

and their dependents by paying one of the following amounts toward the monthly premium of a state-approved insurance plan: (1) \$58 for the annuitant only, (2) \$107 for an annuitant with one dependent, and (3) \$138 for an annuitant with two or more dependents. These contribution levels were authorized by the 1981 Budget Act, and became effective July 1, 1981, for August 1981 coverage. The prior state contribution rates were \$49, \$90, and \$117, respectively.

### ANALYSIS AND RECOMMENDATIONS

The budget proposes an appropriation of \$52,774,000 from the General Fund for payment of health insurance premiums in 1982-83. This is \$2,987,000, or 6.0 percent, more than estimated current-year expenditures. The increase is attributable only to the projected growth in the number of annuitants, which is shown in Table 1.

**Table 1**  
**Annuitant and Health Benefit Cost Projections**

Retirement System	Number of Annuitants			State Costs (thousands)		
	Estimated 1981-82	Projected 1982-83	Percent Increase	Estimated 1981-82	Projected 1982-83	Percent Increase
Judges' .....	443	470	6.1%	\$488	\$517	5.9%
Legislators' .....	98	104	6.1	107	113	5.6
Employees' .....	48,797	51,725	6.0	48,897	51,831	6.0
Teachers' .....	304	322	5.9	295	313	6.1
	49,642	52,621	6.0%	\$49,787	\$52,774	6.0%

The state contributions are paid initially from the General Fund. Special fund agencies are assessed pro rata charges for their retired employees which are then credited to the General Fund. Approximately 30 percent of the state contribution cost is recovered from the special fund agencies.

### Premium Cost Increase Not Budgeted

*We withhold recommendation, pending determination by the Public Employees' Retirement System of the actual increase in health insurance premiums.*

Current law (Section 22825.1 of the Government Code) expresses legislative intent that the state pay an average of 100 percent of health insurance costs for active employees and annuitants, and 90 percent of health insurance costs for their dependents. As premium costs for this insurance rise, the state's contribution must also increase proportionally if the same percentage of state contributions is to be maintained.

The amount proposed for this item in 1982-83 does not provide for an inflationary increase in health insurance premiums. When this analysis was written, the Public Employees' Retirement System (PERS) anticipated a health insurance premium increase of about 30 percent for 1982-83. The precise amount of any increase, however, will not be known until May or June 1982, when the new premiums are adopted.

We were advised that PERS based its estimate of the premium rate increase primarily on the following factors:

- General cost increases in excess of 20 percent annually for medical care and hospital care.
- Increased usage of highly expensive technologically advanced equipment for purposes such as treating premature babies, patients with kidney ailments and certain types of cancer.

**HEALTH BENEFITS FOR ANNUITANTS—Continued**

- A tendency toward greater use of hospital facilities due to a recession environment.
- Increased average age of state employees and annuitants.

It should be noted that the state contribution rate toward health insurance for active state employees is a negotiable issue under collective bargaining. Therefore, before acting to adjust such rates for annuitants, the Legislature may want to consider any changes made in this area relative to active employees, pursuant to collective bargaining.

**PROVISION FOR EMPLOYEE COMPENSATION  
CIVIL SERVICE EXEMPT, STATUTORY,  
ACADEMIC AND NONACADEMIC EMPLOYEES**

Item 9800 from the General  
Fund and various other funds

Budget p. GG 229

Requested 1982-83 .....	\$256,630,000
Total recommended reduction .....	None
Recommendation pending .....	\$256,630,000

**1982-83 FUNDING BY ITEM AND SOURCE**

Item	Description	Fund	Amount
9800-001-001—	Compensation increase	General	\$168,322,000
9800-001-494—	Compensation increase	Special	45,515,000
9800-001-988—	Compensation increase	Nongovernmental Cost	42,793,000
Total			\$256,630,000

**SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS**

	<i>Analysis page</i>
1. Employee Compensation Increases. Withhold recommendation, pending submission to the Legislature of memoranda of understanding and compensation proposals for non-represented state employees, because employee compensation increases are subject to collective bargaining.	1794
2. Salaries of Constitutional Officers. Recommend legislation increasing salaries of constitutional officers effective January 1, 1983.	1798
3. Faculty Fringe Benefit Report. Recommend CPEC report on faculty fringe benefits by May 1, 1982.	1802

**ANALYSIS AND RECOMMENDATION**

*We withhold recommendation on employee compensation increases pending submission to the Legislature of memoranda of understanding (MOU's) and compensation proposals for non-represented state employees, because such increases are subject to collective bargaining.*

The Governor's Budget includes \$256,630,000 (\$168,322,000 General Fund) for compensation increases for state employees. This would provide for compensation increases of about 4.2 percent.

The budget states that "The funds appropriated for the 1982-83 fiscal

year will be allocated to salary or benefit enhancements through the collective bargaining process. Memoranda of understanding will be submitted to the Legislature for approval of the issues and costs agreed to between labor and management."

This is the first time employee compensation increases for state employees will be subject to collective bargaining. Collective bargaining over state employee compensation increases and other terms and conditions of employment was initiated during the current year under provisions of the State Employer-Employee Relations Act (SEERA) and the Higher Education Employer-Employee Relations Act (HEERA). (We discuss collective bargaining for state employees in detail in the B-pages of this *Analysis*.)

