

# THE CALIFORNIA LEGISLATURE

## REFORMS FOR THE TWENTY-FIRST CENTURY

by

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### INTRODUCTION

Prior to 1966, the California Constitution confined the Legislature to limited, bifurcated sessions. Two-year budgets were debated and passed during even-numbered years (referred to as the budget session), and in odd-numbered years, the Legislature met in general session, limited to 120 days. Special sessions were often called by the Governor and allowed legislative consideration of specific pieces of legislation concurrently with the budget session. In 1966, the voters of California overwhelmingly approved Proposition 1A which, among other things, amended the State Constitution to allow sessions of unlimited length. Supported overwhelmingly by the political leaders of both parties, Californians transformed their Legislature from the so-called “part-time,” “citizen” Legislature into a “full-time,” “professional” Legislature. Politicians, pundits, and scholars alike hailed the transformation as a monumental step forward in the improvement of legislative politics. By 1971, the Citizens Conference on State Governments declared California’s to be the best legislature in the nation.<sup>2</sup>

Such accolades are no longer afforded to the California Assembly. Increasingly, opinion leaders and observers of the Legislature have called - and are calling - for significant reforms concerning the governance of the State, including revisions to methods used for apportionment and primary elections, as well as consideration of a return to the part-time Legislature. In this latter regard, many expert observers have concluded that the State’s “experiment” with the full-time, professional Legislature has been a failure. With the ever-increasing number of significant initiatives being placed before the voters each year, budget deficits at unprecedented levels, and the repeated inability of the body to enact state budgets within constitutionally mandated time limits, public attitudes towards the State Legislature and its members are at all-time lows.

This paper presents, first, a brief description of the history of and justifications for the constitutional changes that transformed the Legislature from part-time to full-time. Post-reform observations are then set forth, as well as a discussion on the perceived effectiveness of the changes. The legislative process in several other states is also presented and contrasted with that of California, as well as some recent observations concerning a formal state constitutional revision effort. Possible issues for reform are set forth and recommendations made.

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<sup>2</sup> *State Legislatures: An evaluation of Their Effectiveness The Complete Report by the Citizens Conference on State Legislatures*, New York: Praeger Publishers, 1971. P 481.

## PROPOSITION 1A: THE CREATION OF THE FULL-TIME PROFESSIONAL CALIFORNIA LEGISLATURE

### A Brief History

The following represents a brief summary of the constitutional provisions governing the sessions of the Legislature from 1849 until 1966, when Proposition 1A was approved by California voters:<sup>3</sup>

1849-1862	Legislature met annually with no specific limits on the length of sessions.
1863-1878	Sessions every other year, limited to 120 days.
1880-1911	Sessions every other year with no limitation on duration.
1913-1945	Sessions every other year, bifurcated into two parts separated by a 30-day recess; the first part for introducing bills and the second part for the consideration of bills; no limit on duration of sessions.
1947-1950	Legislature met annually: during odd-numbered years, the sessions were bifurcated; in even-numbered years, the session was dedicated to the budget and other necessary revenue measures. Budget sessions limited to 30 days.
1951-1958	Same system, but with bifurcated sessions limited to 120 days.
1959-1966	Bifurcated sessions were abolished by eliminating the 30-day recess, leaving the session limited to 120 days in odd-numbered years.

In 1962 the voters approved an amendment to the Constitution allowing it to be amended without resort to a constitutional convention. In the wake of this amendment the Legislature established a Constitutional Revision Commission in 1963. Focusing primarily on the legislative segments of the constitution, the Commission recommended that the Legislature shift to annual general sessions. Each session would be as long as the then-existing general session, with the second session being an extension of the first. This structure would have been similar to the two-year session of Congress.<sup>4</sup>

However, the leadership of the Legislature modified the recommendations of the Commission. In 1966, Assemblyman James Mills introduced an amendment to the Constitution that created annual general sessions of the Legislature and raised the annual salary for its members from \$6,000 to \$16,000. Thus, in 1966, the Legislature approved a Constitutional amendment for action by the voters, which became Proposition 1A on the ballot. While most notable for its fundamental transformation of the Assembly, Proposition 1A also combined the Legislature's own

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<sup>3</sup> Beck, Joseph Allan, *The California Legislature*. Sacramento; California Office of State Printing, 1974, pp 21-21.

