, chiefs, deputy chiefs, commanders and captains. If, however, the Initiative limits compensation (i.e., base salary plus benefits), the impact will directly reach into mid-level officers in most departments (i.e., lieutenants and sergeants) and all officers in some departments. Of course, in any case, salary impaction will eventually affect all personnel.

Table 1 indicates the results of a survey of the major police, sheriff and fire departments in California. The pattern of salary limits affecting top management and compensation limits reaching down into the rank and file is evident. The potential impact on top management can also be seen in Tables 2, 3, and 4, which list the 17 county sheriffs who would be affected by a salary-only limit, the 43 city police chiefs affected by a salary-only limit, and the additional 116 who would be affected by a compensation limit. Thus, 40 percent of California's county sheriffs and city police chiefs would have their pay either reduced or frozen by the proposed Initiative.

The Initiative would affect public safety salaries in other ways. Data compiled by the survey and by the League of California Cities, the County Supervisors Association of California and similar organizations reflect base salaries only. The data do not include estimates of overtime pay even though public safety personnel are routinely required to put in significantly more overtime than other public employees. Therefore, it can safely be assumed that the Initiative's limits would affect substantially more public safety personnel than these data would indicate.

Overtime also poses a potentially serious impact on personnel management. The proposed Initiative is silent regarding overtime pay. It is reasonable to assume, given the failure to specify otherwise, that the Initiative's authors intend overtime to be included in the salary cap. Given the unusual demands on public safety officials, this could create serious, perhaps intractable difficulties. To illustrate, a county fire captain puts in significant overtime during the brush fire season. Because

TABLE 1

<u>AGENCY</u>	<u>TOTAL SWORN PERSONNEL</u>	<u>NUMBER AFFECTED SALARY ONLY</u>	<u>AFFECTED COMPENSATION</u>
California Highway Patrol	5,691	37 (assistant chief and above)	301 (lieutenant and above, plus 5 sergeant/pilots)
San Francisco Police Department	1,971	8 (commander and above)	1,971 (all sworn)
San Jose Police Department	1,006	28 (captain and above)	199 (sergeant and above)
Los Angeles Police Department	7,049	89 (lieutenant and above)	7,049 (all sworn)
Sacramento Police Department	523	40 (lieutenant and above)	523 (all sworn)
San Diego Police Department	1,489	6 (deputy chief and above)	27 (captain and above)
Santa Clara Sheriff	782	4	123
Los Angeles Sheriff	6,312	88 (captain and above)	1,201 (sergeant and above)
Orange County Sheriff	874	16 (captain and above)	226 (sergeant and above)
San Diego County Sheriff	1,100	1 (sheriff)	67
San Francisco Fire Department	1,353	18 (assistant chief and up)	1,353 (all)
San Jose Fire Department	726	26 (battalion chief and up)	726 (all)
Los Angeles Fire Department	2,760	920	2,760
San Diego Fire Department	786	2 (assistant chief and above)	10 (division chief and above)

TABLE 2

County Sheriffs Impacted by Salary Limit

Alameda	San Francisco
Contra Costa	San Joaquin
Fresno	San Mateo
Kern	Santa Barbara
Los Angeles	Santa Clara
Orange	Santa Cruz
Riverside	Sonoma
Sacramento	Ventura
San Diego	
	<u>Total = 17</u>

TABLE 3

City Police Chiefs Impacted by Salary Limit

Alameda	Hawthorne	San Diego
Anaheim	Hayward	San Francisco
Bakersfield	Huntington Beach	San Jose
Berkeley	Inglewood	San Leandro
Beverly Hills	Irvine	Santa Ana
Brea	Long Beach	Santa Clara
Burbank	Los Angeles	Santa Monica
Costa Mesa	Manhattan Beach	Stockton
Culver City	Montebello	Torrance
Daly City	Oakland	West Covina
Downey	Orange	Whittier
Fremont	Pasadena	
Fresno	Redwood City	
Gardena	Riverside	
Garden Grove	Sacramento	
Glendale	San Bernardino	
		<u>Total = 43</u>

TABLE 4

City Police Chiefs Impacted by Compensation Limit

Alhambra	La Habra	Redding
Arcadia	La Palma	Redlands
Baldwin Park	La Verne	Redondo Beach
Bell	Livermore	Rialto
Bell Gardens	Lodi	Richmond
Belmont	Lompoc	Rohnert Park
Brentwood	Los Altos	San Bruno
Buena Park	Los Gatos	San Carlos
Burlingame	Martinez	San Clemente
Campbell	Maywood	San Fernando
Carlsbad	Menlo Park	San Gabriel
Cathedral City	Millbrae	San Luis Obispo
Chico	Mill Valley	San Marino
Chino	Milpitas	San Mateo
Claremont	Modesto	San Rafael
Clovis	Monrovia	Santa Barbara
Colton	Monterey	Santa Cruz
Compton	Monterey Park	Santa Maria
Concord	Morgan Hill	Sausalito
Corona	Mountain View	Seal Beach
Coronado	National City	Seaside
Corte Madera	Newark	Simi Valley
Covina	Newport Beach	South Gate
El Cajon	Novato	South Lake Tahoe
El Cerrito	Oceanside	South San Francisco
El Monte	Ontario	Stanton
El Segundo	Oxnard	Tracy
Emeryville	Pacifica	Tustin
Escondido	Pacific Grove	Union City
Fontana	Palm Springs	Upland
Foster City	Palo Alto	Vacaville
Fullerton	Palos Verdes Estates	Vallejo
Gilroy	Piedmont	Ventura
Glendora	Pittsburg	Vernon
Hemet	Placentia	Visalia
Hermosa Beach	Pleasant Hill	Walnut Creek
Hillsborough	Pleasanton	Watsonville
Huntington Park	Pomona	Westminister
Laguna Beach	Port Hueneme	

Total = 116

of the overtime pay, the captain reaches the Initiative's salary limit in mid-November. Is the captain then placed on unpaid leave for the remainder of the year or required to work without pay? Given the extraordinary demands on law enforcement agencies during the December holiday season, the Initiative's restrictions could pose extensive conflicts between the law and the responsibility of agencies to provide public safety services.

Additionally, the salary limit would result in compacted salary ranges which could pose particular problems for public safety agencies. Compaction would occur as personnel not affected by the initial limits would earn promotions, merit and cost-of-living increases which would eventually bring them to the cap. Compaction would also occur as personnel earning more than the Initiative limit would be cut to permissible levels. For example, if the Initiative limits compensation, the chief of police for the city of Fremont would have his salary cut to approximately \$41,000, which is within the pay range of sergeants. The resulting situation also illustrates the management difficulties created by compaction: the chief and the department's commanders, captains, lieutenants and sergeants would all receive the same salary. This would be very egalitarian, but also at odds with the fundamental organizational principles of the department and similar hierarchical organizations. Indeed, several jurisdictions have charter provisions or ordinances which mandate a ten percent salary differential between ranks.

The alternative to compaction would be a corresponding decrease in the salary levels of ranks below those initially impacted. Thus, the city of Fremont could preserve the hierarchy of command and pay differentials by

reducing proportionately the salaries of all departmental personnel. According to the Fire Department of the City of Los Angeles, if present salary differentials between department ranks were to remain constant after salary reductions mandated by the Initiative, the subsequent compaction would result in a firefighter's hourly base rate of approximately \$4 per hour -- only \$.65 above minimum wage.

Vacation and Sick Leave Provisions

The proposed Salary Limitation Initiative would prohibit public employees from accumulating "sick leave or vacation time from one calendar year to another," (Section 26(e)). It would appear that this provision would have serious implications for the ability of the state's public safety agencies to effectively perform their duties.

Unlike most public and private organizations, public safety agencies must operate on a continuous, 24-hour-a-day basis. The need to field at least three shifts a day, every day of the year creates obvious personnel management problems. However, the proposed Initiative would create additional, largely unique problems for these agencies. These problems include:

- **Decreased Flexibility in Scheduling Vacation Leaves**

To a greater degree than other agencies, public safety agencies' workload is dependent on external and largely uncontrollable events. A carefully scheduled vacation can easily be disrupted by a crime, a development in an investigation, a forest fire or any event which demands a response. Under current law, a vacation could simply be

postponed; under the Initiative, any delay past December would mean the loss of vacation time.

- **Compaction During Peak Season**

Current law prohibits the use of vacation time before it is earned, i.e., an employee cannot take time off in July that he anticipates earning in October. Since the Initiative prohibits carrying vacation time from one year to the next, a probable consequence will be that public employees will be encouraged to take vacations late in the year after accumulating sufficient time to make a vacation worthwhile, yet before the loss of that time at New Years. The particular problem for public safety agencies is that the November and December holiday season is a period of extraordinary demand. Consequently, agencies could be placed in the untenable position of either denying vacation requests and thus, in effect, confiscating earned vacation time, or reducing public services at a time of critical demand.

- **Restrictions on Temporary Help**

The ability of a public safety agency to address problems, absent personnel, is restricted by the obvious nature of personnel duties. Although clerical help can be replaced by temporaries, there is no alternative "Kelly girl" for sworn peace officers or firefighters. Moreover, various technical personnel and services that law enforcement agencies currently use when necessary may be precluded by the contract limitations of the Initiative. For example, the Orange County Sheriff's Department occasionally contracts with private helicopter services, but the \$500 per hour charge would be prohibited by the Initiative's limit of \$75 per hour.

The sick leave provisions would affect public safety agencies in largely the same fashion as other public agencies. Inability to accumulate sick leave beyond a calendar year could encourage greater use of sick leave as there is no incentive not to use it. Employees who fall ill or are injured early in the year may quickly expend earned sick leave and be forced to go on unpaid leaves of absence. The particular difficulty for law enforcement personnel is that they run greater risks of serious injury than other public employees and thus have greater potential need for sick leave. A police officer shot in the line of duty in February could well use up available sick leave before Workers' Compensation goes into effect. The officer could then face a period without income.

If public safety agencies are required, as a result of the passage of the Initiative, to "buy-out" sick leave and vacation time of employees which cannot be carried into 1987, serious budget disruptions would be likely. For example, the 2,760 uniformed employees of the Los Angeles City Fire Department currently have approximately 176,600 unused sick days. The cost of compensating firefighters for sick days forfeited due to the Initiative's limits would have an obvious and serious impact on the department's and city's budgets and, in turn, their ability to maintain standards of service.