Until the MOU's together with the increases proposed by the administration for employees not covered by collective bargaining are submitted for the Legislature's consideration, we will have no basis for (1) evaluating the nature or magnitude of increases proposed or (2) the amount of funds required to implement them. Therefore, we withhold recommendation on this item, pending review of these proposals.

### Salary Increase Cost

The cost of providing various salary increases to the major categories of state employees is shown in Table 1. The table shows that each 1 percent increase in state salaries will increase General Fund costs by \$37.7 million and special fund costs by \$10.6 million.

**Table 1**  
**Cost of Providing Various Salary Increases**  
**for State Employees (Excluding Judges)**

<i>Employee Group</i>	<i>Fund</i>	<i>Cost of Increase (thousands)</i>		
		<i>1</i>	<i>5</i>	<i>9</i>
		<i>Percent</i>	<i>Percent</i>	<i>Percent</i>
Civil service and related .....	General	\$18,519	\$92,595	\$166,671
	Special	10,566	52,830	95,094
	Other	9,903	49,515	89,127
(Totals, Civil Service and related) .....		(\$38,988)	(\$194,940)	(\$350,892)
University of California (UC):				
Academic .....	General	\$5,158	\$25,790	\$46,422
Nonacademic .....	General	4,606	23,030	41,454
(Totals UC) .....		(\$9,764)	(\$48,820)	(\$87,876)
California State University (CSU)				
Academic .....	General	\$5,743	\$28,715	\$51,687
Nonacademic .....	General	3,660	18,300	32,940
(Totals, CSU) .....		(\$9,403)	(\$47,015)	(\$84,627)
Total Costs .....		\$58,155	\$290,775	\$523,395
	General	(37,686)	(188,430)	(339,174)
	Special	(10,566)	(52,830)	(95,094)
	Other	(9,903)	(49,515)	(89,127)

### A Review of the 1981 Compensation Increase Program

The Governor did not propose a specified amount for compensation increases for state employees in his 1981-82 budget. Instead, he set aside a total of \$509 million from the General Fund for allocation by the Legislature as cost-of-living adjustments for state employees as well as for state-supported local assistance programs.

**Legislative Action.** The Legislature appropriated \$399 million (all

**CIVIL SERVICE EXEMPT, STATUTORY,  
ACADEMIC AND NONACADEMIC EMPLOYEES—Continued**

funds) to fund a compensation increase program for state employees. This program consisted of the following three elements:

- A 6 percent across-the-board increase for all state employees, with a minimum monthly salary increase of \$85 for full-time employees.
- Maintenance of the state contribution rate for employee health insurance at an average of (1) 100 percent for coverage of employees and (2) 90 percent of coverage for their dependents.
- An employee dental care program to become effective on January 1, 1982.

**Historical Comparison of Salary Increases**

Table 2 compares the annual salary increases received by superior court judges, employees in private business, state civil service employees, state statutory officers (those officials whose salaries are specified by statute) and state legislators, from fiscal years 1967-68 through 1981-82.

Table 3 shows both the dollar amounts and percentages by which the 1981-82 salary level exceeds the 1967-68 level, for each group. For comparative purposes, the table also shows the percentage change in the Gross National Product Personal Consumption Deflator (price index) between 1967-68 and 1981-82. This table indicates that during this 14-year period:

- No group of state employees was able to keep pace with private sector employees in terms of salary increases.
- The real incomes of State Civil Service employees and judges *increased* because their salaries rose more than the cost-of-living (as measured by the GNP deflator).
- Statutory officers lost ground to both prices and their own employees. During this period, their salaries actually declined, in real terms, by 12.5 percent. In addition, many of those they supervise moved past them on the salary ladder.
- Legislators lost the most ground to the prices they must pay. During this period, their salaries actually declined, in real terms, by 27.7 percent.

**Table 2**  
**Annual Salary Increases Received by Judges,  
Employees in Private Business, State Civil Service Employees,  
Statutory Officers and State Legislators  
1967-68 Through 1981-82**

	Superior Court Judges		Private Employment: <sup>a</sup>		Civil Service Percent Increase		Statutory Officers: Percent Increase	State Legislators	
			Average Increase per Employee	Increase in total Payroll	Average Increase per Employee	Increase per Employee		Salary	Percent Increase
1967-68.....	\$25,000	—	4.5%	4.9%	5.1%	—	\$16,000	—	
1968-69.....	30,572	23.3%	4.8	5.3	5.7	5.0%	16,000	—	
1969-70.....	31,816	4.1	6.7	5.6	5.6	11.5	16,000	—	
1970-71.....	33,407	5.0	4.7	5.0	5.2	—	19,200	20.0%	
1971-72.....	35,080	5.0	6.6	—	—	—	19,200	—	
1972-73.....	36,393	3.7	6.3	8.3	9.0	5.0	19,200	—	
1973-74.....	37,615	3.4	6.2	12.9	11.7	12.5	19,200	—	

