

1996

Executive Summary Final Report and Recommendations to the Governor and the Legislature

California Constitution Revision Commission

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**CALIFORNIA CONSTITUTION
REVISION COMMISSION**

EXECUTIVE SUMMARY

**FINAL REPORT
AND
RECOMMENDATIONS
TO THE GOVERNOR
AND THE LEGISLATURE**

1996

CALIFORNIA CONSTITUTION REVISION COMMISSION
1994 to 1996



Dear Governor Wilson and
Members of the California Legislature:

Three years ago, the legislature and the governor agreed that a fundamental review of California government was imperative. The result was the creation of the 23 member California Constitution Revision Commission.

The Commission, consisting of gubernatorial and legislative appointments and selected state officers, met for the first time in May 1994. The governor and legislative leaders addressed the Commission and urged it to be bold and creative and to consider all relevant issues—however controversial. The Commission's recommendations reflect those admonitions. Thirty public meetings were held including four formal public hearings, plus five workshops and, along with the League of Women Voters, 39

community forums and video conferences. The Commission completed its work and went out of business on June 30, 1996. During the course of our work, it became very clear that we needed to change the way state and local governments operate.

For reasons the Commission quickly figured out, the status quo is no longer acceptable. Principal among the reasons is that the state's population with its varied public service needs continues to grow while the resources needed to provide services do not grow as fast. Neither the voters nor state and local officeholders are anxious to raise taxes.

The conclusion is obvious. We must find ways to provide needed services with existing resources. This means that government must operate more efficiently. The state's governmental system developed in the nineteenth century will not be adequate for the twenty-first century.

It is well known to each of you that many voters do not believe that their taxes are being used wisely or efficiently. And, perhaps equally important, it is not clear to our citizens who is responsible for public decisionmaking. With 7,000 units of local government in the state and at least 15,000 elected officials, it seems clear that California has considerably more government than it needs.

Accomplishing needed changes will mean upsetting public institutions, many of which were organized when the state's population was smaller and when public policy issues were far less complex.

Naturally, this is not an easy process. The Commission has made a series of recommendations that would begin this process of change. The advocates for the status quo are more numerous and better organized than those who will support these needed changes. As a consequence, it will be up to state and local political leaders to bring about a more workable and efficient system of government that will be appropriate for the next century.

It is for these reasons that the Commission urges the legislature to begin the process of reviewing our governmental and finance system and placing these issues before the voters. It is critical that we begin to require our governmental organizations to work better and more effectively for the citizens of California.

Sincerely,

A handwritten signature in black ink that reads "Bill Hauck". The signature is written in a cursive, slightly slanted style.

William Hauck
Chairman

THE CALIFORNIA CONSTITUTION REVISION COMMISSION

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Introduction

In a letter to James Warren on April 22, 1776, John Adams wrote, "All great changes are irksome to the human mind, especially those which are attended with great dangers and uncertain effects". Today, Californians are seeking change in the way their government operates. Voter approved initiatives of the last 20 years show a citizenry frustrated with their government. Proposing a new way to do things is never easy. The reality we do not like often looks better than a new way that might bring a better, yet uncertain future.

As we prepare for the next century, it is clear that the public agenda must include a review of the way our government works. Our current state and local government structure is the outgrowth of a constitution that was adopted in 1879. At that time, the state's population was about 800,000. Today, the population tops 32 million, and all of the forecasts show continued growth. As the state's population continues to grow and become more diverse, the private sector changes and adjusts to new environments and conditions. But our governmental structure has not changed. We have basically the same governmental structure we had in the nineteenth century and that government has grown significantly. Today, California has more than 7,000 units of government—including school districts, cities, counties and single purpose agencies—led by more than 15,000 local elected officials.

The year 2000 is approaching quickly. We must prepare for the next millennium and begin reviewing and revising our governmental institutions to meet modern conditions. This will not be simple. But despite the uncertainty that change brings, it is clear that changes in California's system of state and local government are necessary.

In 1994, in an effort to develop reasonable and workable ways to reform our government, the governor and legislature appointed the 23-member California Constitution Revision Commission. The Commission was asked to do the following:

- **Examine** the structure of state government and propose modifications that will increase accountability.
- **Analyze** the current configuration of state and local government duties and responsibilities and review the constraints that interfere with the allocation of state and local responsibilities.
- **Review** the state budgetary process, including the appropriate balance of resources and spending; the fiscal relationship between federal, state, and local governments; and the constraints and impediments that interfere with an orderly and comprehensive consideration of fiscal issues.
- **Consider** the feasibility of integrating community resources in order to reduce duplication and increase the productivity of local service delivery.