<sup>4</sup> Blair, George S. and Houston I. Flournoy. *Legislative Bodies in California*. Belmont, CA: Dickenson Publishing Company, 1967, pp.12-17, 54-57.

views of reform with the Commission's recommendations to revise several sections of the Constitution concerning the executive and judicial branches of the government, as well as to reform the civil service system.

The salient aspects of the measure concerning the full-time Legislature placed before the voters follow:

[Art IV,] § 3. (a) The Legislature shall meet annually in regular session at noon on the Monday after January 1. A measure introduced at any session may not be deemed pending before the Legislature at any other session.

(b) On extraordinary occasions the Governor by proclamation may convene the Legislature in special session. When so convened it has power to legislate only on subjects specified in the proclamation but may provide for expenses and other matters incidental to the session.

According to the measure's official Statement of the Vote, voters were told that Proposition 1A provided the following:

Repeals, amends and revises various provisions of Constitution relating to separation of powers, and to the legislative, executive, and judicial departments; provides for annual general legislative sessions; provides compensation of members of the Legislature shall be prescribed by statute passed by two-thirds vote, and limits rate of annual future adjustments...

The people of the State of California overwhelmingly approved Proposition 1A (by a 3-1 margin) modifying the procedures governing the California Legislature. Thus, the part-time Legislature was replaced by a so-called "full-time" or "professional" Legislature. The measure removed restrictions on how long the Legislature could meet each year, did away with the prior process of having a 120-day general session in odd-numbered years with a shortened (30-day) session in even numbered years for budget enactment, gave the legislators a substantial salary increase, and allowed them to set their own compensation via a two-thirds vote in the future.<sup>5</sup>

One of the leading advocates for the change was Democratic Assembly Speaker ("Big Daddy") Jess Unruh. As we shall see, Unruh initiated several reform efforts prior to his overwhelming success with Prop. 1A. Throughout his battle to enact 1A, Unruh argued that good government required a legislative branch as professional as the executive branch. He claimed that by making the Legislature full-time, legislators would have more time to carefully evaluate legislation and better help their constituencies. As noted, James Mills and others likewise supported the proposed reforms in the Legislature and helped ensure that the measure would be placed before the voters.

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<sup>5</sup> Skelton, George. "Full-Time Jobs, Part-Time Accomplishments." *Los Angeles Times*, September 8, 1997, p. A3.

It has been noted that Unruh recognized the weaknesses of the Legislature and perhaps even exploited them to become Speaker in 1961.<sup>6</sup> Under his direction, the Assembly implemented a number of reforms to strengthen itself, particularly with relation to interest groups and the Governor.<sup>7</sup> These changes, even without Proposition 1A, were designed to “professionalize” the body by increasing staff resources and member pay.<sup>8</sup> Unruh argued that by giving legislators more staff, it would provide them with independent sources of information and make them more powerful in relationship to the executive branch of State government.<sup>9</sup> Thus, he provided funds for each member to have a full-time administrative assistant, a secretary, and a district office, and increased committee staff by providing at least one professional consultant to all committees.<sup>10</sup> He also established the Legislative Reference Bureau (now the Assembly Office of Research) and provided special aides for leadership positions for both parties.<sup>11</sup> To raise salaries and reform and lengthen the sessions, however, voters had to amend the Constitution. Early in 1963, at his urging, both houses of the Legislature passed concurrent resolutions creating the Constitutional Revision Committee.<sup>12</sup>

With the passage of Proposition 1A, Unruh moved quickly to implement the final touches for building the “professional” Legislature that he had envisioned. Staff resources increased dramatically, member pay was raised, and sessions became unlimited in length. Impressive health, dental and life insurance benefits were secured for members and funds were made available for automobile leases with credit cards issued for auto maintenance and gas.<sup>13</sup> District offices gave legislators political benefits in their “home territories” and numerous sergeants-at-arms and chauffeurs now catered to the will and attention of the 120 members of the Legislature.<sup>14</sup>

Unruh and Mills were not alone in support of the reform, nor was their party, the Democrats. Both candidates for Governor, Ronald Reagan and Pat Brown, supported it, as did the Republican leadership in the Assembly.<sup>15</sup> As he took his turn as Assembly Speaker in the late 1960’s, Republican Assembly Leader Bob Monagan not only embraced the reform but also promoted additional reforms in its wake.<sup>16</sup> His recommendations would make the new “full-time” body even more full-time!