1974-75.....	40,322	7.4	6.3	5.3	5.0	5.0	21,120	10.0
1975-76.....	45,299	12.3	8.2	7.1 <sup>b</sup>	6.7 <sup>b</sup>	—	21,120	—
1976-77.....	49,166	8.5	7.3	6.6	— <sup>c</sup>	1.9	23,232	10.0
1977-78.....	49,166	—	6.5	7.5	7.1	7.5	23,232	—
1978-79.....	51,624	5.0	7.4	—	—	—	25,555	10.0
1979-80.....	54,205	5.0	7.0	15.0	14.5	15.0	25,555	—
1980-81.....	59,686	10.1	10.5	10.0	10.0	9.75	28,111	10.0
1981-82.....	63,267	6.0	10.4	6.5	6.5	6.0	28,111	—

<sup>a</sup> Based on salaries in effect each March, as surveyed by the Department of Personnel Administration. (For example, the 10.4 percent increase indicated for 1981-82 represents the increase from March 1980 to March 1981.)

<sup>b</sup> Does not include one-time bonus of \$400 paid to employees having a maximum salary of \$753 or less on July 15, 1975.

<sup>c</sup> Not calculated because of flat salary increases.

**Table 3**  
**Salary Increases**  
**for Judges, Private Employees, State Civil Service Employees,**  
**Statutory Officers and Legislators**  
**1967-68 Through 1981-82**

	1967-68	1981-82	Increase	
	Salary	Salary	Amount	Percent
Private employees <sup>a</sup> .....	\$16,000	\$43,406	\$27,406	171.3%
State civil service employees <sup>b</sup> .....	16,000	41,718	25,718	160.7
Superior Court Judges.....	25,000	63,267	38,267	153.1
GNP Personal Consumption Deflator.....	82.9	201.5	118.6	143.1
Statutory officers <sup>c</sup> .....	\$16,000	\$34,049	18,049	112.8
Legislators.....	16,000	28,111	12,111	75.7

<sup>a</sup> Based on hypothetical employee (1) earning \$16,000 in February 1967 and (2) receiving annual increases each March equivalent to the average increase in private employment as surveyed by the Department of Personnel Administration.

<sup>b</sup> Based on hypothetical employee (1) earning \$16,000 on June 30, 1967, and (2) receiving annual increases equivalent to the average increases for the total civil service payroll. (Civil service salaries actually are adjusted individually on a class-by-class basis.)

<sup>c</sup> Based on hypothetical statutory officer earning \$16,000 on June 30, 1967. (All statutory officers currently receive the same annual percentage increases.)

### Salaries of Constitutional and Statutory Officers

Table 4 shows the increases in salaries during the period 1967-68 to 1981-82 for:

- The seven state constitutional officers
- The chairman and members of the State Board of Equalization
- Selected statutory officers

The table also shows the percentage increase in the GNP Personal Consumption Deflator (price index) during the same period.

The table shows that from 1967-68 to 1981-82:

- Only the Chairman and members of the Board of Equalization were able to keep pace with inflation and increase their real incomes.
- Statutory officers—particularly the Director of Finance—lost ground relative to the prices they must pay. In real terms, the decline in their incomes ranged from 4.5 percent to 13.7 percent.
- Constitutional officers' fared worse than any other group of state employees in terms of maintaining their real income. In real terms, these officials "lost" between 30.1 percent and 54.2 percent of their

**CIVIL SERVICE EXEMPT, STATUTORY,  
ACADEMIC AND NONACADEMIC EMPLOYEES—Continued**

salary to inflation.

Thus, the largest declines in real income have been experienced by statutory officers, constitutional officers, and Members of the Legislature.

**Present Constitutional Salaries Will Remain in Effect Until 1987, Unless They Are Increased By January 1983**

*We recommend that Legislation be enacted to increase the salaries of the seven constitutional officers effective January 1, 1983.*

Under the State Constitution (Article V, Section 12), salaries of the seven constitutional officers may not be changed during their elected term of office. Consequently, January 1983 is the next date on which salaries of constitutional officers can be adjusted. If they are not adjusted by that date, the present salary rates will remain in effect until January 1987.

In order to provide adequate compensation to constitutional officers, we recommend that the salaries of these officials be increased effective January 1983 by *at least* the same percentage above 1967-68 levels as judges' salaries have been increased during that period.

**Table 4**

**Salary Increases for State Constitutional Officers, Board of Equalization Members and Selected State Statutory Officers  
1967-68 through 1981-82**

	1967-68 Salary	1981-82 Salary	Increase	
			Amount	Percent
Board of Equalization:				
Members.....	\$20,500	\$50,850	\$30,350	148.0%
Chairman .....	21,000	51,513	30,513	145.3
GNP Personal Consumption Deflator.....	82.9	201.5	118.6	143.1
Selected Statutory Officers:				
Director of Corrections "Level II" <sup>a</sup> .....	\$23,500	\$54,556	\$31,056	132.2
Director of Veterans Affairs "Level III" <sup>b</sup> .....	22,500	49,990	27,490	122.2
Director of Finance "Level I" <sup>c</sup> .....	30,319	63,628	33,309	109.9
State Constitutional Officers:				
Others <sup>d</sup> .....	25,000	42,500	17,500	70.0
Attorney General .....	32,000	47,500	15,500	48.4
Governor.....	44,100	49,100	5,000	11.3

<sup>a</sup> Under existing law (Government Code Section 11552), the Director of Corrections, 19 other department heads and members of the Public Utilities Commission currently receive the same salary.