In May 1994, the California Constitution Revision Commission began holding meetings, hearings, and community forums across the state. The Commission received comments and proposals from both the general public and experts with knowledge of specific issues. Those comments focused on the problems with current government structures and procedures and possible solutions to alleviate those problems. After eighteen months of hearings and analysis, the Commission is proposing an agenda for changing the ways in which our state and local governments operate. The Commission's primary objectives in making these recommendations are as follows:

- Improve accountability and responsiveness of government at all levels from the state to the smallest community.
- Eliminate barriers to efficiency and increase flexibility.
- Assure that the state keeps its fiscal house in order by maintaining a balanced budget.

Indeed, change can be irksome, and we cannot completely predict the outcome. But we do know that the current system is in dire need of change. The Commission believes these recommendations represent an opportunity for positive change in California's governance system. Only through major changes can we hope to create a better system and a better state for all Californians.

Summary of Recommendations

I. Improving Accountability in State Government: Knowing Who is in Charge

California's state government structure is often described as "divided"—split up among a dozen directly elected public officials with a mixture of authority and few direct lines of accountability. The primary objective of the organization of executive functions should be to promote efficiency and responsiveness in the implementation of state policy. California should review its legislative structure, including the length of legislative terms (which are too short) and the length of legislative sessions (which are too long).

The authority of the executive and legislative branches is limited by the adoption of initiatives which are often enacted in response to legislative inaction. The initiative process, which was originally intended to break the grip of special interests on the legislative process, has been used in place of the legislature for major public policy decisions. Currently, there is a process for a public discussion of the legal and technical issues of proposed initiatives, but there is no formal process for revising qualified initiatives before they are placed on the ballot.

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1. *The governor and lieutenant governor should run on the same ticket and work as a team.*

The governor and lieutenant governor should run on the same ticket at the general election, and the governor should be authorized to appoint the lieutenant governor to an executive branch responsibility.

**The Executive
Branch: Improving
Responsiveness
and Efficiency**

2. *The superintendent of public instruction, treasurer, and insurance commissioner should be appointed by the governor instead of being elected.*

The offices of the superintendent of public instruction, the state treasurer, and the state insurance commissioner should be appointed by the governor, rather than being elective, and should be subject to legislative confirmation.

3. *Abolish the Board of Equalization, merge state tax administration functions, and appoint a tax appeals board.*

The Board of Equalization should be abolished. Its regulatory and executive functions, along with the functions of the Franchise Tax Board and other major revenue agencies should be combined into a Department of Revenue. Additionally, a state tax appeals body should

be established, appointed by the governor and subject to senate confirmation.

4. Shorten the terms of the University of California Board of Regents.

The term of office for members appointed to the University of California Board of Regents should be reduced from 12 years to 10 years. Reappointment should be prohibited unless the appointee has served less than a full term. The number of appointed members should be reduced from 18 to 15, and the superintendent of public instruction should be removed as a member of the board.

5. Shorten the terms and limit the functions of the State Personnel Board.

The probationary and classification functions of the State Personnel Board (SPB) should be transferred to the Department of Personnel Administration (DPA). Additionally, the terms of SPB members should be shortened from ten years to six years.

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**The Legislative
Branch: Improving
Efficiency and
Effectiveness**

6. Lengthen the limit on legislative terms of office to three four-year terms.

Legislative terms should be extended so that members can serve three four-year terms in each house. The terms would be staggered so that one-half of each house would be elected every two years. This provision would be implemented, so that no current member of the legislature would benefit.

7. Shorten legislative session to six months.

The length of legislative sessions for considering and acting on bills should be reduced from eight months to six months per year. Additionally, the legislature should be able to begin work on a bill ten days after the bill is introduced.

8. Give the legislature the power to veto administrative regulations.

The legislature should be given constitutional authority to review and reject administrative regulations.

9. Provide limited retirement benefits to legislators.

Under the revised term limits, legislators would be able to participate in the regular Public Employee Retirement System.

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10. To provide fuller public review, place constitutional amendments on the November ballot, except in special circumstances.

All proposed initiative constitutional amendments should be placed on the November ballot. Constitutional amendments proposed by the legislature may be placed on primary or special election ballots with a two-thirds vote of the legislature and the approval of the governor.

**The Initiative
Process: Improving
Public Review**

11. Allow amendment of statutory initiatives after six years.

Allow the legislature, with gubernatorial approval, to amend statutory initiatives after they have been in effect for six years.