Monagan argued that by reforming the process further to allow for two-year sessions, a typical member of the Assembly, elected to a two-year term, would have his or her workload to

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<sup>6</sup> Squire, Peverill. 1992. “The Theory of Legislative Institutionalization and the California Assembly.” *The Journal of Politics*, Volume 54, Issue 4: 1030.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Schrag, Peter. *Paradise Lost: California’s Experience, America’s Future*. New York: The New Press, 1998.

<sup>14</sup> Ibid, 1031.

<sup>15</sup> Leo J. Ryan (R-San Mateo) was the lone Assemblyman to oppose Prop. 1A. Because his opposition was rooted in procedural or pragmatic arguments he allowed Senator John Schmitz (R-Orange County) to author the substantive argument against the reforms in the ballot statement.

<sup>16</sup> “Fact Sheet - Legislative Reorganization Proposed,” *California Journal*, January 1970, p.21.

consider and enact legislation spread out over a period of 21 months instead of little more than the eight month period that existed at the time.<sup>17</sup> In addition, he argued that beginning the session in December, a month earlier than allowed under the Constitution, would enhance the ability of legislators to do their jobs.

Thus, in 1972, another constitutional amendment reforming the Legislature (Proposition 4) was approved by the voters. The relevant language of the Constitution now reads:

[Art IV,] § 3. Regular and special sessions

(a) The Legislature shall convene in regular session at noon on the first Monday in December of each even-numbered year and each house shall immediately organize. Each session of the Legislature shall adjourn sine die by operation of the Constitution at midnight on November 30 of the following even-numbered year.

(b) On extraordinary occasions the Governor by proclamation may cause the Legislature to assemble in special session. When so assembled it has the power to legislate only on subjects specified in the proclamation but may provide for expenses and other matters incidental to the session.

Within three years of the constitutional reforms of the Legislature, more than one-half of the State's legislators lived in Sacramento,<sup>18</sup> a proportion that soon rose to more than 70 percent.<sup>19</sup> Previously, it had been common practice for legislators to spend most of their time in their home districts, not only where their families lived, but also where their principal jobs existed.<sup>20</sup> Although most legislators established residences in Sacramento, and spent substantially more time there than in their home districts, many of them persisted in propagating the myth that they actually lived in the district they represent. In fact, neither house of the Legislature maintained any formal roster of local (Sacramento) addresses and referred questions on that matter to individual members!<sup>21</sup> As a result of the geographic distance between Sacramento and the home district, a clear "disconnect" between constituent and legislator emerged. As this disconnect became more obvious, expert observer and ordinary citizen alike started to become concerned.

By every measure at the time, however, the Legislature reforms of the 1960's and early 1970's made the California Legislature a professional body – indeed, the most professionalized Legislature in the nation.<sup>22</sup>

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<sup>17</sup> Ibid.

<sup>18</sup> "Times Have Changed - Half of Legislators Now Make Sacramento Home," *California Journal*, April 1973, 121.

<sup>19</sup> See Squire at p. 1031.

<sup>20</sup> Ibid. Footnote 15.

<sup>21</sup> Ibid footnote 15.

<sup>22</sup> See Squire at p. 1031. According to the Report by the Citizens Conference on State Legislatures, professionalism is determined by an overall evaluation of five categories: functionality, accountability, information handling capacity, independence, and representativeness.

## POST-REFORM OBSERVATIONS: CONCERNS AND QUESTIONS

It has been observed that, “there is little doubt that most Americans prefer legislatures that look like themselves.”<sup>23</sup> That is, Americans prefer legislatures composed of regular citizens as opposed to professional or career politicians. Perhaps more applicable to the subject of term limits, there seems to be an almost instinctive concern in the minds of the citizenry about public officials who stay in office too long or perhaps about legislative sessions that last too long. As President Andrew Jackson noted in his message to Congress in 1829:

The duties of all public officers are...so plain and simple that men of intelligence may readily qualify themselves for their performance, and I cannot but believe that more is lost by the long continuance of men in office than is generally to be gained by their experience.<sup>24</sup>

While this concern was clearly at the core of the public’s opinion that passed Proposition 140 in 1990, limiting the terms of state legislators, the sentiment may also apply to the length of a legislative session itself. This is especially true when it is perceived that those in office, regardless of the length of the session, do not get the job done. The proliferation of ballot measures<sup>25</sup> presented to the voters each year, combined with the almost habitual failure of the Legislature to comply with its constitutional duty to pass a budget each year by June 15<sup>th</sup>, cannot help but exacerbate the discontent of ordinary citizens.<sup>26</sup>

From its first session in 1849, the Legislature probably conformed to the general pattern of “looking” like us and generally not staying around for too long. With the demise of the part-time, “citizen” Legislature due to the reforms of the 1960's and early 1970's, however, this clearly changed.