<sup>b</sup> Under existing law (Government Code Section 11554), the Director of Veterans Affairs, 8 other agency heads and the State Architect currently receive the same salary.

<sup>c</sup> Under existing law (Government Code Section 11550), the Director of Finance and the various agency secretaries currently receive the same salary.

<sup>d</sup> Lieutenant Governor, Controller, Treasurer, Secretary of State and Superintendent of Public Instruction.

**POSTSECONDARY EDUCATION SALARIES**

**Academic Salaries**

As discussed in the "B" pages of this *Analysis*, in the coming months the salaries of some state employees will, for the first time, be set through the collective bargaining process. Given the onset of collective bargaining, we

withhold recommendation on the salary increase to be given to faculty and nonfaculty employees in UC and CSU, pending submission to the Legislature of memorandums of understanding (MOU's) and compensation proposals for non-represented employees.

We continue to believe that the most relevant data available to the Legislature for evaluating the provisions of MOU's and other salary proposals for UC and CSU faculty is the data on faculty salaries and fringes paid at the comparison institutions used by the University of California and the California State University in evaluating the standing of their own employees. This is because the market for faculty members is much wider than it is for state employees, and it will therefore be necessary for the state to keep pace with the increases given elsewhere if it is to remain competitive in recruiting and retaining quality persons.

### **Comparison Institutions**

Senate Concurrent Resolution No. 51 of the 1965 General session directed the Coordinating Council for Higher Education (CPEC, since April 1, 1974) to submit annually to the Governor and the Legislature a faculty salary and fringe benefit report. The report compares California faculty salaries to those in a group of postsecondary education institutions that are comparable to the two California segments.

The UC comparison institutions are:

1. Harvard University
2. Stanford University
3. Yale University
4. State University of New York (Buffalo)
5. Cornell University
6. University of Illinois
7. University of Michigan (Ann Arbor)
8. University of Wisconsin at Madison

The CSU comparison institutions are:

1. State University of New York (Albany)
2. State University of New York (Buffalo College of Arts and Science)
3. University of Hawaii
4. University of Wisconsin (Milwaukee)
5. University of Nevada
6. Portland State University
7. University of Colorado
8. Illinois State University
9. Northern Illinois University
10. Southern Illinois University
11. University of Oregon
12. University of Southern California
13. Indiana State University
14. Iowa State University
15. Wayne State University
16. Western Michigan University
17. Bowling Green University
18. Virginia Polytechnic
19. Miami University
20. Syracuse University

**CIVIL SERVICE EXEMPT, STATUTORY,  
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**CPEC Preliminary Report**

A preliminary report on faculty salaries for the current year was prepared by CPEC in December 1981, using estimated data. A second report, reflecting actual current-year salaries at comparison institutions, will be published in April 1982.

CPEC's December report indicates that faculty in the California segments currently are paid *more* than faculty at the comparison institutions. Specifically, faculty at UC enjoy a salary advantage of 1.08 percent, while faculty at CSU enjoy a 5.25 percent salary advantage. These differentials are shown in Table 5.

On the basis of projected compensation increases at the comparable institutions, the CPEC data indicate that if the state wished to maintain salary parity in 1982-83, UC faculty should be given a 5.46 percent increase, and CSU faculty should be given a 0.47 percent increase. These conclusions are reflected in Table 5, which assumes that the comparison institutions maintain the same rate of salary growth in 1981-82 and 1982-83 that they have over the past five years.

**Table 5**  
**Changes in Faculty Salaries Required to Maintain Parity**  
**With Salaries at the Comparison Institutions of**  
**the University of California and**  
**the California State University**  
**1981-82 and 1982-83**

	<i>UC and CSU Salaries in 1981-82</i>	<i>Salary Projections for Comparison Institutions</i>		<i>Comparison Institutions Projections Lead UC and CSU by:</i>	
		<i>1981-82</i>	<i>1982-83</i>	<i>1981-82</i>	<i>1982-83</i>
University of California .....	\$35,003	\$34,624	\$36,914	-1.08%	5.46%
California State University .....	\$30,811	\$29,194	\$30,957	-5.25%	0.47%

**Salary Proposals**

The UC Regents have requested a 9 percent faculty salary increase in 1982-83, at a projected cost of \$46.4 million. The Regents' salary agenda item cites projected inflation levels and other economic circumstances such as housing costs and health care as being important considerations in their salary request. The Regents' agenda states that:

"The Regents have placed faculty salaries among the University's highest budget priorities. Last year (1980-81), for the first time in a decade, salaries reached competitive levels with other universities. This year (1981-82), salaries are close to competitive levels. In order to remain competitive, it will be necessary not only to meet the traditional comparison basis for salary levels, but also to recognize the effects of inflation, housing prices, special problems in certain disciplines, and related economic factors which impinge upon the recruitment and retention of University of California faculty. Therefore, the requirement for 1982-83 salaries is based on comparison data as well as on current and anticipated economic circumstances."