Contracts

The Initiative's provisions regarding the ability of state and local governments to contract for various services are discussed in detail elsewhere. However, the particular implications for public safety agencies should be noted.

Many public safety agencies contract with private firms for a wide variety of services. Some of these services, such as janitorial work, have little direct impact on the ability of the agencies to perform their functions. Others, such as automobile maintenance, do have a direct, but not necessarily vital, impact. But, there are certain services for which public safety agencies contract which have a direct, immediate and vital impact on the agency. Restrictions on the ability to contract for these services would, consequently, have an equally direct impact on the safety and well-being of individual Californians.

To illustrate, when mounting search and rescue operations, local public safety agencies frequently contract with private helicopter services. A uniformed employee of the agency is placed in the aircraft which is flown by the private firm. The standard cost is \$500 per hour, or \$425 more than allowed under the Initiative. Similarly, state and local fire departments often employ private aircraft, bulldozer, trucks and other heavy equipment when fighting California's recurrent forest and brush fires. These services would be generally unavailable at the \$75 per hour limit imposed by the Initiative.

DISTRICT CITY ATTORNEYS, PUBLIC DEFENDERS AND JUDGES

Salary Provisions

In many ways the courts, and the various offices directly associated with the courts, represent the peak of the law enforcement system in California. It is not surprising, therefore, that the Initiative would have the most extensive impact on the state's district attorneys, public

defenders, county counsels, city attorneys, and judges. The consequences may also be the most extensive.

For example, the Orange County District Attorney's Office employs 165 deputy district attorneys. At a salary limit of \$64,000, the district attorney and 30 deputies who constitute the office's top management would have their salaries reduced or frozen. If total compensation is limited, the base salary cap would be \$49,000 and 100 deputies would have their salaries reduced and the remaining 65 would either be frozen immediately or within a very few years. In short, a salary limit would immediately affect nearly one-fifth of the office, while a compensation limit would immediately affect over three-fifths.

Moreover, the possible consequences of the Initiative in the Orange County District Attorney's Office parallel the probable effects. After the Initiative qualified for the November 1986 ballot, a survey was conducted to determine staff reactions if the Initiative became law. The survey results indicated that 35 percent of the deputies would resign immediately upon the passage of the Initiative; 40 percent would seriously consider resigning depending on how the Initiative was interpreted; 23 percent would remain, but would no longer consider a career in the office; and 2 percent said they would be unaffected by the Initiative. It is interesting to note that the latter 2 percent consisted entirely of deputies who had been with the office less than six months.

The Initiative's impact on county district attorneys would generally follow the same pattern as the impact on public safety agencies, especially

in the more populous and urban counties. As indicated in Table 5, a salary-only limit would immediately affect 18 district attorneys. A salary-only limit would also impact a significant number of deputy district attorneys in the larger metropolitan counties as clearly evidenced by the data in Table 6.

More significant than the raw numbers, however, are the types of positions which would be affected by the Initiative's salary limits. In each district attorney's office where deputy district attorneys would be subject to the salary-only limit, the affected deputies are precisely the individuals most important to the successful and efficient operations of the office.

To illustrate, in Los Angeles a salary-only limit would immediately impact all head deputies and most attorneys in the deputy III and IV grades. The job description of the duties of a deputy IV reads:

Does the most difficult legal work required in the prosecution of criminal cases and supervises attorneys performing legal work of a lower level of difficulty.

Deputy IVs are given the responsibility for the prosecution of "the most difficult and complex felony cases which require a high degree of initiative, skill, and specialized legal knowledge." Deputy IIIs act as "senior trial deputies in the Superior Court." In actual terms, the Los Angeles District Attorney is currently prosecuting defendants in the killings of four police officers. All of the prosecutors are grade IV attorneys. The Santa Clara County District Attorney reports that "most of the lawyers responsible for prosecution of the most serious felonies, such

TABLE 5

County District Attorneys Impacted by Salary-Only Limit

Alameda	Sacramento
Contra Costa	San Diego
Fresno	San Francisco
Kern	San Joaquin
Los Angeles	Santa Barbara
Marin	Santa Clara
Monterey	Sonoma
Orange	Stanislaus
Riverside	Ventura

TABLE 6

Deputy District Attorneys

<u>Office</u>	<u>Salary</u>	<u>Compensation</u>
Los Angeles*	107	513
Orange	30	100
San Diego	61	
San Francisco	73	
Santa Clara	9	66

* estimated

as homicides, sexual assaults, career criminal, burglaries, etc., together with Team Leaders, Supervising Deputy District Attorneys, three Assistant District Attorneys and a Chief Inspector" would be impacted.

In short, the elite leaders and prosecutors of most district attorney offices would be impacted immediately by the Initiative.

A limit on total compensation would, of course, extend the impact of the Initiative into the middle ranks of the urban offices and would envelop virtually all offices.

The impact on the State Department of Justice would be similar. At a salary-only limit, 352 Department of Justice employees would be affected, including 346 attorneys. Attorneys impacted would include 138 Deputy Attorney General IVs and 151 Deputy IIIs. Deputy IVs usually have a minimum of ten years' experience and are assigned the most difficult and complex cases the department handles, for example, death penalty appeals, water rights and tort cases. Also impacted would be the director and four bureau chiefs of the department's Law Enforcement Division as well as the department's Special Prosecutions Unit. If the limit is placed on total compensation, an additional 99 positions would be impacted.

The impact of the Initiative's salary provisions would be perhaps most dramatic and certainly most comprehensive in the judiciary itself. Table 7 indicates the salaries for state and local judges in California. Passage of the Initiative, even if interpreted as limiting salaries only, would mean the immediate rollback of the salaries of the state's 684 Superior, 530 Municipal, 74 Appellate, and 7 Supreme Court judges and justices. The

TABLE 7

Judges' Salaries

Municipal	\$70,888
Superior	77,624
Appellate	88,830
Supreme Court:	
Associate Justice	94,751
Chief Justice	99,362

TABLE 8

County Public Defenders Impacted by Salary Limit

Alameda	Sacramento
Contra Costa	San Bernardino
Fresno	San Diego
Kern	San Francisco
Los Angeles	San Joaquin
Marin	Santa Barbara
Orange	Stanislaus
Riverside	Ventura

only judges left untouched would be the 82 justice court judges who receive less than \$64,000 annually, although these judges may also be affected if salary differentials were adjusted downward to reflect the new post-Initiative cap on Supreme Court and appellate justices.

It should be noted that Section III of the Initiative specifically repeals Article III, Section 4(b) of the State Constitution. That section prohibits the reduction of a judge's salary "during a term of office below the highest level paid during that term of office."

The Initiative would also have an effect on the judges' retirement system. Currently, the Judges' Retirement Fund provides benefits for state and local judges who are members of the Judges' Retirement System. In 1985-86, the system provided benefits to approximately 510 retired judges and 325 survivors. Retirement benefits are limited to 75 percent of the salary paid to the judge currently serving in the position last held by the retired judge. Thus, for example, a retired superior court judge or his or her survivor, cannot receive more than 75 percent of the salary currently paid to an incumbent superior court judge, or \$58,218 (i.e., 75 percent of base salary of \$77,620. Consequently, a reduction of current judges' salaries would presumably entail a reduction.

Both counties and the state maintain public defender offices. These offices provide legal representation for indigents. The Office of State Public Defender is responsible for indigent presentation before the courts of appeal and the State Supreme Court, while local offices handle cases in the lower courts.

Under the 1986-87 budget, the State Public Defender has a staff of 52 attorneys, of which approximately seven, including the State Public Defender and the Assistant Chief Public Defender, would be affected by a salary-only limit. If the limit is on total compensation, approximately an additional 23 attorneys would have their compensation either reduced or frozen.

Sixteen county public defenders would be affected by a salary-only limit. Not surprisingly, the impacted counties include all of the major, most populous counties which generate the largest demands for public defenders. The counties impacted are listed in Table 8.

This component of California's law enforcement system also includes county counsels and city attorneys. These legal offices of local governments are charged with the responsibility of representing their governments in all legal matters. In addition, these offices have certain prosecutorial duties. Many smaller cities contract with private law firms to provide city attorney services.

As indicated in Table 9, 23 of 58 county counsels would be immediately impacted by a salary-only limit. Once again, the more populous, metropolitan counties would be disproportionately affected. For example, not only are most of the major urban counties included in Table 9, the impact of the Initiative would involve top deputies in many offices. In Los Angeles, 97 senior deputy and deputy county counsels would have salaries reduced or frozen.

TABLE 9

County Counsels Impacted by Salary Limit

Alameda	San Diego
Contra Costa	San Francisco
Fresno	San Joaquin
Kern	San Luis Obispo
Los Angeles	San Mateo
Marin	Santa Barbara
Monterey	Santa Clara
Napa	Sonoma
Orange	Stanislaus
Riverside	Tulare
Sacramento	Ventura
San Bernardino	

TABLE 10

City Attorneys Impacted by Salary Limit

Anaheim	Oakland
Bakersfield	Oxnard
Chula Vista	Palo Alto
Concord	Rialto
Culver City	Riverside
Daly City	Sacramento
El Monte	San Diego
Escondido	San Francisco
Fairfield	San Jose
Fremont	San Leandro
Fresno	San Mateo
Gardena	Santa Ana
Garden Grove	Santa Barbara
Glendale	Santa Clara
Hawthorne	Santa Monica
Huntington Beach	Stockton
Inglewood	Union City
Long Beach	Vallejo
Milpitas	Ventura
Mountain View	Walnut Creek

Total = 40

Of California's 441 incorporated cities, the city attorneys of 40, or 9 percent, would be impacted by a salary-only limit (see Table 10). Another 47 would be affected by a limit on compensation (see Table 11). Interestingly, the latter group includes such decidedly non-metropolitan cities as National City, Chico, and El Centro.

The Initiative's limits on contracts would also impact 68 cities, ranging from Arvin to Rancho Palos Verdes, with part-time city attorney contracts which exceed the Initiative's \$75 per hour limit (see Table 12).

Finally, the effect of the Initiative's salary/compensation limits could be significantly increased by compaction and readjustment of existing salary/compensation differentials. For example, if the salary of the Los Angeles District Attorney is capped at \$64,000 and, if existing pay differentials were maintained, a senior deputy district attorney IV would be cut 30 percent to \$49,744. If compensation is limited, the District Attorney would earn \$44,363, while his deputy's salary would be capped at \$38,783.

