

### Higher Education Constitutional Amendment Draft Language (January 6, 2010)

Purpose: Prioritize funding for California's public institutions of higher education. Ensure that higher education receives a greater portion of General Fund dollars than the state prison system.

### General Fund Priorities for Higher Education Over State Prison System

For the 2009-10 fiscal year, the General Fund monies applied by the State for the support of public institutions of higher education represent approximately 7 percent of the General Fund expenditures; and the General Fund monies applied by the State for the support of the state prison system represent more than 10 percent of the General Fund expenditures.

Commencing with the 2014-15 fiscal year, the amount to be applied by the State for the support of public institutions of higher education shall be no less than 10 percent of the General Fund expenditures; and the amount to be applied by the State for the support of the state prison system shall be no more than 7 percent of the General Fund expenditures.

Beginning with the 2011-12 fiscal year and each fiscal year thereafter, the amount of the reduction in General Fund monies applied to support the state prison system shall be applied by the State for the support of public institutions of higher education. The reduction in General Fund monies shall be determined by computing the difference between the current year's General Fund budget and the prior year's General Fund budget for the state prison system. If this amount is not sufficient to meet the minimum General Fund expenditure level for the support of public institutions of higher education, then the Legislature shall apply other available resources to ensure that public institutions of higher education are fully funded at no less than 10% of the General Fund expenditures commencing with the 2014-15 fiscal year, and at the minimum General Fund expenditure level for each fiscal year thereafter.

### Authority and Exemptions Required for State Prison System to Realize Savings and Cost Reductions

Notwithstanding any other provision of this Constitution and state law, the California Department of Corrections and Rehabilitation, or any successor state entity responsible for the management and operation of the state prison system, shall be provided with the following authority and exemptions in order to realize, to the maximum extent possible, the savings or cost reductions in the state prison system required by this section:

- (1) the California Department of Corrections and Rehabilitation, or any successor state entity responsible for the management and operation of the state prison system, shall have the authority to contract with a private entity for the building of, operation of, transfer of inmates to or placement of inmates in private correctional facilities;
- (2) contracts for any staffing purposes, including but not limited to medical services, substance abuse treatment or education, entered into by the California Department of Corrections and Rehabilitation, or any successor state entity responsible for the management and operation of the state prison system, may be exempt from civil service;
- (3) private correctional facility employees designated as security officers may exercise all powers given to custodial officers in Penal Code section 831.5, subsections (f) and (g) and additionally may carry or possess a firearm, baton, tear gas, or other safety equipment and weapons while on duty if authorized by and under the terms and

conditions specified by the Secretary of the Department of Corrections and Rehabilitation, or the secretary or director of any successor state entity responsible for the management and operation of the state prison system;

- (4) the California Department of Corrections and Rehabilitation, or any successor state entity responsible for the management and operation of the state prison system, shall have jurisdiction over private correctional facilities authorized by this section.

#### Prohibition on Early Release of Prisoners

The State is prohibited from adopting, implementing or utilizing early release of prisoners intended to achieve the savings or cost reductions in the state prison system required by this section.

#### Suspension, Deferral or Modification

No provision of this section may be suspended, deferred or modified in whole or in part unless:

- (1) notwithstanding the provisions of the California Emergency Services Act and any other provision of state law, the Governor proclaims a state of emergency based on the definition of emergency in Government Code section 8558(b) or issues a proclamation declaring a fiscal emergency pursuant to Section 10(f) of Article IV and determines that suspension of some or all of the provisions of this section is necessary to mitigate the effects of an emergency or fiscal emergency; or
- (2) the Legislature enacts a statute that suspends, defers or modifies the percentages of General Fund expenditures applied for the support of public institutions of higher education and the state prison system in a single fiscal year by a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, provided that the bill does not contain any other unrelated provision

#### No Priority Over Proposition 98 or State Bond Obligations

Nothing in this section shall be construed to impair the ability of the State to meet its obligations with respect to Proposition 98 (Section 8 of Article XVI) or existing or future bonded indebtedness. Any General Fund expenditures created by this section shall not take priority over the State's obligations with respect to Proposition 98 or existing or future bonded indebtedness.

#### Definitions

For purposes of this section, the following definitions shall apply:

- (a) "General Fund expenditures" is defined as the amount of monies appropriated in the annual state budget from the General Fund, except the amount shall not include payments for bond indebtedness, operational costs associated with new facility construction under the Public Safety and Offender Rehabilitation Services Act of 2007 (Assembly Bill No. 900 (2007-2008 Reg. Sess.)), or costs for rehabilitation programs for the state prison system.
- (b) "Public institutions of higher education" is defined as the University of California and the California State University systems.

- (c) “State prison system” is defined as including all entities and operations under the management and control of the California Department of Corrections and Rehabilitation or any successor state entity responsible for the management and operation of the state prison system.

Non-Severability Clause

If any provision of this section, or part thereof, is for any reason held to be invalid or unconstitutional in a court of competent jurisdiction, then the remaining provisions of this section are not severable and shall not be given, or otherwise have, any force or effect.