By contrast, the Board of Trustees has not made a formal salary increase request. This appears to be due to the onset of collective bargaining for CSU employees.

Table 6 shows the cost of various percentage increases in faculty and nonfaculty salary.

**Table 6**  
**Funding Needed for Salary Increase for UC and CSU**  
**Academics and Nonacademics**  
(in millions)

Percent Salary Change	UC	CSU	Totals
0.47% (CSU need) <sup>a</sup> .....	NA	\$2.7	NA
1.00 <sup>b</sup> .....	\$9.8	\$9.4	\$19.2
5.46 (UC need) <sup>a</sup> .....	28.2	NA	NA
9.0 (UC request) .....	88.2	84.6	172.8

<sup>a</sup> CSU and UC need based on CPEC salary report (faculty salaries only).

<sup>b</sup> Each 1 percent of salary increase will cost \$5.2 million for UC academic staff and \$4.6 million for UC nonacademic staff. The corresponding costs for CSU are \$5.7 million and \$3.7 million, respectively.

### Fringe Benefits

Comparing fringe benefits provided to California faculty with benefits provided in other states is difficult. Nevertheless, it is possible to make such comparisons in order to show how the state provides for its faculty, relative to benefits received by faculty in comparison institutions.

In last year's *Analysis* we recommended that CPEC undertake a study of benefit programs so that the Legislature would be able to assess the adequacy of benefits provided to California faculty. Subsequently, the Legislature adopted language in the *Supplemental Report to the 1981 Budget Act* directing CPEC to develop alternative methods of reporting the value of fringe benefits paid faculty in the salary comparison groups used for the UC and the CSU. Specifically, CPEC was to develop, by November 1, 1981, at least three proposed alternatives, providing comparable information on total faculty compensation, and report these alternatives and their respective costs to the legislative budget committees.

The commission's report has been submitted. The staff developed a matrix of 18 possibilities. From these, three were explored in detail by the segments and an approach was developed which includes a comprehensive analysis of 6 types of benefits, with special emphasis on retirement programs.

In light of the fact that the expenditures of approximately \$220,000 to \$265,000 by the segments would be needed to perform the studies, the Commission staff concluded that a comprehensive analysis of faculty fringe benefits would not be worthwhile at the present time. The commission concluded that "no analysis would be likely to produce a general consensus about needed changes, and any evaluation, particularly regarding retirement programs, would involve many assumptions whose validity would be debated. Accordingly, until better fringe benefit measuring devices become available, the current procedure of comparing employer costs should continue."

**CIVIL SERVICE EXEMPT, STATUTORY,  
ACADEMIC AND NONACADEMIC EMPLOYEES—Continued**

**Fringe Benefit Report Needed**

*We recommend that CPEC submit to the Legislature by May 1, 1982 a fringe benefit evaluation proposal which indentifies the funding needed and the specific tasks to be performed in order to provide a more analytically indepth review of the current benefits offered to California faculty, as compared to the benefits offered at their comparison institutions.*

We disagree with CPEC's conclusion that an indepth study is not worthwhile. We believe that fringe benefits will be a major component of any memorandum of understanding agreed upon in the collective bargaining process. Consequently, the Legislature will need data on such benefits, both within California and nationally, in order to provide a basis for evaluating proposed increases in these benefits.

CPEC has developed a nine-cell matrix for the study of fringe benefits, with increasing levels of complexity. The matrix, shown in Figure 1, identifies three categories of benefits that could be reviewed, as indicated below:

1. The benefits currently analyzed—retirement programs, Social Security (OASDI), medical and dental insurance unemployment insurance, Worker's Compensation, life insurance, and disability insurance.
2. All of the above plus sick leave, housing (including institutionally provided housing, housing subsidies, and interest subsidies for home purchase), tuition waivers, parking (either provided free by the institution or subsidized), and athletic and cultural event benefits (including free or discounted tickets).
3. All of "1." and "2." plus sabbatical and other special or creative leaves, travel funds to attend professional meetings, teaching loads, released time for research and consulting, permission to teach overloads, special services (office space, clerical assistance, equipment, etc.), and special assistance (teaching assistants, graduate assistants, readers, etc.).

The matrix also identified three different groups against which the segments' fringes could be compared:

- A. The University of California's existing 8 comparison institutions and the California State University's 20 comparison institutions.
- B. All of the above institutions plus all of the American Association of University Professors' (AAUP) "Category I" institutions.
- C. All of "A." and "B." plus a broad group of professional employees in business, government, and the military.

**Figure 1**  
**Matrix for the Study of Faculty Fringe Benefits**

		<i>Groups to be Surveyed</i>		
		<i>A</i>	<i>B</i>	<i>C</i>
		<i>(Current)</i>	<i>(Some Expansion)</i>	<i>(Considerable Expansion)</i>
Benefits to be Included	1 (Current)	1A	1B	1C
	2 (Some Expansion)	2A	2B	2C
	3 (Considerable Expansion)	3A	3B	3C

This matrix offers nine possible approaches, each with a different cost ranging from the lowest (the current approach of 1A) to the most extensive and comprehensive (3C).

