

## RESOLUTION 06-01-2007

### DIGEST

#### Adjustments for Inflation: Periodic Adjustments

Amends Government Code sections 8289 and 8293 to authorize the California Law Revision Commission to recommend changes to fixed monetary amounts in various statutes.

### RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

#### History:

Similar to Resolution 05-12-2006, which was withdrawn.

#### Reasons:

This resolution amends Government Code sections 8289 and 8293 to authorize the California Law Revision Commission to recommend changes to fixed monetary amounts in various statutes. This resolution should be approved in principle because numerous provisions of California law include fixed dollar amounts which are long outdated.

Dollar amounts in various statutes were chosen at the time of enactment because those amounts satisfied a specific purpose, such as minimum requirements for bonding, capitalization, insurance, or compensatory payments. However, these statutorily fixed dollar amounts are not customarily reviewed or updated for extended periods of time, and inflation thus neutralizes the intent of the original dollar amounts. For example, the statutory minimum for automobile insurance has not changed since 1967. The Consumer Price Index shows that the price level at the end of 2006 was 1.29 times the level in 1996, 1.84 times the level in 1986, 3.54 times the level in 1976, 6.23 times the level in 1966, and 7.42 times the level in 1956.

The Commission should review the fixed dollar amounts at least every ten years to accomplish the statutes' originally intended purpose. Although doing so would require a tremendous effort and substantial time and resources on the part of the Commission, it is an effort worth performing.

### TEXT OF RESOLUTION

RESOLVED that the Conference of Delegates recommends that legislation be sponsored to amend Government Code sections 8289 and 8293 to read as follows:

- 1 §8289
- 2       The commission shall, within the limitations imposed by Section 8293:
- 3       (a) Examine the common law and statutes of the state and judicial decisions for the
- 4 purpose of discovering defects and anachronisms in the law and recommending needed
- 5 reforms.
- 6       (b) Receive and consider proposed changes in the law recommended by the
- 7 American Law Institute, the National Conference of Commissioners on Uniform State Laws,
- 8 any bar association or other learned bodies.

9 (c) Receive and consider suggestions from judges, justices, public officials, lawyers,  
10 and the public generally as to defects and anachronisms in the law.

11 (d) Recommend, from time to time, such changes in the law as it deems necessary to  
12 modify or eliminate antiquated and inequitable rules of law, and to bring the law of this state  
13 into harmony with modern conditions.

14 (e) Review, at least once every seven years, all California statutes that contain  
15 monetary amounts to: ascertain which provisions have been affected by inflation; determine  
16 which provisions should be modified to neutralize the effect of inflation; and make  
17 recommendations as to how each such provision should be amended to neutralize the effect  
18 of inflation. In conducting its review, the commission shall commission studies that are  
19 relevant to the provision of law being studied. In formulating its recommendations the  
20 commission may consider factors other than inflation, including, without limitation, similar  
21 amounts set by other states, and the need to remain competitive with other states in some  
22 areas like taxation. This every seven year is mandatory without regard to whether the  
23 commission includes this topic in the calendar submitted to the Legislature pursuant to  
24 Section 8293 of this code, or whether the Legislature approves a calendar including the topic  
25 provided for in this subsection, or whether the Legislature otherwise directs the commission  
26 to include the topic provided for in this subsection.

27

28 §8293

29 (a) The commission shall file a report at each regular session of the Legislature that  
30 shall contain a calendar of topics selected by it for study, including a list of the studies in  
31 progress and a list of topics intended for future consideration. With the exception of the  
32 mandatory decennial study referred to in Section 8289(e) of this code, the ~~The~~ commission  
33 shall confine its studies to those topics set forth in the calendar contained in its last  
34 preceding report that have been or are thereafter approved for its study by concurrent  
35 resolution of the Legislature. The commission shall also study any topic that the Legislature,  
36 by concurrent resolution or statute, refers to it for study.

37 (b) Immediately after this amendment is enacted, the Commission's calendar of  
38 topics shall include the mandatory every seven year study referred to in Section 8289(e) of  
39 this code.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Beverly Hills Bar Association

#### STATEMENT OF REASONS

Existing Law: Many statutes and regulations incorporate into their essential terms fixed dollar amounts, but do not adjust for the effects of inflation, notwithstanding the existence of both healthy and unhealthy levels of inflation in the California economy and the larger U.S. Economy. As a result of both types of inflation, dollar amounts fixed in statutes and regulations tend to deteriorate in real purchasing power terms. With the exception of annual adjustments to graduated tax brackets, few, if any, systematic efforts exist to neutralize the effects of inflation upon California law.