Vacation and Sick Leave Provisions

All of the agencies and offices discussed in this section, district attorneys, public defenders, and judges, would experience the basic management problems created by the Initiative's restrictions on sick leave and vacation time as would be faced by any agency. That is, being unable to carry forward sick leave may encourage employees to use it before losing it. Similarly, the prohibition against accumulating vacation days, coupled with existing restrictions on the use of unearned days, may encourage employees to schedule vacations at the end of the year when the maximum time had been earned, but before that time would be lost.

TABLE 11

City Attorneys Impacted by Compensation Limit

Antioch	Oceanside
Arcadia	Orange
Berkeley	Pacific Grove
Burbank	Pico Rivera
Burlingame	Pleasant Hill
Carlsbad	Pleasanton
Cathedral City	Pomona
Chico	Rancho Mirage
Costa Mesa	Redding
Davis	Redondo Beach
El Cajon	Richmond
El Centro	Roseville
Glendora	San Bernardino
Hayward	San Juan Capistrano
Lakewood	San Luis Obispo
Livermore	Santa Maria
Lodi	Scotts Valley
Lompoc	Simi Valley
Los Gatos	South Lake Tahoe
Merced	South San Francisco
Modesto	Thousand Oaks
Monterey	Vacaville
National City	Watsonville
Newport Beach	

Total = 47

TABLE 12

Part-Time City Attorneys Exceeding Contract Limit

Alhambra	\$	100	Manhattan Beach	\$	95
Arvin		80	Marina		80
Baldwin Park		95	Martinez		80
Bell		115	Mendota		80
Belmont		85	Mill Valley		85
Belvedere		85	Monrovia		85
Blythe		85	Montebello		90
Brisbane		144	Moreno Valley		90
California City		85	Morgan Hill		95-100
Capitola		90	Norwalk		90-110
Carpinteria		93	Perris		92
Cerritos		90-110	Port Hueneme		110
Claremont		80	Poway		95
Clayton		85	Redlands		92
Coachella		80	Reedley		85
Downey		95	Ridgecrest		125
Dublin		90	Rancho Palos Verdes		110
El Cerrito		80	Rolling Hills Estates		80-125
El Segundo		90	Rosemead		95
Hawaiian Gardens		125	San Clemente		95
Hercules		85	San Dimas		100
Hermosa Beach		100	San Fernando		100
Holtville		80	San Gabriel		114
Hughson		85	San Joaquin		95
Indian Wells		90	San Marcos		90
Indio		100-125	Selma		80
La Palma		90	Tehachapi		100
La Verne		91	Tiburon		90
Lafayette		90	Tustin		75-85
Laguna Beach		85-95	Villa Park		85
Lakewood		150	West Covina		95-110
Lawndale		90	Westlake Village		82
Live Oak		85	Woodside		90
Los Altos		90			
Lynwood		85			
					<u>Total = 68</u>

Source: League of California Cities 1986 Salary Survey of Executive Positions.

However, these provisions may also create problems unique to the judicial system. Significant portions of the workload of district attorneys and public defenders and, of course, judges, centers on court dockets. The reduced ability to schedule vacations around court dates may have the effect of delaying trials and other court actions. For example, a deputy district attorney, faced with either meeting a trial date and losing accumulated vacation time or requesting a continuance until the new year, may well request the continuance despite the impact on court dockets.

PRISONS, JAILS, AND PROBATION DEPARTMENTS

The third component of the law enforcement system in California consists of the State Department of Corrections, the California Youth Authority, county and city jails, and associated parole and probation offices.

Local jails are staffed by local public safety agencies and thus will share the impact of the proposed Initiative on those agencies.

The state prison system is based on the Department of Corrections which is responsible for the incarceration, training, education, and care of adult felons and non-felon narcotic addicts. The department operates 12 prisons, one medical facility, one narcotic treatment center and, in cooperation with other federal and state agencies, 34 conservation camps. The Department of Youth Authority, which has the responsibility for youthful offenders, managed 10 institutions, two training/pre-parole centers and six conservation camps. The Department of Corrections and the Youth Authority also administer the state parole programs.

The probation system is based on county probation offices administered by county chief probation officers.

Salary Provisions

A salary-only limit would not immediately affect the top management of Corrections. Nearly three-quarters of the Department of Corrections' wardens and superintendents have current salaries slightly below \$64,000, and thus would be affected within one year. This would include the wardens of Folsom, San Quentin, Soledad, the Institution for Men at Chino, the Men's Colony at San Luis Obispo, Vacaville, and the Deuel Vocational Institution. All remaining wardens and superintendents would reach the \$64,000 cap within two years, assuming an annual 5 percent cost-of-living increase.

Superintendents and directors of Youth Authority facilities would also be affected by a salary-only limit, though not as extensively as their colleagues in the Department of Corrections. Approximately one-third would have their salaries reduced or frozen by 1987 if a salary-only limit is imposed.

If the Initiative is interpreted to limit total compensation, 100 percent of wardens and superintendents in Corrections and 89.5 percent of Youth Authority superintendents and directors would be affected. In short, if compensation is limited, only 6.7 percent of the state's prison wardens, superintendents and directors would be initially unaffected.

In addition to wardens and superintendents, the Youth and Adult Correctional Agency also has 159 managerial and 1,983 supervisory positions. A salary-only limit would immediately affect 137, or 86.2 percent, of the managerial positions and 49, or 2.5 percent, of the supervisory positions.

A potentially greater impact than the salary limits on top prison officials is the effect of the Initiative provisions on the ability of the State to compensate prison personnel, especially guards, for overtime. In 1984-85, the Department of Corrections paid over \$44.6 million in overtime. The Youth Authority paid another \$8.9 million. The causes for these overtime payments are varied, but are all related to the realities of prison conditions in California. Crowded prisons and the need for frequent lock-downs and other security measures demand that prison wardens and superintendents often require extended overtime work by guards and other personnel. It is unclear how a warden would or could deal with a situation wherein a guard was needed to work a double-shift but the resulting overtime pay would exceed the guard's maximum salary under the Initiative. At a minimum, the Initiative would impose significant problems in managing work schedules.

The impact of the salary provisions on probation and parole offices would be less extensive but of the same general pattern as the impact on the other parts of the law enforcement system in California. Chief probation officers in eight counties would be affected by a salary-only limit, while a compensation limit impacts approximately 29 chief probation officers.

Vacation and Sick Leave Provisions

Corrections agencies would experience the same difficulties with the Initiative's restrictions on vacation and sick leave as would public safety agencies (see above).

Contracting

The major problems posed by the contract provisions of the Initiative for Corrections agencies relate to major construction projects and services. As discussed in the section on contracts, the Initiative could be interpreted as imposing serious restrictions on the ability of any public agency to start or complete major capital projects. As it is expected that California will construct a number of new prisons and jails in the next decade, these provisions could pose particular problems for Corrections agencies. Similarly, Corrections agencies frequently contract with private vendors for various services, such as food services for prisoners. However, the two-year contract limit imposed by the Initiative might well discourage some vendors from bidding for contracts as many such contracts run for longer than two years.

CONCLUSION

Consequences of the Initiative's Effects on Law Enforcement

Law enforcement in California will be immediately, seriously, and potentially pervasively affected by the Salary Limitation Initiative. But, in addition to the effects outlined in this section, law enforcement agencies will also be faced with equally serious consequences created by

the collective impact of the Initiative. The most probable and most serious of these consequences are the loss of qualified personnel, the weakening of agency ability to attract and recruit qualified personnel, potentially substantial new drains on agency budgets, and a cumulative diminution of the quality and quantity of law enforcement in the State.

Loss of Personnel

The Initiative would impose a blind salary cut on hundreds of the most senior, most qualified, most expert law enforcement personnel in California. Although it is difficult to predict future behavior, it is difficult to think that the personnel most dramatically affected by the Initiative would cheerfully accept salary cuts or freezes, especially when the very skills and expertise which put them at the top of their agencies could bring equal and frequently greater compensation in the private sector.

There is growing evidence that the Initiative, if passed, would, in the words of the Peace Officers Research Association of California, result in a "brain drain" in law enforcement agencies throughout the State. Consider, for example:

- According to the Planning Section of the Los Angeles Fire Department, "a majority of the 920 uniformed department members eligible for pension would, in all likelihood, file for pension on or before November 4, 1986. The balance of department members would resign or remain on the job until such time as the full impact and compaction took place, then resign."
- The District Attorney's Office in Santa Clara estimates that turnover, especially among senior trial attorneys, will increase from 8 percent to 25 percent per annum if the Initiative passes.

- Thirty-five percent of the deputy district attorneys in Orange County have indicated they would resign upon passage of the Initiative; another 40 percent indicated they would resign depending on how the salary/compensation question is resolved; 23 percent indicated they would not resign, but would no longer regard the office as a career.

The potential loss to California is exacerbated by the fact that many of these personnel operate in a regional and, indeed, national labor market. Even small cities routinely hire national placement services to recruit fire chief, police chiefs, and top legal personnel. The harsh reality of the economic marketplace is that a police chief in California, faced with the prospect of earning as much as a sergeant, can seek employment in a national labor market. Similarly, just as major metropolitan public safety agencies recruit in other states, the police and fire agencies in the Midwest and East also recruit in California. Thus, a firefighter or police officer need not stay in California with a reduced salary.

Inability to Recruit

Just as the salary limits would encourage law enforcement personnel to seek employment out of state or in the private sector, the limits would significantly diminish the ability of law enforcement agencies to recruit qualified personnel. The limits on sick and vacation time would, of course, compound the problem. The opinion of the Los Angeles Fire Department, which recruits nationally, is that "the department's ability to restaff would be greatly hampered (if not totally stifled) due to inadequate salaries." The Los Angeles County Sheriff's Department, which also recruits nationally, currently has approximately 300 vacancies and

assumes that it will be extremely difficult to fill those positions under the conditions imposed by the Initiative.

In short, not only would the Initiative encourage large-scale resignations and departures, it would seriously handicap the ability of law enforcement agencies to replace those vacancies and recruit new personnel. The Initiative would, quite simply, place California law enforcement agencies at a serious competitive disadvantage in the labor market.

Budget Impacts

A result of the loss of personnel will be additional and premature demands on the pension and retirement programs of law enforcement agencies. The general manager of the Los Angeles City Department of Pensions, for example, has warned the city's police and fire pension board to anticipate a 300 percent increase in pension applications between now and November. This estimate is based on the department's experience prior to the passage of Proposition 13 in 1978.