A third dimension can be added to the matrix, one involving analytical depth. The simplest level, and the one closest to the current approach, would consist of a descriptive account of fringe benefit programs together with a comparison of the costs of each benefit and the total cost of various groups of benefits. The second, and more complex, level would attempt to analyze costs more fully and to evaluate actual benefits received by employees.

We recommend that CPEC develop a "middle ground" proposal—not as complex as the other matrix cells, but more analytically complex than the current system. The proposal should concentrate on matrix cell 1A, but should offer varying levels of analytical depth. This proposal should be completed by May 1, 1982 so that it can be considered during the budget process.

**PAYMENT OF COURT-AWARDED ATTORNEY FEES**

Item 9810 from the General Fund and various funds

Budget p. GG 233

Requested 1982-83 .....	\$400,000
Estimated 1981-82.....	None
Actual 1980-81 .....	None
Requested increase \$400,000	
Total recommended reduction .....	None

**1982-83 FUNDING BY ITEM AND SOURCE**

Item	Description	Fund	Amount
9810-001-001—Attorney Fees		General	\$200,000
9810-001-494—Attorney Fees		Special	100,000
9810-001-988—Attorney Fees		Nongovernmental Cost	100,000
Total			\$400,000

**SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS**

*Analysis page*

1. Limit Attorney Fee Expenditures. Recommend approval of attorney fee item, with modifications, to increase legislative control over these payments. 1805

**GENERAL PROGRAM STATEMENT**

This item, included in the budget for the first time, provides funds for the payment of attorney fee claims, settlements, and judgments against the state awarded pursuant to the Code of Civil Procedure Section 1021.5, or the judicially created theories of the "private attorney general" and "substantial benefit" doctrine. Section 1021.5 provides that a court may award attorney fees to a successful party in any legal action which has brought about the enforcement of an important right and has resulted in a significant benefit to the public.

**PAYMENT OF COURT-AWARDED ATTORNEY FEES—Continued****ANALYSIS AND RECOMMENDATIONS**

The budget proposes an appropriation of \$400,000 for payment of court-awarded attorney fees in 1982-83. This amount consists of \$200,000 from the General Fund, \$100,000 from special funds, and \$100,000 from nongovernmental cost funds. The Budget Bill specifies that (a) individual attorney fee payments shall not exceed the hourly rate charged by the Attorney General, and (b) notwithstanding the hourly rate provision, no single payment shall exceed \$50,000.

**Payment of Attorney Fees**

Historically, the generally accepted rule regarding the award of attorney fees is that (1) attorney fees are not chargeable against the losing party, and (2) the right to fees is a contractual one between the attorney and client. The Legislature, however, has enacted a number of statutes which provide for state-paid attorney fees in specific cases.

In addition, the courts award attorney fees under judicially created theories such as "substantial benefit," "common fund," and "private attorney general." Finally, attorney fees are sometimes awarded under federal law (in federal civil rights actions, for example).

Prior to 1980-81, payment of attorney fees by the state generally occurred under one of the following circumstances:

1. The Budget Act appropriated funds for payment of attorney fees for specific types of cases,
2. Departments paid attorney fees out of their support budgets as part of settlements or judgments,
3. A legislative appropriation was sought, either through the omnibus claims bill or separate legislation.

**Control Section 4.50**

In order to increase legislative oversight of attorney fees paid by the state, the Legislature first adopted Control Section 4.50 in the 1980 Budget Act. This section prohibited the use of funds appropriated by the act to pay attorney fees in specified cases, prior to legislative review and approval. Only court-awarded attorney fees specifically authorized and set forth in an item or section of the act, or expressly authorized by a statutory provision other than Section 1021.5 of the Code of Civil Procedure, could be paid directly from funds appropriated in the Budget Act. A similar section was added to the 1981 Budget Act and is included in the 1982 Budget Bill.

As a result of the control section, departments may no longer use funds appropriated for department support or other purposes to pay court-awarded attorney fees. Thus, an increasing number of attorney fee claims, judgments, and settlements have been presented to the Legislature for payment in omnibus claims bills. This has provided the Legislature with an opportunity to review the claims and determine whether to appropriate funds to pay the awards.

***Mandel v. Myers***

The California Supreme Court recently determined that the Legislature's method of reviewing claims and appropriating funds to pay selected claims is invalid. On June 18, 1981, the California Supreme Court held in the *Mandel v. Myers* case that "the Legislature cannot pay some awards and not others solely because it readjudicates and redecides the merits of

a case in which the court has reached a final judgment. . . . The Legislature is not a super-court that can pick and choose on a case-by-case basis which final judgment it will pay and which it will reject.”

In its ruling, however, the court acknowledged that the Legislature has broad authority to adopt (1) appropriate measures to limit governmental expenditures and (2) general rules that apply without arbitrary discrimination to the recovery of attorney fees. The court suggested several means by which the Legislature could restrict potential attorney fee costs:

1. Establish a fixed or maximum hourly rate of recovery for attorney services,
2. Prescribe a maximum “per-case” limit on attorney fee awards,
3. Limit the kinds of cases in which attorney fees may be awarded,
4. Appropriate a designated sum of money to an “attorney fee payment fund” and provide a reasonable basis for allocating such funds among eligible claimants should the designated sum prove insufficient to pay all fee awards.