Soon after the reforms were instituted, observers began to question their effectiveness. In 1974, during the first full session after the passage of 1972’s Proposition 4, it was noted:

It takes no great insight to review the frantic windup of the 1974 legislative session and conclude, as much of the press has done, that California’s first two-year congressional-style Legislature was a failure.... Where, the Governor had a right to ask, is the new sense of professionalism and efficiency that was supposed to have resulted from the enactment of Proposition 4 in 1972?

And:

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<sup>23</sup> Carney, Francis M. “The Ultimate Golden Oldie: A Citizen Legislature,” *Los Angeles Times*, November 4, 1990, Part M, p.3.

<sup>24</sup> Ibid.

<sup>25</sup> California is the leader in the nation in enacting law via the initiative process. In fact, one can argue that with the exception of energy deregulation (perhaps another interesting topic for perhaps another forum) and welfare reform, no significant or potentially controversial legislation has been enacted by the Legislature in many years.)

<sup>26</sup> *The Los Angeles Times* documented that the Legislature has passed the budget by the constitutional deadline **only four time times in the last 25 years!** *Los Angeles Times*, June 11, 2003, p. A28.

Hardly anyone, except those legislators who promoted the idea, has come forward to defend the two-year session. *The San Francisco Chronicle* editorialized: “What a joke it turned out to be.” ... [and] ...[E]ven legislative leaders who support the two-year session agree that [the session] was a disgrace and that new rules must be adopted...<sup>27</sup>

As noted in his observation about the Legislature reform, Senator Tom McClintock emphasized that the reforms were aimed at clear and specific objectives. Namely:

- 1) to professionalize the staff;
- 2) to promote a more organized flow of business;
- 3) to diminish the influence of special interests;
- 4) to provide a more knowledgeable and independent membership; and
- 5) to elevate the constructive consideration of issues.

But, according to Senator McClintock and others, there exists a serious question as to whether these objectives have been realized.<sup>28</sup> He joins a chorus of observers who have concluded that none of the intended results or objectives has been met and that the “experiment” has been a failure.

Interestingly, former Legislators Monagan and Mills not only agreed with some of the criticisms, but even publicly expressed remorse at ever having supported the reforms. Monagan has recently observed in his book, *The Disappearance of Representative Government*, that the increased session lengths have done nothing to expedite the constructive consideration of issues because: “tough decisions are delayed until the last possible minute...[T]he crucible of a deadline is necessary to resolve politically gut-rending issues...” Rather than using the lengthier sessions for research, deliberation, discussion and debate, as Monagan had envisioned, the legislators allow the lion’s share of the most difficult or controversial legislation to be dealt with in the cramped final hours of the session.

Mills, in his 1987 book, *A Disorderly House*, remarked, “I hope God will forgive me for having introduced in 1966 an amendment to the Constitution...that raised the salaries of members of the Legislature...and provided for annual general sessions.” He further observed that the problem now is that legislators “don’t have a slack period - a period of review of what was done.”<sup>29</sup> And, while the staff of the Legislature has been greatly expanded as a result of the full-time Legislature reforms, “the Legislature was never functioning better than it was during those [pre-Proposition 1A] years.”<sup>30</sup> “Big Daddy” Unruh passed on in the late 1980's, and we can only imagine what he might have observed today about his experiment. Since it had the effect of vesting unprecedented power in the office of the Assembly Speaker, one might imagine that he would continue to be proud of the changes. But, we must also note that as he moved on to become a very influential Treasurer of the State, tensions grew between him and the now far more powerful Legislature that he helped create.

In the wake of Jesse Unruh’s death, it was observed that he had intended to establish a

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<sup>27</sup> Salzman, Ed. “The two-year session: Was it all that bad?” *California Journal*, November 1974, 374.

<sup>28</sup> McClintock, Tom, “What California Needs Is A Part-Time Legislature”, *Sacramento Bee*, August 3, 1995.

<sup>29</sup> *San Diego Union Tribune*, November 18, 1897.