12. Allow the legislature to add technical and clarifying changes to initiatives that have qualified for the ballot.

After an initiative has qualified for the ballot, the legislature would have a short period of time to hold hearings on the initiative and to adopt technical or clarifying amendments. If the proponents of the initiative agree, the measure would be submitted to the voters as revised by the legislature.

II. Improving the State Budget and Fiscal Process: Developing a Long-term Vision with Increased Fiscal Discipline

The state's budget process contains few constitutional standards. For example, there is no constitutional requirement that the state enact or maintain a balanced budget. Once a budget becomes unbalanced, there is no formal system for rebalancing the budget. An annual budget provides limited opportunities for establishing and implementing long-term strategic plans. Such plans would provide more direction for overall spending and facilitate the systematic evaluation of programs by the public, and increase accountability.

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Adopt a Long-term Vision and Have the Flexibility to Respond to Changing Conditions

13. *Require the governor to submit, and the legislature to adopt long-term goals for the state and performance measures for the budgetary process.*

The governor should be required to submit a four-year strategic plan to the legislature for deliberation and adoption. The plan would include:

- Policy and fiscal priorities
- Performance standards to gauge the productivity of state expenditures
- A capital facilities and financing plan
- A description of the programmatic relationship between the state and local governments

14. *Require a four-year capital outlay plan.*

A four-year capital outlay plan should be included in the state's long-range strategic plan proposed by the governor and approved by the legislature.

15. *Change the fiscal year from one to two years.*

The current annual budget process should be replaced with the enactment of a two-year budget.

16. *Provide a budget rebalancing mechanism.*

The constitution should provide a rebalancing process for the state budget. Midway through the fiscal period, the governor would be required to provide an update on the state's fiscal condition and recommend budgetary adjustments to accommodate any changes in revenue or expenditures.

Increase Fiscal Discipline

17. *Require the state's budget to be balanced.*

For each fiscal period, expenditures must not exceed revenue and reserves. After the enactment of the budget bill, no other bill could be enacted that caused expenditures to exceed estimated revenue and reserves.

18. *Require a three percent general fund reserve.*

The state budget should include a three percent reserve. Initially, the reserve would be phased in over several budget periods.

19. *Prohibit borrowing to finance a deficit.*

In order to prevent the state from borrowing to finance deficits, the state should be prohibited from borrowing from non-governmental resources across fiscal periods.

20. *Require a majority vote to enact the budget and budget-related legislation.*

A majority vote should be required for the adoption of the state budget, the budget implementation bill, and any bill enacted to rebalance the budget.

21. *Allow for multiple subject budget implementation legislation.*

Authorize the legislature to include in a single implementation bill, any statutory changes needed to implement the budget bill.

22. *Link budget passage to salaries.*

The constitution should require the budget to be passed by the prescribed deadline or the governor and the legislature forfeit their pay.

III. K–12 Education: Focusing Accountability at the State and Local Level

The governance structure of elementary and secondary education is divided among several state, county, and local authorities. Lines of accountability are blurred. Although elementary and secondary education are a shared local and state responsibility, local K–12 districts have little authority to raise taxes to provide additional funds for education. Additionally, cities, counties, and many special districts provide services that affect a child’s education and health, yet there are few formal incentives for the collaborative delivery of services that might lead to more efficiency and cost savings.

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**Identifying Who
is in Charge**

23. *Make the governor responsible for K–12 education.*

The governor should appoint the superintendent of public instruction. The existence, roles, and responsibilities of the superintendent of public instruction should be outlined in statute rather than in the constitution. The governor should be responsible for the state’s role in the elementary and secondary public school system. The office of the superintendent of public instruction should be made appointive, rather than elective and subject to senate confirmation.

24. *The role of the state Board of Education should be determined by statute.*

Constitutional references to the state Board of Education should be deleted. Its roles and responsibilities should be determined by statute.

25. *The role of county superintendents of schools and county boards of education should be determined locally or by statute.*

Constitutional references to county superintendents of schools and county boards of education should be deleted. School districts could organize areawide services in a manner that most effectively and efficiently meets local and areawide needs.

26. *Establish an accountability system for public schools.*

An accountability system including standards for public schools should be adopted by the legislature.

27. Maintain Proposition 98 and provide additional flexibility to the legislature and the governor.

The statewide funding guarantee for K–12 education should be maintained. Additionally, the legislature and governor should be given greater flexibility in determining how to appropriate additional funds to K–12 education in excess of the minimum funding guarantee. Specifically, education spending in excess of the guarantee would be for one-time purposes, unless the legislature and the governor chose to increase the base for the funding guarantee.