Potentially far more costly is the possibility of public safety agencies having to compensate employees for vacation and/or sick time lost after December 31, 1986, because of the Initiative's restrictions on carrying over sick and vacation time from one year to the next. It is reasonable to expect all law enforcement agencies to be deluged with employees taking sick and vacation time between November 4 and December 31, but it is also possible that agencies will be required to buy out time legally accrued prior to the passage of the Initiative. If this occurs, the costs will run into the millions.

Diminution of Law Enforcement

The most important consequence of the passage of the Initiative is the general and pervasive undermining of the efficiency, effectiveness, and overall quality of law enforcement in California.

To illustrate, consider the following reasonable, logical and perhaps predictable results of the passage of the Initiative and the imposition of its provisions:

- Command and control of public safety agencies would be seriously disrupted in 1987 as top command and management personnel resign
- Disruption of command and control would directly and negatively affect the operations of these agencies
- Disruptions would continue even if recruitment and replacement activities keep pace with resignations and departures because of the loss of continuity and experience
- Ongoing operations, investigations, trials, etc., would be disrupted and delayed as key personnel leave; court dockets would be delayed with increased turnover of judges, prosecutors, and public defenders
- Ancillary operations would be disrupted as the contract provisions would limit the ability of law enforcement agencies to hire experts such as experienced forensic pathologists, psychiatrists and other experts
- The ability of some agencies to meet minimum staffing needs would be diminished (e.g., if the Los Angeles Fire Department estimates are correct, the department will have one-third fewer firefighters in December as it has now)

It is also reasonable to assume that the quality of law enforcement will diminish as a result of the Initiative. The overwhelming majority of individuals who seek careers in law enforcement do so more of a desire for public service than a desire to get rich. But dedication to public service may well not offset salary cuts and dead-end career ladders. Since the

most talented and most expert will have the greatest opportunities for employment elsewhere, Californians will be deprived of the "best and the brightest." As one county district attorney has said, "The real tragedy of the Gann Initiative will be the final fulfillment of the commentary that government encourages mediocrity."

UNIVERSITY OF CALIFORNIA
AND
CALIFORNIA STATE UNIVERSITY

Introduction

The State of California is fortunate to have one of the world's greatest systems of public higher education. That system is comprised of:

- The University of California with nine campuses, an enrollment of 137,986 students, 76,930 full-time employees, including 18,180 faculty and 1,250 administrative employees, and an estimated 1986-87 budget of \$1.8 billion -- the University also administers three national laboratories; and
- The California State University with 19 campuses, a student enrollment of 248,043, approximately 32,000 employees including 11,706 faculty and an estimated 1986-87 budget of \$1.6 billion.

The proposed Salary Limitation Initiative does not contain any provisions exempting public institutions of higher education. It can be reasonably assumed that all of the various provisions of the Initiative would be applicable to the University and the California State University. (It should be noted, however, that the constitutional status of the University of California may provide grounds for arguing that the University would not be subject to the Initiative).

The immediate effects of the Initiative include:

- Reductions and/or freezes of salaries of top administrators in both systems

- Reductions and/or freezes of the salaries of significant numbers of academic faculty.
- Immediate and potentially severe impact on UC medical schools and teaching hospitals
- Salary savings, but potentially greater costs from buy-out of lost vacation and sick leaves

The probable consequence of these effects include:

- Immediate loss of key faculty in medical, science, engineering and other important disciplines
- Continuing loss of qualified administrators and faculty during a period of expected student enrollment increases and thus increased demand for faculty
- Erosion of the ability of UC and CSU to recruit qualified faculty due to uncompetitive salary levels
- Potentially serious effects on the state's economy through the loss of the necessary academic backup to California high technology industries

UNIVERSITY OF CALIFORNIA

Salary Limits

The faculty of the University of California includes 12 exceptionally notable members whom the University has honored with the title, "University Professor." The roster of these University Professors is indicative of the quality and prestige of the University. It is also indicative of the impact of the Initiative that all 12 of these scholars would have their salaries reduced or frozen by the Initiative. The fact that a number of public and private universities outside California could and undoubtedly would match the pre-Initiative salaries of these scholars is also indicative of the potential consequences of the Initiative for the University.

The University has 18,180 academic employees, ranging from University Extension faculty to librarians to full professors. As indicated in Table 1, 22 percent of all academic employees would be impacted by a limit on salaries. If the Initiative is interpreted as limiting total compensation, 33 percent would have their salaries/compensation reduced or frozen. More importantly, of ladder rank faculty (i.e., regular faculty who either have earned or are earning tenure), 43.4 percent would be subject to a salary-only limit and 62 percent by a compensation limit.

If the data are projected two years, until November 1988, assuming cost-of-living and step increases commensurate with those of recent years, the proportion of ladder rank faculty affected increases to 55.5 percent for salary only and 71.6 percent for compensation limit. Thus, within two years of the passage of the Initiative, three of every four UC professors could have their compensation capped or reduced.

As evidenced by Tables 2 and 3, the impact of the Initiative would be particularly acute at the University's professional schools (i.e., medicine, dentistry, optometry, nursing, pharmacy, public health, veterinary medicine, engineering, business, education, law, and architecture). Currently, 74 percent of the teaching faculty at these schools receive compensation greater than would be permitted under the Initiative. The hardest hit would be the University's five medical schools, where over 90 percent of the teaching faculty receive compensation exceeding the Initiative's limits. The higher compensation of medical school faculty reflects, in part, their 12-month teaching schedule.

TABLE 1

Impact on University of California Employees

	<u>Number of Full-time Employees</u>	<u>Salary-Only Limit</u>	<u>Compensation Limit</u>	<u>Percent of Total Affected Employees</u>
Academic	18,180	4,032 (22%)	5,990 (33%)	81%
Administrative	1,250	483 (38%)	800 (64%)	11%
Staff	57,500	116 (.2%)	650 (1%)	8%
Total UC Employees	76,930	4,631 (6%)	7,440 (10%)	100%

TABLE 2

Impact on UC Ladder Faculty by Selected Discipline

	<u>Number of Faculty</u>	<u>Salary-Only</u>	<u>Compensation</u>
Agriculture	175	50 (28.6%)	81 (46.3%)
Biological Sciences	352	133 (37.8%)	209 (59.4%)
Business & Management	167	63 (37.7%)	109 (65.3%)
Computer Science	54	19 (35.2%)	38 (70.4%)
Dentistry	151	98 (64.9%)	115 (76.2%)
Engineering	519	270 (52.0%)	398 (76.7%)
Fine & Applied Arts	317	60 (18.9%)	125 (39.4%)
Law	104	81 (77.8%)	92 (88.5%)
Letters	545	129 (23.7%)	222 (40.7%)
Mathematics	287	121 (42.2%)	183 (63.8%)
Medicine	1,166	943 (80.9%)	1,059 (90.8%)
Nursing	66	8 (12.1%)	16 (24.2%)
Pharmacy	25	13 (52.0%)	19 (76.0%)
Other Health Professions	32	22 (68.6%)	27 (84.4%)
Physical Sciences	695	331 (47.6%)	458 (65.9%)
Social Sciences	834	235 (28.2%)	414 (49.6%)
Veterinary Medicine	<u>76</u>	<u>33 (43.4%)</u>	<u>53 (69.7%)</u>
Total	5,565	2,609 (46.8%)	3,618 (65.0%)

TABLE 3

Impact on UC Ladder Faculty -- Professional Schools

	<u>Number</u>	<u>Percent of Field</u>	<u>Percent of Affected Ladder Faculty Compensation</u>
Health Sciences	1,336	83%	32%
Engineering & Computer Sciences	436	76%	10%
Business & Management	109	65%	3%
Law	92	88%	2%
Education	65	49%	1%
Other (Library Science, Architecture, Physical Education, Social Work)	<u>75</u>	<u>39%</u>	<u>1%</u>
Total	2,113	76%	50%

It is unclear whether the employees of the Lawrence Berkeley and Livermore National Laboratories would be subject to the Initiative. Laboratory staff are employees of the University of California, but the Laboratories are primarily funded by the federal government. Assuming that the provisions of the Initiative would apply, nearly 27 percent of the Laboratories' employees would be affected by a compensation cap, including over half of the scientists and engineers at Lawrence Berkeley and 96 percent at Lawrence Livermore.

Administrative employees would also be immediately affected by the Initiative. The University has 626 employees in its management program category, which includes the President, and nine campus chancellors. Under a salary-only limit, 47.3 percent of management program staff would have their salaries reduced or frozen. All of the university's chancellors and the President would face serious salary cuts. If compensation is limited, the proportion of affected employees would increase to 89.6 percent.

To place these data in perspective, Table 4 indicates the salary ranges of the University of California and the eight comparable universities used by the California Postsecondary Education Commission to measure University salary competitiveness.

TABLE 4

Average Salary by Academic Rank
for Comparison Group and CSU

<u>Rank</u>	<u>Number of Faculty</u>	<u>1985-86 CSU</u>	<u>1985-86 Comparison Group</u>
Professor	7,378	44,848	42,200
Associate Professor	2,660	34,631	33,800
Assistant Professor	1,493	27,952	27,700
Instructor	175	24,425	23,400

In summary, whether determined to limit salaries or total compensation, the Initiative would have a dramatic and pervasive impact on the University of California and, in particular, on its academic and administrative staff. Because the University, like many other private and public agencies, rewards special skills, seniority and competence with increased salaries and compensation, the brunt of the Initiative's proposed salary provisions will disproportionately fall upon the cream of UC's medical school faculty, engineers, scientists and scholars.

Vacation and Sick Leave

Under the provisions of the Initiative, public employees will be prohibited from carrying forward accumulated vacation or sick days from one calendar year into the next. Thus, any vacation or sick leave not used by December 31 will be lost.

The impact of these provisions upon the University is twofold. The first impact is the management difficulties posed by the limit. The second impact is fiscal.

The management problems which would be created by the vacation and sick leave restrictions would not be as great for the University as for a public safety agency, such as a police or fire department. Nevertheless, University administrators would face a series of problems, including:

- Large-scale use of vacation and sick leave between November 4 and December 31, 1986. It is reasonable to assume that many employees will choose to use accumulated vacation/sick time rather than losing it after New Years.
- Possible future increases in absenteeism. Many employees conscientiously avoid using sick leave unless necessary, preferring instead to build up a reserve as added insurance against a major

illness. It is rational to assume that, given the absence of any incentive to accumulate sick leave, some employees will elect to use it rather than lose it.

