

The Watchdog
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December 3, 2003

Arnold Schwarzenegger
Governor of California

Re: Proposal to Reduce Waste/Abuse in California's Budget

Dear Governor Schwarzenegger:

I recently moved to the Sacramento area as well, and I certainly wish you all success in your efforts toward putting an end to the waste and abuse of taxpayer funds. Interestingly enough, your stated goal in cutting such waste parallels the efforts I have made in Ohio for the past decade, and continue to make now here in California with regard to the California Judiciary and other agencies so infiltrated by the lack of common ethics.

During the past several days, articles appearing in the LA Times and OC Register have exposed to one degree or another the outrageous abuses involving travel expenses billed by judicial officers and/or their staff. Under the guise of attending judicial conferences and/or "continuing legal-education classes," many of our judges are, in reality, focused solely on "hosing" the public by embarking on taxpayer-funded vacations held at luxurious resorts in exotic venues throughout the United States and abroad.

Unfortunately, this type of conduct is not limited to the Judiciary. In fact, the Sacramento Bee published an extended expose on the obscene abuses involving members of water boards throughout the State. My limited review of public records to date shows other government employees find it acceptable to stick-it-to-the-taxpayers so to speak by billing tens of thousands of dollars under the guise of attending so-called conferences at exotic venues such as Tahoe, Vegas, Palm Springs and Carmel.

It has become evident that many judges and other public officials believe they have been endowed with a God-given right to "pork out" at the "public trough" as they consistently embark on hosing the public for wages and/or expenses that could never be honestly justified. Moreover, my cursory review of the use of retired visiting judges here in California clearly indicates that abuses are rampant. In fact, we would be more accurate if we referred to the visiting-judge system as simply "Judicial Welfare."

After personally investigating and filing repeated complaints addressing abuses involving retired judges in Ohio, and after assisting the media in extensive coverage of the facts, the Ohio Supreme Court changed the manner in which retired judges were paid, which should result in an annual savings to the State of approximately \$2 million. My efforts also led to positive changes in travel rules, which will result in an additional annual savings approaching the mid six figures.

The annual cost to Californians for the use of retired judges is approximately ten times that of Ohio; therefore, I believe that the annual savings from such a focus here could easily approach \$10-12 million. Annual savings on abuses involving travel throughout the State system could just as easily climb beyond \$30 million. In addition, the annual savings from reducing a bloated and unjustified judiciary could easily result in annual savings of about \$200 million. (See attached appendixes)

Over the past ten years, Governor Schwarzenegger, I have developed a methodology in reviewing expenditures that uncovers abuses and/or outright fraud in a minimal amount of time. After decades of abuse, those holding sufficient power in Ohio finally changed the rules many judges were "loopholing" to engage in "wholesale bilking of the public." This unnecessary, but quite intentional, "foot-dragging cost Ohio taxpayers at least \$10 million.

It is my intent to achieve the same outcome here in the state of California, in terms of inducing the same type of policy changes on behalf of California taxpayers as I effectuated in the state of Ohio. As school funding and other desperately needed state support is slashed from the California budget, there can be no excuse for allowing this type of frivolity to continue. I trust you agree.

I stand ready to offer any assistance to you that I can in your efforts to rid this state of such waste and abuse wherever it can be found. The only possible delay in lending such support is the anticipated reluctance of some public officials to provide me with unfettered access to the public records required to continue my work. Working from your office could only serve to minimize any such barriers and maximize a fruitful outcome for the state and its people.

In following your campaign for Governor, I am confident that you possess both the will and fortitude to so act. I am just as confident that, working together, we could make such a significant difference in the manner in which taxpayer funds are expended here in California that yet another precedent will be set for the rest of the nation, not to mention a huge difference in the amount of expendable funds for far loftier pursuits such as our children's education.

Thank you for your time and consideration. I realize this is going to be a tremendously busy time for you. All the more reason to have a strong supporter with no ulterior motives behind you, already silently moving to effectuate your goals for California voters and taxpayers.

