



## DEPARTMENT OF PERSONNEL ADMINISTRATION ARNOLD SCHWARZENEGGER, Governor

### MEMORANDUM



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**SUBJECT:** ***Authority of the California Citizens Compensation Commission to Reduce Elected Officials' Salaries During Their Term in Office***

#### ISSUE

- I. Does Article III, Section 4 of the California Constitution ("Section 4") allow the California Citizens Compensation Commission ("Commission") to eliminate the salary increases gained by elected officials after they begin their term in office? For example, can the Commission increase the salary for an elected official by 5% in one year, and then reduce the salary by the same 5% the next year?

#### BRIEF ANSWER

No. Section 4 prohibits any and all reductions in salary during an elected official's term in office; it does not merely refer to the pay received by the official at the beginning of his or her term.

#### ANALYSIS

"Generally, in interpreting legislation, [courts] first look to the plain or ordinary meaning of the language used to determine the Legislature's intent, unless the language is uncertain." (*Green v. Workers' Comp. Appeals Bd.* (2005) 127 Cal. App. 4th 1426, 1435 (citing *DuBois v. Workers' Comp. Appeals Bd.* (1993) 5 Cal.4th 382, 387; *Moyer v. Workmen's Comp. Appeals Bd.* (1973) 10 Cal.3d 222, 230)).

The plain language of Section 4 states, "Except as provided in subdivision (b), salaries of elected state officers may not be reduced during their term of office. Laws that set these salaries are appropriations." The ordinary meaning of the term "salary" refers to an individual's current salary, it does not pertain to an individual's salary at some previous point in time (e.g., when he or she was elected to office). Because the use of the term salary is unqualified and unrestricted, it means the current monthly salary earned by an elected official.

Subdivision (b) of Section 4 does provide an exception to the rule stated above. Subdivision (b) reads as follows:

(b) Beginning on January 1, 1981, the base salary of a judge of a court of record shall equal the annual salary payable as of July 1, 1980, for that office had the judge been

elected in 1978. **The Legislature may** prescribe increases in those salaries during a term of office, and it may **terminate prospective increases in those salaries at any time during a term of office**, but it shall not reduce the salary of a judge during a term of office below the highest level paid during that term of office. Laws setting the salaries of judges shall not constitute an obligation of contract pursuant to Section 9 of Article I or any other provision of law. (emphasis added).

Thus, subdivision (b) allows prospective salary increases earned during the term of office to be terminated. However, Subdivision (b) applies only to judges, not other elected officials. The use of the phrase "those salaries" refers to judge's salaries which are mentioned in the preceding sentence.

The fact that subdivision (b) applies strictly to judges is made even more clear in the legislative history for Section 4. In *Olson v. Cory* (1982) 134 Cal.App.3d 85, the court quoted the legislative history as follows:

'This measure [the measure adding subdivision(b) to Section 4] would amend the State Constitution to . . . eliminate . . . the additional pay being received by each **judge** whose base salary was increased as a result of the Supreme Court's ruling. . . . It would authorize the Legislature to terminate expected increases in **judges' salaries** during their term of office, **provided that such action does not cause a reduction in the actual salaries paid to judges** during their term. It would specifically provide that salaries of judges are not considered an obligation of contract.' (*Id.*, at 91-92, emphasis added)

The legislative history clearly indicates that Subdivision (b) refers to judges only.

In addition, the legislative history also makes clear that the power to reduce prospective increases does not pertain to increases in salary that the judge is "actually" receiving. Rather, the language only applies to raises that are merely expected or unrealized. Therefore, even if one were to able to expand the application of subdivision (b) beyond judges to other elected officials in general, it would not authorize the termination of increases actually being paid to those elected officials.

No other basis exists in the law to support the Commission's power to reduce salaries during an elected official's term.

## CONCLUSION

Section 4 prohibits any and all reductions in salary during an elected official's term in office; it does not merely refer to the pay received by the official at the beginning of his or her term. The exception in Section 4 that applies to judges, does not apply to other elected officials, nor does it apply to salary increases which the judges actually receive.