The second, and potentially far more serious, impact is fiscal. The University does not regard sick leave as a vested right; rather it is considered a privilege. But vacation leave is considered a vested right under employee contracts and the withdrawal of vacation time will probably require compensation. It is currently estimated that University employees have accumulated 9.3 million hours of vacation leave or an average of 89 hours per employee. Compensating employees for this time would cost the University approximately \$320 million. Obviously this figure could be reduced by a number of factors (e.g., employees seeking to use available time between now and December 31) but it is reflective of the potential costs of the Initiative.

Contracts

The Initiative's contracting limitation would make it extremely difficult, if not impossible, for the University to contract with the architects and engineers needed for capital improvements such as the construction of an engineering laboratory building at the Irvine campus. The alternative of hiring the necessary architects as University employees may prove impractical as well as cost inefficient.

The particular difficulty posed by the contract limits for the University would be in the area of the University's medical schools and hospitals. In 1984-85, medical school faculty admitted over 89,000 patients in addition to over one million outpatient visits. A significant

portion of these patients were medically indigent. The impact of the Initiative on these operations is discussed in the section on "Hospitals."

CALIFORNIA STATE UNIVERSITY

Salary Limits

There are 402 employees in the California State University System whose salaries would be in excess of \$64,000 and thus subject to the salary limits contained in the Initiative. They include the chancellor, vice chancellor, campus presidents, vice-presidents, deans and a significant proportion of program directors.

If the Initiative is found to limit compensation, approximately 1,315 CSU employees would be affected. These would include 394 faculty employees, 26 executive, 33 physicians employed at CSU clinics, 830 management/administrative personnel, and five data processing experts.

Assuming a 3.5 percent salary increase in FY 1987-88, the number of CSU employees impacted by a salary-only limit would increase to 467, while the number affected by a compensation limit would increase to 1,446, including 435 faculty.

It is important to note, however, that the data for the number of faculty affected by the Initiative reflect only base salaries. The top salary for a full professor is \$46,392 (academic year). But, base salaries are frequently supplemented by teaching in summer sessions or with the CSU extension programs. Moreover, faculty, especially in critical areas such as computer science, engineering, and business administration, are often providing consultant services. Consequently, it is reasonable to assume that both a salary-only and a compensation limit would have a greater impact on CSU faculty than the base salary data would indicate.

To place the salary data in perspective, Table 5 shows CSU faculty salaries in comparison with the faculty salaries at 20 universities in the California Postsecondary Education Commission's comparison institution group. Table 6 indicates CSU administrative salaries in the same context.¹

TABLE 5
Average Salary by Academic Rank
for Comparison Group and UC

<u>University</u>	<u>Full Professor</u>		<u>Associate Professor</u>		<u>Assistant Professor</u>	
	<u>Average Salary</u>	<u>Rank</u>	<u>Average Salary</u>	<u>Rank</u>	<u>Average Salary</u>	<u>Rank</u>
Harvard	\$64,452	1	\$36,065	7	\$30,575	6
Stanford	62,648	2	42,900	1	34,828	1
Yale	59,868	3	36,450	6	28,603	9
Univ. of Calif.	57,828	4	38,760	3	34,098	2
SUNY-Buffalo	56,062	5	39,761	2	30,968	4
Cornell	53,234	6	38,310	4	30,549	7
Illinois-Urbana	50,666	7	35,279	8	30,814	5
Michigan-Ann Arbor	49,594	8	37,665	5	31,769	3
Wisconsin-Madison	<u>44,545</u>	<u>9</u>	<u>32,902</u>	<u>9</u>	<u>29,310</u>	<u>8</u>
Average, Comparison Group	\$55,136		\$37,417		\$30,927	
University of California	\$57,828	4	\$38,760	3	\$34,098	2
UC Lead Over Comparison Group	4.9%		3.6%		10.3%	

¹The comparison institution group includes: Arizona State University, University of Bridgeport, Bucknell University, Cleveland State University, University of Colorado, Georgia State University, Loyola University of Chicago, Mankato State University, University of Maryland, No. Carolina State University, University of Nevada, Reed College, SUNY-Buffalo, University of Southern California, University of Texas, Tufts University, Virginia Polytechnic, Wayne State University, University of Wisconsin.

TABLE 6

CSU Administrative Salaries
and Salaries in the Comparison Institutions 1985-86

	<u># of Campuses</u>	<u>CSU</u>	<u># of Campuses</u>	<u>Comparison Institutions</u>	<u>CSU Lag</u>
President	19	91,200	16	100,830	10.6%
Chief Academic Officer	19	75,228	16	81,528	8.4
Chief Business Officer	18	62,604	15	69,269	10.6
Chief Student Affairs	19	65,148	17	60,393	(7.3)
Director of Personnel	17	50,436	18	49,228	(2.4)
Director of Libraries	19	59,238	15	59,976	1.1
Director of Computer Center	15	57,420	12	58,539	1.9
Director of Institutional Research	13	55,992	10	49,642	(11.3)
Chief of Physical Plant	16	53,364	16	53,918	1.0
Director of Security	18	48,372	16	41,348	(14.5)
Director of Admissions	18	54,924	12	43,759	(20.3)
Director of Financial Aid	18	49,704	17	42,709	(14.1)
Director of Counseling	15	53,088	13	44,262	(16.6)
Director of Health Services	18	77,460	12	62,909	(18.8)
Director of Athletics	13	58,008	14	53,823	(7.2)
Dean of Agriculture	4	65,247	4	71,051	8.9
Dean of Arts and Sciences	9	66,500	15	71,481	7.5
Dean of Business	18	64,998	14	74,946	15.3
Dean of Education	15	62,448	13	66,758	6.9
Dean of Engineering	9	70,037	11	78,860	12.6
Dean of Graduate Programs	6	64,464	13	70,817	9.9
Dean of Natural Science	4	64,772	4	72,724	12.3
Dean of Social Sciences	8	62,947	4	67,974	8.0

In summary, although the impact of the salary/compensation limits proposed by the Initiative would not be as extensive for the California State University as it would be for the University of California, the effects would be similar. CSU faculty in key disciplines, such as computer science and engineering, would be disproportionately affected as would the CSU top administrative and academic positions.

Vacation and Sick Leave

The management and fiscal consequences for CSU of the Initiative's restrictions on vacation and sick leave would parallel the consequences for the University of California. CSU officials have noted that if zero balances for vacation and sick leave are to be set on January 1 of each year, it is reasonable to anticipate that employees will schedule elective surgeries and vacations at the end of the year when maximum vacation/sick leave has been accumulated. But, this period is among the very busiest for the system and the potential of skeleton crews in November and December would leave students and faculty without proper support and services.

The fiscal impact of any required compensation or buy-out of currently accumulated vacation and sick leave lost as a result of the Initiative's provisions would be significantly greater for the CSU than the UC. Unlike the UC, the CSU employees' contracts appear to regard sick leave as a vested right. If this is correct and compensation for lost vacation and sick leave is required, the costs to the CSU would run between \$300-400 million.

Contracts

In terms of the CSU, it is estimated that the \$75 per hour limit would impact at least 200 and perhaps as many as 2,000 existing contracts. These contracts include:

- Financial aid billing and collection services
- Bond consultants and counsel
- Outside auditors and accountants
- Honorariums and fees for guest speakers, etc.

In addition, the CSU anticipates serious difficulties with the limit on contracts of more than two years duration. For example, an ordinary but extremely necessary service contracted for by the CSU is elevator maintenance. But, no major elevator maintenance firm will consider bidding on a contract which runs two years or less. Similarly, the CSU is currently in the midst of modernizing its telecommunications system but, again, private contractors and consultants are extremely reluctant to bid for two-year contracts.

CONCLUSION

Consequences of the Initiative's Effects on Higher Education

The Initiative would create serious, potentially severe management problems for the University of California, and the California State University. But the most serious, the most fundamental, the most potentially damaging consequences of the Initiative will result from the effects of the salary limit.

This conclusion is based on two facts. First, the quality of any university or college is fundamentally determined by the quality of its academic staff. Second, the salary and compensation levels of public universities and colleges in California are competitive with the salaries and compensation offered by comparable institutions throughout the United States.

Therefore, the salary limit of the Initiative, by undermining the competitiveness of public universities and colleges in California, has the potential of seriously eroding the quality of those universities and colleges. Specifically, imposition of the Initiative's salary/compensation limits will have the following results:

- The immediate loss of key personnel

California employs hundreds of medical specialists, scientists, engineerings, professional school faculty, administrators, and others whose skills and expertise are readily marketable. For example, it is absurd to think that a cardiovascular specialist will continue to work for the UC at \$64,000 when any number of private or out-of-state medical schools would happily match his/her pre-Initiative salary.

- Continued loss of personnel

Even after those with the most marketable skills have left, the drain will continue as faculty initially unaffected by the limits reach find their compensation capped at uncompetitive levels.

Faculty in less marketable disciplines will rationally follow the lead of their colleagues and find other jobs as soon as possible. The drain will be greatest among precisely those who make the UC and CSU great: scholars and academics with national reputations.

- Inability to recruit qualified personnel

The loss of key administrative, faculty, and other employees would be exacerbated by the Initiative's adverse impact on the ability of the UC and CSU to recruit new employees. Probable recruitment difficulties can be predicted by reviewing the situation of the late 1970's when UC and CSU salaries had been allowed to erode to uncompetitive levels. During this period, over 25 percent of the scholars offered jobs with the UC rejected the offer in favor of another university. In 1985, only 7 percent of first choice candidates declined. Given the stringent nature of the Initiative's provisions, it is likely that the ability to successfully recruit first choice candidates will be seriously diminished.

The problem of being unable to recruit top quality staff is compounded by the fact that over the next 15 years, the UC will experience an estimated 20 percent increase in enrollment, while losing 40 percent of current faculty due to normal retirement. The result will be a need to hire approximately 6,000 new faculty. The CSU will face similar recruitment demands.

- Reduction of services

The probable drain of personnel from the UC medical schools and hospitals will seriously jeopardize the operation of those facilities and, consequently, the health care services provided to thousands of Californians through those facilities.