This Resolution: This resolution would give the California Law Revision Commission (the “Commission”) the authority and responsibility for reviewing and studying California law and making recommendations to the Legislature and the Governor as to which fixed monetary amounts should be changed to offset the effects of inflation upon such amounts.

The Problem: Many provisions of California law incorporate fixed dollar amounts, or minimum amounts, to implement their essential purpose. As prices increase in our economy due to inflation, California statutes that depend upon those dollar amounts to achieve their essential purpose tend to lose their regulatory impact, or in some cases become punitive. Perhaps the most notable example of this effect is “bracket creep”, which causes real taxation to increase over time, without the enactment of new taxes. Without indexing, as incomes rise with inflation, taxpayers are required to pay greater aggregate percentages of their income to the government without earning more (in inflation-adjusted terms). To neutralize this pervasive and natural effect of inflation, both federal and state income tax brackets are now adjusted annually. Graduated tax brackets are not the only example. Additional examples include: (i) statutory minimum insurance requirements; (ii) minimum bonding requirements, many of which are designed to afford protection to consumers; and (iii) minimum capitalization requirements, many of which are designed to afford financial stability to certain types of institutions like banks and insurance companies.

Even during periods of moderate inflation (like the recent period), systematic review is necessary for various reasons. First, many amounts fixed in statutes are not reviewed for extended periods of time. Statutory minimums for automobile insurance have not been changed since 1967, approximately 40 years ago. Whatever purpose they serve, it is likely not the originally intended one. Second, even during moderate periods of inflation, inflation has a pervasive effect. The price level at the end of 2006 was 1.29 times the level that existed in 1996, and 1.84 times the level that existed in 1986, notwithstanding the low and moderate levels of inflation that existed during those periods. Relative to 1976, 1966 and 1956, the multipliers are 3.54, 6.23 and 7.42, respectively.<sup>1</sup>

This resolution seeks to systematically address insidious problems caused by years of inflation by requiring the California Law Revision Commission to review and recommend adjustments to those effects and problems every 10 years. To help preclude myopia on the Commission, the Commission may consider other factors, like competitiveness with other states.

## IMPACT STATEMENT

This resolution does not affect any other law, statute or rule.

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RESPONSIBLE FLOOR DELEGATE: Mark J. Pearl

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<sup>1</sup> CPI Calculator, Federal Reserve Bank of Minneapolis  
<http://minneapolisfed.org/Research/data/us/calc/index.cfm>

## **COUNTERARGUMENT**

### **SAN DIEGO COUNTY BAR ASSOCIATION**

This resolution would require the California Law Revision Commission (CLRC) to perform a decennial review of all California statutes that contain monetary amounts to determine if those amounts should be adjusted for inflation. The process would overwhelm the resources of the CLRC and fails to consider that many dollar amounts are the results of legislative policy determinations or compromises which are not readily susceptible to an automatic cost of living increase.

A preliminary search revealed there are more than 10,000 California statutes which contain a dollar amount. While the import of the argument in favor of the resolution is that the amounts should be adjusted for inflation, in fact many dollar amounts reflect policy determinations. The CLRC would be forced to do a section-by-section analysis of each statute to determine if the amounts should be increased. Different considerations are involved with criminal penalty amounts, taxes, jurisdictional amount and vehicle registration fees. Because some of these outcomes have political consequences, an omnibus bill would be a political minefield.

Many inflation-driven amounts, such as fees charged by government agencies are already addressed by those concerned when it becomes important enough, with them sponsoring legislation.

The CLRC is a small state agency which currently employs four attorneys. It assists the Legislature in keeping the law up to date by identifying major policy questions for legislative attention, gathering the views of interested persons and organizations, and drafting recommended legislation. A decennial review of all statutes with dollar amounts would become THE agenda of the CLRC, to the detriment of other policy issues that need to be addressed.

This resolution is a modestly changed version of last year's resolution 5-12, which was withdrawn in the face of widespread opposition. The San Diego County Bar Association suggests this resolution should also not be approved.