<sup>30</sup> *Ibid.*

principle: that legislative committees would be staffed by nonpartisan specialists who would keep their jobs irrespective of the ideological and political makeup of the committees themselves.<sup>31</sup> However, after the 1966 reforms, the Legislature itself became filled with former staff members who learned how to win elections as an indirect result of the 1966 reforms. Both houses of the Legislature became more partisan and there was no longer a “visible line” between professional and political staff. Consequently, it has been observed, the substance of legislation has increasingly been “infected” by political ideology rather than the non-partisan, professional reflection that Unruh had envisioned.<sup>32</sup>

Many informed observers are now calling for a return to the “citizen Legislature” of the pre-1966 era. Syndicated columnist Dan Walters, for example, a long-time observer of California government in action - particularly the Legislature - noted that the Legislature “come(s) in late and go(es) home early” in order to secure tax free per diem payments for themselves while not accomplishing “much of anything.”<sup>33</sup> Noting press reports at the time that showed 107 of the 119 members of the Legislature who scheduled fund raisers during these “slow” and “unproductive” times, Walters observed that “if they aren’t doing much for the public interest, lawmakers of all stripes are paying a lot of attention to their own [interests].”<sup>34</sup>

Another regular observer of State politics, Tony Quinn, has noted:

It is time to question the 30-year experiment in a full-time legislature, and to ask California should we return to the shorter legislative sessions we had before 1966. Dissatisfaction with legislative politics has given us term limits, campaign reform, the open primary, but none of these reforms has addressed the fundamental question: Does California need a legislature of full-time politicians?<sup>35</sup>

Quinn noted further that the argument for the full-time professional legislature, that states were the “backwater” of the federal system with “well-paid lobbyists” running amuck over poorly paid and staffed part-time state legislators, may no longer be valid since the “problem” that the full-time legislature was supposed to solve has resolved itself. States have now become activists with Congress, “devolving power” to state capitols in an era of new federalism.<sup>36</sup> He concludes that the Legislature today is “more disconnected” from the populace than ever before, noting that since the passage of Proposition 13 in 1978, “virtually every major policy initiative” has been enacted via initiative by the voters: criminal justice reform, school funding, campaign finance reform, term limits, racial preferences, etc.<sup>37</sup> Returning to a part-time legislature, argues Quinn, could improve governance in several ways. He believes that by forcing legislators to leave Sacramento for six months of the year:

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<sup>31</sup> Salzman, Ed. “Unruh, First Among Co-Equals,” *Los Angeles Times*, August 6, 1987 Part2, p.5.

<sup>32</sup> Ibid.

<sup>33</sup> Walters, Dan. “Moving in slow motion,” *San Gabriel Valley Tribune*, \_\_\_\_\_ ,

<sup>34</sup> Ibid.

<sup>35</sup> Quinn, Tony. “Does California Need A Full-Time Legislature?” *Sacramento Bee*, August 10, 1997, p. FO1.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.



- legislators might “re-bond” with constituents
- they could “hold interim hearings and consider policy issues away from the hundreds of special interests”
- and, generally, with more rational time constraints, they “might be forced to actually deal with the big issues.”<sup>38</sup>

Quinn suggests that the “only reason the Legislature cannot adjourn by July 1, is that it simply doesn’t get its work done.” Echoing Monagan’s observations, Quinn notes that, by analogy to the laws of thermodynamics, the Legislature’s business will necessarily consume whatever time it is allotted. Like Walters and Monagan, Quinn notes that the Legislature stays in session oftentimes with no better reason than for its members to collect per diem payments.

Quinn concludes by observing that the “compact between citizen and legislator has suffered over the past 30 years.... [A]llowing legislators more time with their constituents could be the needed antidote to the cynicism and disconnect that Californians demonstrate toward their political leaders at every turn.”<sup>39</sup> In light of the current massive budget deficit and the October 2003 recall election, which for the first time in the history of the State tossed out an incumbent Governor, it would be difficult to find a time in recent California history when the cynicism of the voters could have been greater than it is now. In a recent expose, two second-term California Assemblymembers concluded that, “the Legislature is a dysfunctional mess driven by ideology and sloganeering, with most members barely aware that the state is drifting towards insolvency.”<sup>40</sup>

Another prominent “Legislature watcher” in the State is *Los Angeles Times* columnist George Skelton. Mr. Skelton suggests a number of reforms, including the lengthening of current term limits to a total of 12 or 16 years, that closed primaries should be reopened, and that redistricting needs to be “seized” from the Legislature and handed to an independent commission.<sup>41</sup> However, even in the absence of these reforms, his most basic premise is a call for a return to the part-time Legislature - to “pare back on a bad thing.” In his column, Skelton includes the observations of Bob Stern, president of the Center for Governmental Studies, who states that “We have a part-time Legislature now...[I]t sits around in January, February and March and does absolutely nothing.”<sup>42</sup> And Skelton concludes:

Until now, I’ve thought California had too many complex problems to retreat into part-time lawmaking. But I’ve concluded that without reforms, retreat is rational. When you’re in a hole, stop digging.<sup>43</sup>

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<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

<sup>40</sup> Weintraub, Daniel “Messing with primal forces in the Legislature.” *Sacramento Bee*, March 6, 2003 - attributed to Assemblymen Keith Richman and Joe Canciamilla. (LexisNexis)

<sup>41</sup> Skelton, George “Legislature Should Be Cut Back To Part Time.” *Los Angeles Times*, August 4, 2003, p. B5

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

Before discussing conclusions and addressing some possible issue areas for reform, it might be useful to set forth at least one “semi-scientific” approach to gauging the effectiveness of government. While quite beyond the scope of this paper, suffice it to say simply here that authors Ann O’M Bowman and Richard C. Kearney have outlined a potentially viable approach to measuring governmental capability.<sup>44</sup> They note that:

*...[S]tate government capability has at its core the selection and development of institutional arrangements to carry out a broad range of activities. Our definition includes three activities that are most salient for state government: (1) to respond effectively to change; (2) to make decisions efficiently, effectively (i.e. rationally) and responsively; and (3) to manage conflict. (emphasis added)*

The authors speculate that from the perspective of the 1971 assessment of state legislatures by the Citizens Conference on State Legislatures, which placed the newly-reformed California Legislature at the top of the list in terms of capability, one can only imagine how the Legislature might measure up against these same criteria today. If public confidence and attitude are any measure, the review would surely be unfavorable. In fact, one would be hard-pressed to give a high mark for the California Legislature’s “capability” on any of the criteria set forth above.

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<sup>44</sup> Bowman, Ann O’M and Kearney, Richard C. 1988. “Dimensions of State Government Capability.” *The Western Political Quarterly*, Volume 41, Issue 2: 343.

## **POST-REFORM OBSERVATIONS: THE CALIFORNIA CONSTITUTIONAL REVISION COMMISSION**

In 1993, the Legislature passed SB 16, a bill to create the California Constitution Revision Commission and to require it to submit a report to the Governor and the Legislature no later than August 1, 1995 “that sets forth its findings with respect to the formulation and enactment of a state budget and recommendations for the improvement of that process.” In the preamble to the legislation, the Legislature “finds and declares the following”:

(a) California’s budget process has become crippled by a complex entanglement of constraints that interfere with an orderly and comprehensive consideration of all fiscal matters. A complete review of the process by an independent citizens’ commission would provide the Legislature a basis for considering changes that would result in a more thoughtful and deliberative process.

(b) The legislative process has at times become mired in gridlock. Rivalries between the two houses of the Legislature and the executive branch have deterred the state’s ability to make significant policy changes in response to the changing times. Changes to existing government organizational structures may provide a more responsive and productive form of governance for California than the current system.

And finally

(c) California’s existing “system” of government is dysfunctional and does not work together sufficiently to achieve the public’s goals. The various components have no common conception of mission and often work at cross-purposes.<sup>45</sup>

It is interesting to note that this scathing critique is the product of Legislature itself, and not that of “removed” critics of the system. The Commission, consisting of 23 members, was duly appointed and began its mission. Two years later, although deeply divided on many issues, it made a number of recommendations concerning the legislative process and the Legislature itself:

- while preserving term limits, it recommended extending them to 12 years for each house;
- while maintaining the two-year session, the Commission recommended shortening each year’s session schedule to six (6) months (January to July 1). All legislative business is to be conducted during the six-month period with additional session time to consider vetoed measures. The second half of each year would be devoted to providing a public forum for the oversight and evaluation of state programs;

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<sup>45</sup> SB 16, Section 1, 1993