- Adverse external impacts

Neither the UC nor the CSU exist in isolation. Rather, both systems play integral and important parts in the economy, society and government of California. The hemorrhaging of the faculties of the UC and CSU would, therefore, have a direct effect on the State as a whole.

To illustrate: industry and business leaders have, in recent years, repeatedly told government leaders that the single most important action the State can take to promote and protect California's position as a global leader in technological development is to support and strengthen the capacity of UC and CSU to train engineers and scientists and to do the basic research which is essential for future technological breakthroughs. Industry needs engineers and scientists; industry thus needs universities with first-rate faculties capable of educating first-rate engineers and students. By reducing the ability of the UC and CSU to retrain and recruit qualified faculty, the Initiative will have a detrimental impact on California industry.

LOWER EDUCATION (K-12)

Introduction

In recent years, California has refocused its energy and resources on the reform and improvement of primary and secondary education. The passage of the Hughes-Hart Educational Reform Act of 1983 signaled that once again California intended to play a leading role in the provision of high-quality education for its over 4 million school-aged children.

Modest gains have been made since the landmark legislation. Expenditures per pupil have risen; students take more academic courses and spend more time in school; teacher/student ratios have improved somewhat, and there are greater efforts to recruit, train and retain quality teachers and administrators. These program improvements have helped place California's elementary and secondary education systems back on the track toward excellence.

At this time, support for public education is high. Both the administration and the Legislature have recommended increased funding for K-12 education. In communities throughout California, interested citizens are involved in activities to support and improve public education. In this environment, how will the proposed Salary Limitation Initiative impact elementary and secondary education?

While there is some debate as to whether specific provisions of the Initiative apply to lower education (K-12), for the purpose of this

analysis, it is assumed that the Initiative applies to all county offices of education and school districts, and therefore affects all employees of such districts.

Lower education will be affected by the proposed Salary Limitation Initiative in several ways. The Initiative will:

- Place limits on the salaries of teachers and school administrators
- Create additional costs for school districts caused by the potential increased use of sick leave
- Reduce the ability of the California school system to attract and retain highly qualified teachers and administrators
- Retard the reform and improvement of K-12 education in California

SALARY LIMITATION PROVISIONS

In order to examine the impact of this proposed Initiative on salaries, we must first identify the major segments affected. These are teachers, administrators, and other classified employees.

Teachers

Teacher salaries are the least likely to be affected. Almost no teachers receive salaries at or above the salary cap of \$64,000, if one assumes that the Initiative applies only to wages and does not include benefits and other forms of compensation. If, however, the salary provisions of the Initiative are judged to include benefits and other compensation, approximately 187 teachers statewide will be affected this year. In summary, the immediate impact of the salary limitation provision of the Initiative will be negligible and not result in any cost savings.

The long term effects, however, could be significant. First, recent reports on the teaching profession have determined that salaries for teachers must be increased in order to attract and retain highly qualified individuals. Recent efforts have been made to improve teacher salaries. The Initiative to limit salaries would most likely reduce the ability of the state to recruit new teachers and increase the attrition rate. Given the need and desire to improve lower education, the proposed salary "cap" will present major problems in the future. Moreover, given future increases, teacher salaries will eventually reach the cap unless voters approve increases in the Governor's salary.

Administrators

The salary limitation provision of the Initiative will impact the category of administrators. Approximately 3,000 administrators are at or above the salary cap of \$64,000. These include county and district superintendents, some school principals and a few special program directors.

School districts use national and statewide averages to set salaries. The salary limit will most likely reduce the ability of California's school districts to recruit highly qualified administrators at a time when leadership at this level is most needed. Furthermore, school districts typically use benefits and compensation in addition to salary to recruit and retain highly qualified people for these positions. Quite often the final salary and compensation package is tied to specific performance standards. The provisions of the Initiative may well reduce the

flexibility of school districts in negotiations with prospective superintendents.

Administrators play an important leadership role in determining the effectiveness of education programs at the local level. For example, superintendents are responsible for the overall management and implementation of the curriculum and educational programs. In general, they establish the tone and setting for education in the district. If well-trained and qualified superintendents and administrators cannot be recruited and retained by local school districts, educational programs will undoubtedly suffer.

Classified Employees

For certain classified employees, such as business managers, directors of transportation, and facilities managers, the salary limitation would apply. The number of such employees is not available; however, a salary cap will most likely reduce the ability of local districts to recruit and retain well-qualified individuals for those positions. Many will be attracted by employment in the private sector.

SICK LEAVE

Perhaps the most negative impact of the proposed Initiative on lower education is the provision that sick leave cannot be accumulated from one year to the next. Currently, most teachers and administrators earn between 8-10 days of sick leave per year. On average, teachers in the state's school system do not use approximately four days of sick leave each year.

Since sick leave cannot be carried over from year to year, teachers may be inclined to use all earned sick leave each year. The increased use of sick leave by teachers will add considerable cost for each district and affect the quality of teaching.

First, if four additional days of sick leave are used by each teacher in California's lower education system, this factor alone would add approximately \$45 million in district expenditures for substitute teachers. In most cases when a teacher is sick, a replacement or substitute must be hired. Any increased use of sick leave would result in added costs to pay for substitute teachers.

Secondly, the quality of instruction will most likely suffer. Substitute teachers on a short-term basis often cannot provide instructional continuity. Substitute teachers "fill in" using lesson plans and other forms of educational instructions, but simply are not able to provide the same level of instruction of a regularly assigned teacher.

Furthermore, there is some question as to whether districts would be required to buy back accumulated sick leave for teachers hired before 1980. Current state law allows these teachers to apply unused sick leave as years of service credit when they retire. If it is determined that sick leave is a vested right that cannot be taken away, the state may be required to buy back accumulated sick leave for these teachers. At current retirement rates, this would represent a cost of approximately \$530 million for teachers in the retirement system.

If districts were required to buy back accumulated sick leave on the basis of current salary rather than retirement service credit, the additional cost might be as high as \$1.749 billion.

HOSPITALS

Introduction

Both state and local governments in California provide an array of hospital services to the public. These services range from inpatient care for the needy and indigent, such as that provided at county hospitals, to state hospital care for the developmentally disabled and the seriously mentally ill. In addition, the State of California operates a Veteran's Home which provides a range of care from domiciliary to acute. There remains -- particularly in the less populated, rural areas of the state -- a dwindling number of district hospitals, which would also be subject to the constraints contained within the Initiative. Finally, there are the teaching hospitals of the University of California -- renowned for both the quality of care provided and the caliber of medical research conducted under their auspices.

It is evident that the proposed Initiative will have some impact upon the range and quality of hospital services. The degree of that impact is directly proportional both to the quality of a hospital and its staff as well as to the vulnerability of a facility to changes within the health care delivery system.

The provisions in the Initiative which will have the greatest impact upon hospital services are the salary limitation and the provisions relating to contracting out for services. The reasons for such impact are

clear. Physicians and hospital administrators are among society's most highly trained professionals. Physicians and surgeons, in particular, have spent years in training for a profession which traditionally promises generous compensation. A maximum salary level of \$64,000 -- compared to the salaries which the private sector offers -- cannot help but lure the best practitioners away from public service. The problem will carry over inevitably into recruitment -- there will be few new M.D.'s entering the market place who will be attracted to institutions in which the maximum salary is but a fraction of what can be earned in private practice.

The impact of contracting provisions is less clear, but still nettlesome. Arguably, a physician at the state Veteran's Home currently earning \$75,000 per year could be replaced by two half-time contract physicians who would split the salary, thereby avoiding the limit set forth in the Initiative. However, there is no evidence that there will be an adequate number of physicians willing to enter into such agreements. On the contrary, physicians have proven extremely resistant to changes in the practice of medicine as it impinges upon their individual activities, particularly in the area of compensation.

What follows is a brief description of the various state and local agencies which provide hospital services and what the impact of the Initiative upon these services is likely to be. Some of the information is sketchy, since many of the agencies involved are still in the data-gathering stage of their investigations into the full effect of the Initiative.

**STATE HOSPITALS - THE DEPARTMENTS OF MENTAL HEALTH
AND DEVELOPMENTAL SERVICES**

The State Departments of Mental Health and Developmental Services provide patient care at 11 state hospitals for the developmentally disabled, the mentally ill and disabled, including specialized programs for adults, adolescents and minors, as well as for mentally ill offenders. All hospitals are staffed 24 hours per day and must meet rigid standards in order to retain certification and eligibility for federal funding.

According to initial analyses prepared by each Department, the Initiative would have the following direct impacts:

- The Initiative would hinder the recruitment of professional staff at the state hospitals. The salary ceiling would likely induce professional staff to abandon the public service sector and discourage contractors from doing business with the state.
- The majority of positions affected in the state hospitals will be staff psychiatrists, physicians, and dentists. As of July 1, 1986, the average annual salary for state hospital psychiatrists will be \$75,455. The reduction in compensation for these classifications will directly impede the hospitals' ability to recruit and retain professional staff.
- Under current hospital operations, the Medical Officer of the Day (MOD) function is rotated among existing staff. Staff is compensated at a rate of \$480 for each 24-hour shift (weekends) and \$375 for each 16-hour shift (weekdays). Since existing staff will

probably be receiving the maximum salary under the Initiative, it will be necessary to authorize new positions to perform this function. It is estimated that 5.5 physicians per hospital will be required at an annual cost of approximately \$1,827,584.

- The prohibition against carrying sick leave and vacation credits into future calendar years could have serious consequences on the state hospital system. For example:
 1. State hospital client health and safety could be put into jeopardy during the last two months of the calendar year should the restrictions on accumulating vacation and sick leave induce employees to use the time.
 2. The state hospital system must meet licensing requirements for treatment staff to client ratios, 24 hours a day, 365 days a year. The hospitals must also meet standards for cleanliness, food preparation and the overall environment of the hospital. If state hospitals are unable to meet these standards at any time during the year, the system may risk loss of licensing and certification. This could result in a potential loss of \$14.7 million per year in federal funds, according to the Department of Mental Health and \$180 million per year according to the Department of Developmental Services.
- The Initiative prohibits public agencies from engaging the services of private subcontractors where the contractual amount exceeds \$75.00 per hour. Additionally, no contract for personal services

may exceed \$64,000 per year. These restrictions would directly impact services rendered to state hospital clients by outside medical specialists. State hospital patients frequently require medical treatment that cannot be provided in a state hospital. Currently, state hospitals contract for millions of dollars worth of medical and laboratory services at costs which exceed both the \$75 per hour and the \$64,000 annual restriction.