#### **Limit Attorney Fee Expenditures**

*We recommend approval of this item, with modifications, in order to insure legislative control over state payments for attorney fees, and to establish a system under which court-awarded attorney fees may be paid.*

The new item proposed in the budget makes an appropriation of \$400,000 (\$200,000 General Fund, \$100,000 special funds, and \$100,000 nongovernmental cost funds) for the payment of attorney fees. It also establishes a limit on the amount that may be allocated to an eligible claimant by specifying that (a) individual payments may not exceed the hourly rate for attorney services charged by the Attorney General, and (b) payments for attorney services related to all judicial proceedings involved in a case may not exceed \$50,000.

Because we have little information on the amount of attorney fees paid annually by the state, we are unable to evaluate the amount of the appropriation proposed in this item, or recommend an alternative amount. However, pursuant to the *Supplemental Report of the 1981 Budget Act*, the Attorney General’s office will be reporting to the Legislature by September 1, 1982 on (a) the amount of any settlements and judgments paid by the state in 1981–82 not previously reported, (b) the source of funds for each payment, (c) the amount of attorney fees included in each payment, and (d) the basis on which fees were awarded. This information could assist the Legislature in determining the amount of the appropriation in future years.

Our review indicates that this item will allow the Legislature to control the *total* amount of state funds allocated to pay specified attorney fees in any fiscal year, although it will not allow the case-by-case review and payment process to continue. This limit on the total amount of fees paid could become increasingly important, as more attorney fees are awarded pursuant to Section 1021.5, a relatively new statute.

According to the Attorney General’s office, the system established in this item for paying attorney fees will meet the criteria described by the California Supreme Court in *Mandel v. Myers*. We are concerned, however, that the proposed item contains no provisions for allocating the budgeted amount among eligible claimants if the funds are insufficient to pay all of the attorney fee awards. The Supreme Court indicated in *Mandel v. Myers* that such an allocation system could be created if an “attorney fee payment fund” is established.

**PAYMENT OF COURT-AWARDED ATTORNEY FEES—Continued**

Therefore, in order to insure that the item enables the Legislature to control the total amount of funds allocated to pay specified attorney fees and also meets the criteria established in the *Mandel v. Myers* case, we recommend approval of the proposed new item with the following modifications: (1) require the Controller to prorate the budgeted amount among the eligible claimants if it is insufficient to finance all of the claims and (2) provide that a payment made from this item would constitute full satisfaction of any claim, settlement, compromise, or judgment for attorney fees.

**AUGMENTATION FOR PRICE INCREASES**

Item 9820 from the General Fund and various special funds

Budget p. GG 234

Requested 1982-83 .....	\$6,386,000
Estimated 1981-82.....	11,863,000
Actual 1980-81 .....	9,102,000
Requested decrease \$5,477,000 (-46.2 percent)	
Total recommended reduction .....	\$4,089,000

**1982-83 FUNDING BY ITEM AND SOURCE**

Item	Description	Fund	Amount
9820-001-001—	Price increase augmentation	General	\$4,138,000
9820-001-494—	Price increase augmentation	Special	1,929,000
9820-001-988—	Price increase augmentation	Nongovernmental	319,000
Total			\$6,386,000

**SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS**

Analysis page

1. **Reduce Item 9820 by \$4,089,000.** Recommend reduction to proposed augmentation, as budget-year needs are overstated. 1806

**ANALYSIS AND RECOMMENDATIONS**

Almost every year, the budget includes a proposed appropriation to fund price increases not included in the budget requests of individual agencies. For both 1981-82 and 1982-83, the budget has included an item to fund the increased cost to agencies resulting from the rise in first-class postage rates. This item provides \$6,386,000 for that purpose.

**Budget Overstates Needs**

*We recommend a reduction of \$4,089,000 from this item, as the budget overstates the amount needed. (\$2,645,000 General Fund, \$1,240,000 special funds, and \$204,000 non-governmental cost funds.)*

The budget proposes \$6,386,000 from the General Fund and various special funds to cover the increase in first-class postage from 18 cents to 20 cents. The Department of Finance determined this amount by contacting those departments with the largest postage budgets and requesting estimates on their budget-year postage needs.

Our analysis indicates that the proposed augmentation for postage increase seriously *overstates* the funding level necessary for 1982-83. Our estimate of the amount needed for this item is based not on what *departments* estimated their needs to be, but on an estimate of *actual* expenditures for first-class postage in the budget year.

Our calculations indicate that an augmentation of only \$2,297,000 is needed to cover the postage rate increase in 1982-83. Our recommended funding levels, by fund, are shown in Table 1. We therefore recommend a reduction of \$4,089,000 from the General Fund and various special and nongovernmental cost funds.