I ask for nothing more, but an office (free coffee/parking would be appreciated) from which to work from for two months to prove to you the progress that can be made in rapidly uncovering abuses and vastly decreasing our budgetary crisis solely by demanding honesty from those who claim to be our servants. It is high time that public officials realize that they are our servants and they sit at our pleasure.

I would also be more than happy to meet with you and/or your designated representative in order to clarify the cost savings alluded to herein. Such savings could occur in other state agencies along the same parameters as I have detailed regarding abuses and waste in California's judiciary.

The voracious appetites that many arrogant government officials have and continue to exhibit for "public pork" must come to a screeching halt. The time to remove their collective snouts from the "public trough" has arrived and I am confident that working together we can make a significant difference towards that end.

Lastly, find attached hereto several appendixes (A-D) with tables that set forth waste and abuse involving the judiciary in an annual amount exceeding \$200 million. This is but a modest beginning, but at least it's a beginning, Governor.

Respectfully yours,

David Palmer
The Watchdog

cc: Ms. Donna Arduin, Finance Director

APPENDIX “A”—SUPERIOR COURTS

SUPERIOR COURTS V. OHIO CASELOADS—2001

Ohio = Common Pleas and Municipal Court Caseloads

State	Judges	New Filings	New Filings Per Judge	Excess Judges	Excess Costs
OH	604 ¹	3,053,672	5,056		
CA	2,035 ¹	8,112,899	3,987	430 ²	\$172 mil.

¹ Includes retired judge days.

² Based on Superior Court Judges working same caseloads as Ohio judges.

Would California’s taxpayers be too demanding to expect their judges to carry as heavy a workload as their counterparts in Ohio?

COMPARISONS OF OHIO & CALIFORNIA COUNTIES—2001

California Superior Courts
Ohio Common Pleas and Municipal Courts

County	Judges	New Filings	Filings Per Judge	Excess Judges	Excess Costs
Alameda	85	336,965	3,964	49 ¹	\$19.6 mil ²
Hamilton	36	339,073	9,418		
Santa Clara	89	350,322	3,936	53 ¹	\$21.2 mil ²
Franklin	37	361,418	9,768		
San Francisco	65	192,217	2,947	40 ¹	\$16.0 mil ²
Lucas	25	188,797	7,522		
Fresno	44	167,397	3,720	22 ¹	\$ 8.8 mil ²
Summit	22	158,169	7,189		
Contra Costa	45	189,629	4,214	18 ¹	\$ 7.2 mil ²
Montgomery	25	179,086	7,163		
El Dorado	9	34,860	3,873	5 ¹	\$ 2.0 mil ²
Wood	4	35,199	8,800		
San Diego	153	635,244	4,152	71 ¹	\$28.4 mil ²
Cuyahoga	65	574,024	7,776		
				258	\$103.2 mil

¹ Figure arrived at by taking CA new filings and dividing by OH judicial filings.

² Estimated annual cost of one judgeship is \$400,000.

APPENDIX “B”—SUPREME COURT

SUPREME COURT EXPENDITURES-2002

The vast majority of state supreme courts employ law clerks to assist the justices. The average salary for law clerks is about \$50,000. According to the records of the California Legislative Counsel Bureau, the California Supreme Court employs and expends the following amounts per annum:

Position/Title	Salary	Total Paid	Positions	Average Staff Salary	Positions Per Justice
Chief Supervising Atty.	\$156,072	\$ 156,072	1		
Prin. Atty. Chief Justice	\$141,048	\$ 141,048	1		
Chief Supervising Atty.	\$141,048	\$ 141,048	1		
Managing App. Atty.	\$134,352	\$ 268,704	2		
Supervising Sp. Atty.	\$132,190	\$1,057,527	8		
Lead S. Ct. Atty.	\$121,860	\$ 243,720	2		
Sp. Ct. Atty-Range F	\$121,277	\$2,486,183	20.5		
Sp. Ct. Atty-Range E	\$111,790	\$ 391,266	3.5		
Senior Sp. Ct. Atty.	\$112,336	\$3,257,749	29		
Sp. Ct. Atty-Range D	\$ 96,213	\$ 673,492	7		
Sp. Ct. Atty-Range D	\$ 90,754	\$ 90,754	1		
Sp. Ct. Atty-Range C	\$ 88,250	\$ 88,250	1		
Sp. Ct. Atty-Range C	\$ 81,864	\$ 163,729	2		
Sp. Ct. Atty-Range B	\$ 69,016	\$ 138,033	2		
Sp. Ct. Atty-Range A	\$ 50,046	\$ 50,046	1		
Sp. Ct. Atty-Range A	\$ 48,535	\$ 97,071	2		
Grad. Legal Assistant	\$ 47,268	\$ 47,268	1		
		\$9,491,960	85	\$1,355,994	12.14

The table below sets forth the Ohio Supreme Court’s annual costs and projected savings via the implementation of cost saving measures comparable to Ohio’s annual costs.

State	Position/Title	Salary	Total Paid	Positions	Position Per Judge	Cost Per Judge
Ohio	Law Clerk	\$50,000	\$950,000	19	2.7	\$135,714
Ohio	Magistrates	\$70,000	\$490,000	7	1.0	\$ 70,000
			\$1,440,000	26	3.7	\$205,714

Admittedly, the cost of living in California is higher than Ohio, however, it isn’t 2 to 3 times as high. At best it may be 30% higher. Therefore, an annual reduction of \$35,000 per the 85 attorney positions on the California Supreme Court would result in savings of about **\$3 million**.

APPENDIX “C”—APPELLATE COURTS

There are 105 appellate judges in California. In most states appellate courts, judges are assigned two law clerks. In 2001, there were **15,842** new filings in the District Appellate Courts, which equates to **151** filings per judge. The table below details the annual cost of the staff attorneys (law clerks) employed by California’s appellate courts.

Position/Title	Salary	Total Paid	Positions	Atty Per Judge	Cost Per Judge
Managing App Atty.	\$127,654	\$ 765,924	6		
Supervising App Atty.	\$120,305	\$ 601,524	5		
Lead App Atty.	\$120,709	\$10,501,683	87		
Senior Appellate Atty.	\$110,311	\$23,937,517	217		
App Atty. Range D	\$ 88,902	\$ 3,289,339	37		
App Atty. Range C	\$ 73,204	\$ 658,836	9		
App Atty. Range B	\$ 78,806	\$ 630,445	8		
App Atty. Range A	\$ 54,359	\$ 407,693	7.5		
Law Clerks/Interns			0		
		\$40,792,961	376	3.6	\$388,504

Now, let’s compare the above with Ohio’s Appellate Courts, which has 68 judges. In 2001, there were **10,840** new filings, which equates to **159** per judge.

Appellate District	Law Clerk Salary	Total For Law Clerks	Atty/Mag Salary	Cost Per Judge
1 st —Cincinnati	\$50,000	\$600,000 (12)	\$65,000	\$110,833
2 nd —Dayton	\$50,000	\$500,000 (10)	\$60,000	\$112,000
3 rd —Lima	\$50,000	\$400,000 (8)		\$100,000
4 th —Circleville	\$50,000	\$400,000 (8)	\$60,000x2	\$130,000
5 th —Canton	\$50,000	\$600,000 (12)		\$100,000
6 th —Toledo	\$52,000	\$620,000 (12)	\$60,000	\$113,333
7 th —Youngstown	\$50,000	\$400,000 (8)		\$100,000
8 th —Cleveland	\$54,885	\$1,317,240 (24)	\$63,026x6	\$132,500
9 th —Akron	\$50,000	\$500,000 (10)		\$100,000
10 th —Columbus	\$52,000	\$936,000 (18)	\$65,000x4	\$149,500
11 th —Warren	\$50,000	\$500,000 (10)	\$65,000	\$113,000
12 th —Middletown	\$46,994	\$375,952 (8)		\$ 93,988
Ohio		\$6,749,192 (136)	\$1,020,000	\$114,253

The waste and abuse by the appellate courts is obvious. The average cost of attorneys in California’s appellate courts is \$108,492 in comparison to \$57,126 in Ohio. The cost of living differential does not justify the almost doubling of wages in California. Adding 30% to Ohio’s average to cover higher living costs in California, would equate to an average salary of \$74,240, which would result in a reduction of \$34,252 per position or annual savings on 376 positions of **\$12,878,752**.