- The Initiative's contracting provisions would reduce the state's ability to obtain outside consultant services predominantly in the areas of medical services and data processing. Currently state hospitals have medical and lab contracts for millions of dollars worth of services at costs which exceed the \$75 per hour rate.
- Another provision limits the term of a contract to two years. This could exclude long-term leases of equipment and software and consequently result in greater cost to the State.

STATE DEPARTMENT OF VETERANS AFFAIRS - CALIFORNIA VETERANS HOME

The California Veterans Home was built by and paid for by veterans of the Grand Army of the Republic after the Civil War. The veterans then deeded the property over to the state as a place where veterans could reside upon retirement. The state has operated the California Veterans Home for over 100 years. The purpose of the home is to serve aged and disabled veterans who are in need of a residence.

There are five levels of care provided at the home:

1. Acute Care (46 beds)-- Full medical services, surgical services, including medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, dietary and intensive and coronary care. This level of care is accredited by the Joint Commission of Accreditation of Hospitals and thereby enjoys Medicare reimbursements, and is licensed by the State.
2. Skilled Nursing Care (309 beds) -- Provides 24-hour, inpatient care, less intense than acute care, and skilled nursing on an extended basis. As a minimum, patients receive rehabilitation, nursing, pharmaceutical, dietary and activity programs. The degree of need for care varies from moderate to total, depending on the patient's condition. Skilled Nursing Service is accredited by the Joint Commission on Accreditation of Hospitals and is certified for Medicare and licensed by the State.
3. Intermediate Care (477 beds) -- Patients in this level of care require a minimum amount of nursing assistance to perform daily living activities. Licensed nursing personnel administer medications and treatments. There are also supportive, restorative, and preventative services.
4. Licensed Residential Care (117 beds) -- Provides services for veterans who are able to perform daily living activities, although they may have a handicap or may require supportive measures for mobility or participation in social rehabilitation. Personnel

services are available on a 24-hour basis, providing protection, supervision, assistance and a minimal level of nursing care. Members have immediate access to other levels of care and outpatient care.

5. Domiciliary Facilities [Residential Care] (638 beds) -- This level of care is for aged or disabled veterans who are self-sufficient and able to perform daily living activities adequately. They require a minimum of personal care. Supervision is provided by non-nursing personnel.

The positions impacted at the \$64,000 salary range include two staff psychiatrists, 26 physicians and surgeons, two pathologists, and four medical administrators. These numbers represent the bulk of the medical staff at the Veterans Home. The same problems which have been identified relative to sick leave and contracting out for the services of specialists would also apply to this facility.

As the only state-funded Veterans Home in the state (all other facilities are federal and under the jurisdiction of the Veterans' Administration), the California Veterans Home will be extremely vulnerable to the changes inflicted by the Initiative. In addition, as World War II veterans begin to enter their retirement years, the need for facilities such as this can be expected to increase dramatically.

COUNTY HOSPITALS

According to information supplied by the County Supervisors Association of California (CSAC) and the California Public Hospital Association, 24 counties operate 31 hospitals at the present time. (Note: these numbers do not include the three counties -- Sacramento, San Diego, and Orange -- which contract out their hospital services to the University of California.)

It is the primary responsibility of these hospitals to see to the care of the medically needy, the medically indigent, and categorically eligible Medi-Cal recipients.

The county hospital system is California's version of the "safety net" -- they are the providers of last resort for the thousands of Californians who have no other recourse in seeking medical care. To the extent that there is commitment to providing quality care to this segment of the population, the impact of the Initiative should cause concern.

Once again, the problem will be to retain qualified hospital administrators, physicians, and surgeons at the salary levels imposed. Contracting will be a problem as well, since approximately one-half of the MDs who work in county hospitals do so under contract. The remaining half -- including all physicians assigned to county hospitals in Los Angeles -- are salaried county employees.

The employees most likely to be impacted are senior staff -- both medical and administrative. The flight away from county hospitals spurred

by the Initiative will almost certainly involve the most experienced and qualified personnel.

DISTRICT HOSPITALS

There are currently 68 district hospitals still operating in California. According to the California District Hospital Association, many of these facilities are located in rural and undeveloped areas of the state. Many of them are small hospitals (45 of the 68 have 100 beds or less). In a significant number of areas, the district hospital is the sole community provider.

While the salary scale for physicians and administrators at these facilities is lower than for large, urban hospitals, these facilities will be acutely sensitive to any change in the health care system, particularly changes of the nature contemplated by the Initiative. District hospitals have been converted and leased out to private operators in increasing numbers, because the alternative was to shut them down entirely. The constraints imposed by the Initiative -- both in salary limitations and contracting restrictions -- raise the very real possibility that a significant number of Californians in more remote areas of the state may lose the only hospital facilities presently available to them.

UNIVERSITY OF CALIFORNIA - TEACHING HOSPITALS

(Note: Much of the following information was provided by UC Vice President Baker in his testimony to the Board of Regents on the impact of the Initiative on UC operations.)

The Initiative would cause serious and lasting damage to the quality of the University's medical programs, not only in education of health professionals and medical research, but especially to the five teaching hospitals.

- The University would be overwhelmingly disadvantaged as it competes for faculty in the academic marketplace.
- Assuming key faculty would be lost, operation of the University's medical and dental schools, teaching hospitals, and professional schools would be jeopardized.

The largest group of faculty who would be affected are those in the professional schools, including the schools of medicine, dentistry, nursing, optometry, pharmacy, and public health. . Seventy-four percent of the teaching faculty in the University's professional schools currently receive a salary exceeding the Initiative's cap of \$64,000.

Among the most severely impacted would be the University's five medical schools, where over 90 percent of the teaching faculty receive a salary in excess of \$64,000. A significant percentage of faculty members in the University's two dental schools also receive compensation exceeding the cap.

State-funded salaries for most health sciences faculty are roughly 15 percent higher than general campus faculty salaries, which reflects their year-round teaching responsibilities. However, the total compensation packages for medical and dental faculty include funding from other sources, principally from patient fees and federal funds. (Note: In the opinion of the University's General Counsel, all sources of faculty compensation must be applied toward the \$64,000 cap.) The competitive levels of current compensation packages have allowed the University to attract and retain talented faculty and researchers. These are the individuals who not only educate and train tomorrow's health care professionals, but also engage in research that over and over again accrues enormous benefits to society as a whole. (State and federally funded research on Acquired Immune Deficiency Syndrome -- AIDS -- is an excellent case in point.) These individuals also provide a broad range of health care services to Californians.

The Initiative would almost certainly cause the loss of many key faculty in the health sciences. This, in turn, would seriously jeopardize operation of the University's medical schools and teaching hospitals. The implications of such an occurrence are far-reaching. In 1984-85, medical school faculty admitted over 89,000 patients to the five University hospitals and there were over one million outpatient visits to the University's clinics or emergency rooms. (The UC Davis teaching hospital, which also serves as the Sacramento county hospital, houses the only full Trauma Center north of the Bay Area.)

The University's hospitals constitute one of the largest health care systems in the State, and one of the two largest Medi-Cal providers. At the three former county hospitals (Sacramento, San Diego, and Irvine), a large proportion of patients cared for are medically indigent -- unable to pay their medical bills without public assistance. If the University hospitals cease to operate, the State would have to find other hospitals to accommodate these patients or the counties would have to resume operation of these facilities. In addition, UC's hospitals serve as clinical training sites for most of the University's health sciences programs, including nursing and pharmacy, and also for programs of other colleges and universities.

The Initiative could close the University's medical and dental schools. There would surely be a decline in the level of health care and quality of research that presently characterize the University's health sciences programs.

MEDI-CAL CONTRACTING HOSPITALS

As of this date, it is unclear whether the contracting provisions of the Initiative would cover contracts negotiated by the California Medical Assistance Commission between hospitals and the Department of Health Services to provide inpatient care under the Medi-Cal program. Legislative Counsel has been examining the issue, but has not yet rendered an opinion.

The issue is worth raising, however, simply because of the sheer size of the problem. The total budget for Medi-Cal inpatient care for FY 1986-87 is \$1.3 billion. Of that amount, approximately \$1 billion is

expended under contracts with individual hospitals, both public and private.

There are currently 266 hospitals which have entered into such contracts. The average rate of reimbursement for one day of inpatient care is \$517. The average number of monthly users of the system is 27,000 (325,000 users on an annualized basis). Californians used 1.7 million hospital inpatient days during the last calendar year.

The purpose of the contracting mechanism is to curb escalating hospital costs under the Medi-Cal system by shifting away from the traditional fee-for-service method of reimbursement to the prospective cost control which contracting allows. Many of the individuals employed by hospitals with Medi-Cal contracts earn in excess of both the \$64,000 annual limit and the \$75 subcontracting limit. In some instances, hospitals are allowed to subcontract out certain services which they are required, but unable, to provide. In addition, the contracts by law do not cover any specified time period (i.e., the two-year and four-year options permitted by the Initiative). Rather, the contracts are "open," but may be cancelled by either party with 60 days notice.

Should the Initiative be determined applicable to these contracts, the precise results, while difficult to quantify at this time, would be extensive. Under the worst circumstances, a bold and innovative policy initiative which has saved hundreds of millions of dollars in patient care dollars, could simply become null and void.

CONTRACTING

The Salary Limitation Initiative adds two vague and conflicting provisions to the California Constitution regarding contracting:

Provision One

Under special circumstances, the Legislature may appropriate funds for employee services contracted for by agencies in state government in excess of 80 percent of the Governor's salary if the contract does not exceed four years in length and is approved by both houses by a two-thirds roll call vote.

Provision Two

The Legislature shall enact no laws authorizing any public official covered by the Initiative to engage the services of private subcontractors wherein the contractual amount of compensation exceeds \$75 per hour and no contract may exceed two years in duration. No state agency or official may contract for outside counsel unless staff counsel for the agency and the Attorney General formally declare a conflict of interest in representing the agency.

ANALYSIS

Provision One

The Initiative does not define the "special circumstances" under which the Legislature may provide for contracted employee services which exceed \$64,000. Further, it is not clear if this provision applies to individual

or group contracts. In addition, the reference to "employee services" is unclear. It may mean "personal services." The provision does not appear to provide a special circumstances exemption for local government. The requirement that the Legislature appropriate funds by a two-thirds vote simply mirrors an existing constitutional provision and is redundant.