- shortening the time that a bill must be in print before it can be debated by the Legislature from the current 30-day period to 10 days, while requiring that it may not be enacted for at least 31 days;
- granting the Legislature a constitutional role in the review and rejection of administrative regulations (from the current process administered by the Office of Administrative Law in the Executive branch of state government);
- with the recommended increase in term limits to 12 years, the Commission recommended allowing the legislators to secure benefits under the State Public Employees' Retirement System (PERS) rather than be restricted to social security as effected by Proposition 140 (term limits);
- reforming the initiative process to secure more involvement of the Legislature by:
  - i) improving accountability and efficiency by providing greater voter participation in the process of amending the constitution (constitutional initiatives would be placed only on November ballots),
  - ii) increasing the accountability of the Legislature by involving them in the initiative process to ensure that measures are well-written and allowing legislative amendments of statutory initiatives after six years, and
  - iii) increasing the flexibility of the statutory initiative by providing a mechanism for evaluating effectiveness and changing the laws if necessary to allow the Legislature to add technical and clarifying changes to initiatives that have qualified for the ballot.
- the Commission also discussed the advisability of transforming the Legislature into a unicameral (one-house) body.<sup>46</sup>

Despite the dire situation expressed by the Legislature in the preamble of SB 16, but perhaps not surprisingly, none of the recommendations of the Commission were either adopted by the Legislature or placed before the voters.

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<sup>46</sup> Nebraska has the only unicameral legislature in the country, although the concept has been discussed by some observers as helping the legislative process in the "return to part-time" debate (See Sherry Bebitch Jeffe, "California Politics Can't Survive on a Steady Diet of Naysaying." *Los Angeles Times*, February 16, 1992 p. M6)

## OTHER STATE PROCESSES

While it is beyond the scope of this paper to provide an in-depth analysis of the legislative process in other states, the authors thought it might be helpful to highlight the process in a few - a couple of California's neighbors and a few others, distant but sophisticated in population and economy.

### CALIFORNIA'S NEIGHBORS

Nevada - the legislature meets every odd-numbered year for a 120-day session. The governor is required to submit his budget to the legislature two weeks prior to the beginning of the session, and may call special sessions (of which only 17 have been called in the State's 138-year history). Between regular sessions, the legislature has an ongoing staff agency known as the Legislative Council Bureau which encompasses fiscal, legal and research divisions providing support to the legislature as well as an audit function which audits the accounts of state agencies. A Legislative Commission of 6 senators and 6 assembly members supervises the Bureau and meets every few months when the legislature is not in session. A legislative interim finance committee composed of members of each house's fiscal committees makes fiscal decisions for the legislature when it is not in session. Every member of the legislature is involved in interim subcommittee work between sessions, and during session, the legislature typically passes several bills directing the Legislative Commission to study particular subjects and report to the full legislature upon reconvening.

Washington - the Washington legislature is a bicameral body that meets annually beginning on the second Monday of each year. In even numbered years, it meets for 60 days, and in odd-numbered years - the budget years - it meets for 105 days, although policy and budget are typically addressed in each year's deliberations. The governor is permitted to call special sessions of 30-days duration, and the legislature itself can call a special session with a two-thirds vote. When not in session, regular standing committees of each house research, debate and formulate policies that are then voted on by the full legislature in session. The committees are staffed by full-time, professional, non-partisan support personnel.

Oregon - the legislature, similar to Nevada, meets every other year.

### SOME OTHER STATES

Florida - a bicameral body that meets for a regular 60-day session each year, which begins on the first Tuesday after the first Monday in March. Like many other states, the Florida legislature utilizes standing committees during non-session periods. The committees are comprised of members as well as a full-time, non-partisan, professional staff and conduct research, hearings, and the like on specific legislative proposals to determine if they should be referred to the full legislature during regular session.

Virginia - the legislature meets annually for 60 days in even-numbered years and for 30-days in odd-numbered years, with a further option to extend annual sessions for a maximum of 30 days. The

governor may call specific-issue special sessions and a two-thirds vote of the legislature requires the Governor to call a special session. Brief reconvened sessions are held after adjournment of each regular or special session for the purpose of considering the governor's recommendations and vetoes.

Texas - The Texas State Legislature, composed of a House of Representatives and a Senate, meets in Regular Session for about five months every other year. Regular sessions begin at noon on the second Tuesday in January of odd numbered years and can last no more than 140 days, ending during the last week of May or the first week of June. Special sessions may be called by the Governor and can last up to 30 days. The Texas legislature has not met in Special Session since November 1992. The Texas Legislative Council assists the Texas Legislature by providing drafting, computing, research, and publishing services to the Legislature and legislative agencies. The Council consists of the Lieutenant governor, who serves as chair of the council, the Speaker of the House of Representatives, who serves as vice-chairman, the chairs of the Senate and House committees on administration, four other members of the Senate appointed by the Lieutenant Governor, and nine other members of the house appointed by the speaker.