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28. Increase local control and authority.

Local control and the authority of local school boards should be increased.

29. Give communities the power to supplement revenue to local schools.

Communities should have the power to raise revenue in addition to the state guarantee. Unified K–12 districts could increase the property tax with a two-thirds vote of the voters. All districts within a county could raise additional revenue by increasing the sales tax with a majority vote.

30. Capital outlay planning and development should involve all local agencies.

School districts should participate with other public agencies that provide services and infrastructure in the territory served by the school district. A multi-agency capital facilities planning process would be established as part of the Community Charter (see Recommendation 33). If a proposed project is consistent with a multi-agency plan, the vote required for general obligation bonds is a majority of voters.

31. Community colleges should be part of higher education.

Community colleges should be removed from the Proposition 98 funding guarantee and be part of the funding of higher education.

Enhancing Local Control in the Management and Financing of K–12 Education

IV. State-Local Relations: Straightening Out the Responsibilities of State and Local Government

The assignment of governmental responsibilities between the state and various local governments, particularly counties, is fragmented and confused. The absence of clearly assigned responsibilities for operating and financing government services has weakened the accountability of government officials to the public. Functions that are clearly state (e.g., higher education) or clearly local (e.g., library services) are not the problem. Rather, functions shared by state and local government produce the most confusion. Counties play a dual role: they are considered local government for providing municipal services outside of cities, and they are treated as agents of the state for state purposes. Often, a county must use the local tax base intended to support local services to fund programs over which the county has little programmatic or operational control. Finding the right mix of program responsibilities and financing for shared programs must be a high priority for the legislature and the governor.

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Changing the State-Local Relationship: Knowing Who is in Charge

32. *Develop and adopt a state-local realignment plan.*

The governor would be required to submit a State-Local Realignment Plan proposing the alignment of state and local services. A plan must be adopted by the legislature. The state-local relationship, along with the strategic plan, would be reviewed and updated at least every four years. The plan should provide assignment of responsibilities for program policy authority, administration, and finance.

V. Strengthening Local Government

The present structure of 7,000 local government bodies (counties, cities, special districts, and school districts) has resulted in a confusing array of governmental entities. Many of these entities have overlapping—if not conflicting—duties and responsibilities. While there is a general public policy interest in improving and streamlining local governance and service delivery and increasing local accountability, local agencies have few tangible incentives for reform. The existing local government structure and division of governmental responsibilities were conceived during a time in the state’s history when there were fewer people and fewer demands for services. Moreover, the current diversity of California’s regions makes it difficult for a uniform approach to local governance to be responsive to every area’s needs.

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33. Evaluate local governance structures and develop a community charter.

Each county (or multi-county area) would be required to initiate a process to examine their current governance structure, methods of service delivery, and assignment of responsibilities and powers. From this examination, each area would develop a Government Services Plan for the area covered by the charter. The plan could also include subcounty areas. A Home Rule Community Charter would then be developed to implement the Government Services Plan. Citizens in each area would vote on the Home Rule Community Charter. The countywide charter and/or sub-county charters would include the following components:

**Strengthening Local Government:
Clarifying Roles and Enhancing Collaboration**

- Identify the territory to be covered by the charter
- Provide methods for reducing the number and cost of local government
- Allocate local services and regulatory responsibilities
- Provide for the organization and reorganization, as well as the boundaries, of local agencies
- Develop a collaborative capital improvement program process for all of the agencies covered by the community charter
- Establish a process for the allocation of general purpose state-authorized local revenue

The provisions of the Home Rule Community Charter could not abrogate or interfere with the power provided to charter cities by the constitution. All local government agencies will be required to disclose their revenue and expenditures in a uniform manner as required by statute.

34. *Vote requirements for local taxes and general obligation bonds.*

The authority to raise taxes would be subject to a majority vote of the governing board and a majority of the voters *unless* the charter provided for a higher threshold. This would apply to all locally levied taxes except the ad valorem property tax which would continue to be limited by Proposition 13. Additionally, general obligation bonds for projects consistent with a multi-agency capital outlay plan for the area covered by the charter could be approved by a majority vote of the voters.

35. *Strengthening home rule.*

The home rule provisions of the constitution should be strengthened. One of the benefits for general law cities, counties, and other local entities to participate in the Home Rule Community Charter is that home rule powers, previously limited to charter cities would be extended to agencies covered by the new charter. This provision will strengthen local governments' ability to govern local affairs. Additionally, once the charter for a given area is adopted, the state would be prohibited from reallocating the non-school share of the property tax or other general purpose local taxes allocated by the charter.