The impact of this provision depends primarily on the resolution of "special circumstances." Would the mere fact that certain employee services could not be contracted for under the salary limitation constitute special circumstances or must there exist additional factors to support such a finding?

For example, the Governor, the Legislature, and the Judiciary are constitutionally empowered to appoint officers and employees who are exempt from the civil service. If the salary limitation prevented the Governor from appointing his nominee to an agency or department post, would this constitute an impermissible interference with his appointing power and thereby be a "special circumstance?" Alternatively, it may be determined that a special circumstance consists of the same factors necessary to enact an urgency statute; that is, "the preservation of the public peace, health, or safety."

In the absence of special circumstances, this contracting limitation would prevent agencies from contracting with individuals who can command a much higher salary in the private sector. For example, both the Public Employees Retirement System (PERS) and the State Teachers' Retirement System (STRS) contract with investment specialists who provide in-house analysis and monitoring of investment portfolios. The contracting

limitation would make it difficult to contract with these highly qualified and uniquely skilled individuals.

Another troublesome issue is whether this provision allows the state to contract for group services in excess of \$64,000. If not, it would place a program such as Medi-Cal in jeopardy since it would be virtually impossible to contract with individual medical personnel to provide services, assuming such services may be contracted for at all.

Provision Two

The precise effect of this provision on existing law is unclear, at best. However, it will be assumed that the Initiative intends to impose specific limits on contracting. The term "services of subcontractors" is not clear. It will be assumed that it does not include contracts for construction and similar work and that subcontractor means prime contractor. If it does include construction, then the "fast track" prison construction program would surely be derailed and all other large scale construction projects could not be undertaken. The provision appears to apply to firms as well as individuals.

This provision limits contractual compensation to \$75 per hour. This limitation corresponds to a total contractual amount of about \$160,000 on an annual basis. Thus, any contract which would otherwise exceed this amount would have to be divided, if possible, into smaller and probably less efficient units. It is doubtful, however, if an investment portfolio could be managed by two or more firms simultaneously.

The limitation would prevent contracting with individuals and firms to furnish specialized services which may be more efficiently performed by the private sector. Examples of such services include the preparation of environmental impact reports, investment portfolio management, financial and compliance audits, and power plant siting studies. Further, it would prevent contracting for services which are only required on a part-time basis but which exceed the \$75 per hour limitation. For example, state and local governments frequently contract for legal services such as bond counsel, which cost more than this amount.

The two-year contract limit may also prove to be a hinderance to contracting. Firms which may have to invest a significant amount in plant and equipment in order to provide services would be reluctant to enter into a contract for less than two years.

It is unclear if the requirement that the total compensation to an individual not exceed \$64,000 applies to each contract or all contracts awarded a firm by government. The latter interpretation is consistent with the "double dipping" provision. In this case, a firm could be awarded relatively few contracts before reaching this limit. The agency that would monitor firms which have been awarded multiple contracts is problematical.

PERSONNEL PRACTICES

The Salary Limitation Initiative will have a significant impact on the personnel practices of state and local government in the following areas: salary compaction, sick leave and vacation time. The Initiative may have a lesser impact on so-called pension double-dipping.

SALARY COMPACTION

The Salary Limitation Initiative constrains the salary of elected and appointed officials and employees to 80 percent of the Governor's salary, or \$64,000. On the effective date of the Initiative, any salary which exceeds this amount would be rolled back. Thus, the immediate effect of the Initiative would be to group a large number of public administrators and technical and professional personnel at the salary limit. If the salary of the Governor is not increased, all salary increases, including merit and cost-of-living raises, must remain within this limitation. Thus, over time, an increasing number of public employee salaries would crowd the salary limit. This salary compaction would virtually destroy carefully constructed civil service and merit systems.

The civil service systems of the state and local governments attempt to maintain parity with the private sector with respect to the payment of salaries for positions with equivalent skills. In addition, these systems are designed to maintain a rational relationship between the salaries paid individuals of differing skills. Thus, salary compaction under the Initiative's salary limitation would result in public employee salaries lagging behind equivalent private sector salaries. In addition, roughly

comparable salaries would be paid to employees regardless of relative levels of skill and responsibility.

As a result of salary compaction, the following effects may be anticipated. First, employees whose salaries are rolled back or approach the salary limit, over time would seek to leave government service either through retirement or employment in the private sector. Second, employee initiative and effort may be diminished to the extent that merit increases are not commensurate with skill and responsibility. Third, employee morale in general may decline. Fourth, assuming the Initiative does apply to compensation, public agencies may endeavor to devise innovative fringe benefit packages to attract or retain top-level personnel.

VACATION TIME AND SICK LEAVE

The Initiative provides that no elected or appointed official, or any employee subject to the provisions of this section shall be permitted to accumulate sick leave or vacation time from one calendar year to another.

Current state law and local ordinances exhibit considerable variability in the terms and conditions applicable to vacation time and sick pay. The State of California permits employees to earn vacation time at the rate of 10.5 days during their first three years of employment. The City of Los Angeles grants two weeks for employees with less than five years of service, and Alameda County employees with less than four years of service receive 10 days of vacation. On the other hand, the City of San Diego combines vacation and sick leave into an "annual leave" of 17 days for employees with less than five years of service. Most jurisdictions limit the number of unused vacation days which may be accumulated and they

compensate their employees for any unused vacation time at the time of their retirement or resignation. Few jurisdictions do not permit vacation time to be accumulated. This benefit is spelled out in various laws, ordinances, and memorandums of understanding and is a vested benefit.

Sick leave is granted primarily because of employee illness, pregnancy, regularly scheduled medical examinations, or when illness among immediate family members requires the employee's assistance. State employees, for example, are allocated sick leave on the basis of one day per month. School districts are required by state statute to offer at least 10 days paid sick leave each year. These paid days also may be accumulated and teachers may even transfer unused benefits from one school district to another. Some districts also provide, in lieu of, or as a supplement to, other disability programs, additional sick leave days to be paid at one-half of regular pay. Local government policies regarding sick leave also vary considerably. The City of Los Angeles, for example, permits employees to use 12 days paid sick leave per year and may accumulate up to 800 hours or five months of full-time sick pay. Employees are not given any cash payment for unused sick leave at retirement or resignation. Perhaps a majority of public employees may credit a portion of their unused sick leave toward their years of service for the purpose of computing retirement benefits.

State and local governments also grant leaves for special purposes. As in the case of the private sector, these leaves may be offered with or without pay. The most common leaves are for active and reserve military duty, longer term maternity, paternity, or adoption care, jury duty, the death of a close relative, and career development programs. Although the

Initiative does not specifically refer to these special leaves, these leaves are often granted with pay and employees could regard them in the same fashion as vacation time or sick leave. Some jurisdictions may regard these special leaves as a subset of sick leave or vacation time. For example, could the state's "personal holiday day" be regarded as a vacation day? The Initiative is silent in this regard and the effect of the Initiative on special leaves is unknown. The potential cost to state and local government will depend on legislative and judicial interpretation.

The courts have held that modifications of employee benefits must be reasonable and any diminution of such benefits must be accompanied by comparable new benefits. While these decisions generally dealt with pension benefits, vacation time is a vested benefit right. Accordingly, two possible results may occur. First, governments may be required to reimburse their employees for any unused or accumulated time. Secondly, the Initiative may be prospective in this regard and employees may be permitted to use already accumulated vacation time while being prohibited from accumulating any additional time from year to year.

If the State is required to "buy-out" the accumulated vacation time of state employees, the one-time cost would be more than \$260 million. This amount assumes a buy out at full salary plus social security benefits.

The League of Cities conducted a survey of all 441 incorporated cities and all 58 counties within California regarding vacation and sick leave. Ten cities do not permit any carry-over or accumulation of unused vacation. This means that 431 communities could be facing a one-time cost to buy-out a vested benefit right for all their employees. The potential one-time cost to local governments could be greater than the state's cost.

The cost to the state, on the average, for full-time employees using a sick day is approximately \$20.8 million. Based upon an annual survey, state employees use 8.3 of an estimated 12 allocated paid sick leave days per year. They also have accumulated on the average 46.4 days of sick leave. If the state is required to reimburse employees for unused, accumulated sick leave, a one-time cost of \$703 million would result. Conversely, it is possible the state may not have to reimburse employees for unused sick leave days, because it may not be a vested right. If employees elect to use sick leave which would otherwise be accumulated, the state's cost would be approximately \$77 million per year. There also would be additional costs for the state due to additional use of Industrial Disability and Non-industrial Disability Insurances. In 1985 these costs were nearly \$6 million. But if sick leave benefits are limited, these costs will increase significantly.

Annual savings would occur because the state would not have to pay retirement costs for any excess sick pay. Currently, the state's contribution to the retirement system is calculated on the basis of the anticipated number of accumulated unused sick leave hours current employees will apply to their retirement account. If employees no longer can accumulate these hours, the state's current contribution to the retirement system will be reduced.

Currently, 278 cities and 38 counties provide compensation for unused sick leave, while 13 cities prohibit any carry-over of unused time. Cities and counties which currently provide compensation for unused sick leave will face substantial one-time costs to reimburse employees.

DOUBLE-DIPPING

The Initiative provides that any public employee on the state or local level who serves in more than one paid public position in this state may not receive a total aggregate compensation, including pension payments derived in whole or in part from public funds, in excess of 80 percent of the Governor's salary.

Apparently, this provision is intended to prohibit "double-dipping." The Initiative's proponents have indicated that they wish to prevent elected officials from receiving "excessive" pension benefits after these officials leave their positions. However, an employee must serve in more than one position for this provision to have any effect.

The impact of this provision depends upon how certain key phrases are interpreted. For instance, what is a "paid public position?" Do "paid public positions" include part-time members of the local and state boards or commissions, teachers who obtain summer jobs, professors who participate in academic research projects, and members of the National Guard? Does the limitation apply to any private sector pensions, social security benefits, and military retirement benefits? Any locally elected officials who serve on more than one board or commission, especially regional and state boards could be impacted. Because this subsection refers to "total aggregate compensation," it is not clear if the receipts of a private pension is included.

Because of these difficulties, it is not possible to estimate the number of people who occupy more than "one paid public position," their total pension benefits, and their current public and "aggregate" compensation.