Obviously, it would take frivolity to new heights for anyone to suggest that appellate cases in California are more complicated than those filed in Ohio. What we have here are judicial positions that are in reality nothing more than part-time jobs. The heavy-lifting of researching the law and drafting opinions is being performed in California by overpaid attorneys who are being paid two to three times what law clerks/staff attorneys in other states are paid to perform the same services.

Because Ohio and California Appellate Court judges handle about the same annual caseloads, there can be no justification for the employment of 376 staff attorneys to handle 15,800 new filings when 136 law clerks/staff attorneys in Ohio handle 10,500. With California's filings at about 50% more per annum than Ohio's, appellate courts should be able to operate efficiently with 204 staff attorneys, which would result in a reduction in staff of 172. With retirement and other benefit costs added to the average salary of \$108,492, a reduction of 172 staff would save the taxpayers about **\$21.6 million per annum**. Add to this a reduction of \$34,252 for the remaining 204 staff attorneys and the taxpayers would realize savings of an additional **\$6.9 million for a total of \$28.5 million per year**.

APENDIX “D”—RETIRED JUDGES

The abuses visited upon the taxpayers of California via the use of retired visiting judges are obscene. Retired judges are paid a daily (per diem) stipend of about \$513 regardless of the amount of time they work on any given day. In addition to this daily stipend, many retired judges receive annual state (CALPERS) retirements of \$85,000 or more per annum. Some also receive deferred state retirement benefits, and some also receive Social Security benefits. Many states prohibit a retired judge from receiving retirement and per diem payments in excess of what an elected judge earns, however, California isn't one of them. In some instances, retired judges are paid nearly twice the amount an elected judge is paid.

The annual cost in per diem payments alone in 2001 was 33,237 days at \$513, which equals almost \$17 million, and this figure does not include travel expenses, retirement payments, and/or staff costs, etc. This annual Judicial Welfare program likely costs the taxpayers in excess of \$20 million per year.

While residing in Columbus, Ohio over the past several years, I spent a great deal of time investigating and reporting on abuses involving the use of retired judges. As a result of my efforts the annual cost of this unjustified program went from \$3.5 in 2001 to \$1.7 in 2002. Had the Ohio Supreme Court taken remedial steps as I suggested in 1998, Ohio's taxpayer's would have saved at least \$6 million prior to 2002.

In early 2002, Chief Justice Thomas Moyer of the Ohio Supreme Court changed the rules that previously allowed a retired judge to collect a full day's pay (\$412) for working as little as 30 minutes. Rules were also changed to prohibit retired judges from billing and collecting two full day's wages on the same day. Retired judges are now limited to eight hours per day. Additionally, retired judges in Ohio are now paid on an hourly basis and are required to submit a detailed accounting of the work they claimed to have performed.

A changing of the rules here in California in accordance with Ohio's rule changes would or should result in annual savings to the taxpayers of at least **\$10 million**.

Lastly, I must give credit to Chief Justice George for having the courage to have recently incorporated rules prohibiting retired judges from acting as rent-a-judges while accepting assignments in California's courts, which he rightfully concluded constituted the appearance of a conflict of interest. Based on Chief George's actions, I have recently asked Chief Justice Thomas Moyer of the Ohio Supreme Court to follow suit, which I am hopeful he will do in a timely fashion. Hopefully, Chief Justice George will join us in doing whatever is necessary in eliminating waste and abuse within the judicial branch.