## CALIFORNIA LEGISLATURE REFORM - CONCLUSIONS

*Any people anywhere being inclined and having the power have the right to rise up and shake off the existing government, and form a new one that suits it better. This is a most valuable, a most sacred rights - a right which we hope and believe is to liberate the world.*

- Abraham Lincoln

In this concluding portion of this memorandum, the authors thought it might be useful to briefly summarize some of the things that were discovered in efforts with the Claremont McKenna College students that have provided insight and research into this subject over the last four years.<sup>47</sup> While much interesting state legislature comparative work has been compiled over that time (legislator salaries and per diems, number of bills introduced and passed, etc.) and may be useful topics for further research in the future, the following matters seemed particularly interesting in the context of this paper and conference. No particular order is suggested.

- The total compensation for the entire 424-member State of New Hampshire Legislature is less than the total compensation package for one California Assembly member.
- A legislator in California represents more residents than any legislator in any other state. (Typical legislative districts in Texas are approximately 2/3 of a California district population, and California Senate districts are more than double any other legislative district in the nation.)
- California ranks well-below a number of other states in the number of bills and resolutions its Legislature actually enacts each year, but California legislators are, far and away, the most highly compensated in the nation. Moreover, the Legislature's costs have increased 13-fold (in current dollars) since 1966.
- California is one of only nine states that has a full-time Legislature, and, as noted, the Legislatures in some other rather sophisticated states (in terms of population and economy) do not seem to need a full-time legislature and actually do quite well in some instances with meeting only every other year.
- Despite constitutional deadlines, the Legislature has repeatedly failed to pass budgets on time. In fact, since 1966, it has only been on time in 81-82, 84-85, 85-86 and 86-87. In each of these years, the Governor has transmitted his budget in a timely manner (in January) to the Legislature, which, by mandate of the Constitution, must be presented as "balanced." No sanctions are imposed upon the Legislature for their failure to meet its June 15th

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<sup>47</sup> The authors wish to thank former Claremont McKenna College students and Rose Institute researchers Steve Mansell, Jessica O'Hare and Christopher Skinnell for their diligence and intelligent research and in assisting the authors with the final content of this paper.

deadline, and no requirement of the Constitution constrains the Legislature to pass a balanced budget. Thus, the political “heat” for tough choices in balancing any budget falls upon the Governor - conveniently letting the Legislature have over five months to deflect and obfuscate economic realities and priorities in the State.

- The Legislature engages in a sometimes-unnerving habit of moving “spot bills” through the “official” legislative process of policy and fiscal committee reviews only to have the bills profoundly amended in eleventh-hour floor or conference committee sessions. Some states preclude or limit this practice by constitutional restrictions ensuring that no bill may be amended during the legislative process so as to change its “original purpose.”

- Rather than working in their districts, legislators spend an inordinate amount of time in fund raising activities - much of it in Sacramento, and much of it among and with special interests.

Conclusions calling for a reform of the current legislative process seem unavoidable. Volumes of critical - and negative - observations about the California Legislature abound in the literature (only a fraction of which has been produced in this paper). Even if one is inclined to think these conclusions unfair, the observations of the body itself support the call for serious reform. The fact is that the Legislature is “broken” and needs to be “fixed.” SB 16 - the only comprehensive and candid action taken by the Legislature since the early 1970's to look at its effectiveness admits its huge problems and seeks solutions. To have ignored the recommendations of the very Commission it created to investigate its admitted problems adds to the impression that the institution requires fundamental reform - perhaps, as a start, a return to the “part-time” Legislature of pre-1966.

While the matters and conclusions set forth in this paper will be aired for public input and debate by the Rose Institute on February 20, 2004, the authors' believe that reforms, while perhaps clearly needed, also need to be carefully considered. Thus, for example, besides just calling for a return to the “part-time” body, other changes should also be considered: these might include the use of interim committees (which incidentally led directly to the 1966 reforms in California), and an enhanced role(s) for the Legislative Analysts Office and/or the Little Hoover Commission. And, given the sophistication and breadth of the California economy and population, calling for the body to be “part-time” seems, in the views of the authors, to convey the wrong message. Labels can be important, and what seems to be needed here is a more focused, capable and responsive Legislature, and not merely a “part-time” effort. While focus and responsiveness may, in turn, mean less time in Sacramento and more time either in home districts and interim committee activities, the re-instillation of the “citizen” legislator label for the members of the body seems also much in order.

Thus, the authors recommend that we find, through debate and careful consideration, the means to create a focused and responsive citizen Legislature for California. We clearly don't have one now.