**Table 1**  
**1982-83 Augmentation for Price Increase**  
**Budgeted and Recommended Levels**  
**(dollars in thousands)**

	<i>Percent of Total</i>	<i>Proposed</i>	<i>Analyst's Proposal</i>	<i>Difference</i>
General Fund.....	65%	\$4,138	\$1,493	-\$2,645
Special funds.....	30	1,929	689	-1,240
Nongovernmental cost funds.....	5	319	115	-204
Totals.....	100%	\$6,386	\$2,297	-\$4,089

## RESERVE FOR CONTINGENCIES OR EMERGENCIES

Item 9840 from the General  
Fund and special funds

Budget p. GG 235

Requested 1982-83 .....	\$4,500,000
Estimated 1981-82 Appropriated by the Budget Act of 1981 .....	4,500,000
Total recommended reduction .....	None

## 1982-83 FUNDING BY ITEM AND SOURCE

Item	Description	Fund	Amount
9840-001-001—Reserve for Contingencies or Emergencies		General	\$1,500,000
9840-001-494—Reserve for Contingencies or Emergencies		Special	1,500,000
9840-001-988—Reserve for Contingencies or Emergencies		Nongovernmental Cost	1,500,000
9840-011-001—Reserve for Contingencies or Emergencies (Loans)		General	(2,500,000)
Total			\$4,500,000

## ANALYSIS AND RECOMMENDATIONS

*We recommend approval.*

The budget proposes appropriations totaling \$4,500,000, consisting of \$1,500,000 each from the General Fund, special funds and nongovernmental cost funds for allocation, by the Department of Finance to state agencies for expenses resulting from unforeseen contingencies and emergencies not covered by specific appropriations.

Item 9840-011-001 appropriates an additional \$2,500,000 to provide for

**RESERVE FOR CONTINGENCIES OR EMERGENCIES—Continued**

temporary loans to state agencies whose operations are in danger of being curtailed because of delayed receipt of reimbursements or revenue. The loans are to be repaid or accrued for repayment by the end of the fiscal year in which they are made.

**Control and Reporting Provisions**

The Budget Bill includes the same appropriation control and reporting provisions which were approved by the Legislature in the 1981 Budget Act. These provisions include the following:

1. Emergencies are defined as those situations which, in the judgment of the Director of Finance, require immediate action to avert undesirable consequences, or to preserve the public peace, health, or safety.

2. Contingencies are defined as situations which, in the judgment of the Director of Finance, constitute cases of actual necessity.

3. The Legislature shall be notified within 10 days of any emergency expenditure. If the augmentation exceeds by 10 percent the amount authorized for the program, 30-days' advance notification shall be given to the Legislature.

4. A 30-day advance notification shall be given to the Legislature before contingency expenditures are authorized.

5. Authorizations shall be limited to purposes specifically approved by the Legislature, except \$200,000 from each reserve may be expended for purposes without prior legislative authorization.

6. General Fund loans which would require repayment from a future legislative appropriation are prohibited.

**Appropriation Unlikely to Meet All Demands on the Reserve**

The \$1.5 million appropriation from the General Fund is a token amount which has been significantly less than actual deficiencies in every year since 1959-60. To satisfy actual requirements, a deficiency appropriation must be enacted toward the end of each fiscal year.

**Table 1**  
**Reserve for Contingencies or Emergencies**  
**Appropriations and Allocations from the General Fund**  
**1971-72 to 1982-83**

	<i>Appropriated</i>	<i>Allocated to Agencies</i>	<i>Deficiency Appropriation</i>
1971-72 .....	\$1,000,000	\$4,993,871	\$4,918,009
1972-73 .....	1,000,000	8,076,724	7,500,000
1973-74 .....	1,500,000	5,644,544	10,900,000
1974-75 .....	1,500,000	15,112,367	14,700,000
1975-76 .....	1,500,000	24,918,959	30,520,089
1976-77 .....	1,500,000	11,200,217	11,550,000
1977-78 .....	1,500,000	18,969,869	17,500,000
1978-79 .....	1,500,000	12,192,578	11,000,000
1979-80 .....	1,500,000	26,207,778	25,646,471
1980-81 .....	1,500,000	19,004,553	18,600,000
1981-82 .....	1,500,000	30,116,000 <sup>a</sup>	29,700,000 <sup>b</sup>
1982-83 (proposed) .....	1,500,000	—	—

<sup>a</sup> Total amount of current-year allocations made and anticipated by the Department of Finance as of January 1982.

<sup>b</sup> Estimated.



Table 1 displays the amounts budgeted and allocated for contingencies or emergencies, along with the deficiency appropriations from the General Fund, since 1971-72. The table shows that the Department of Finance anticipates a deficiency appropriation of \$29.7 million for the current year. This amount would supplement the \$1.5 million appropriated for the current year for contingencies and emergencies in the 1981 Budget Act. The total amount available would then be \$31.2 million. As of January 1982, the department anticipated or had approved allocations to state agencies for approximately \$30,116,000, which would leave a balance of \$1,084,000 for unforeseen contingencies and emergencies for the remainder of 1981-82. Typically, however, total allocations and the deficiency appropriation are substantially higher than the amounts estimated in the Governor's Budget.

Table 2 displays corresponding information with respect to special and nongovernmental cost funds since 1978-79, the first year in which legislative control and oversight was extended to these funds.

**Table 2**  
**Emergency Fund Appropriations and Allocations**  
**from Special and Nongovernmental Cost Funds**  
**1978-79 to 1982-83**

	<i>Special Funds</i>			<i>Nongovernmental Cost Funds</i>		
	<i>Appropriated</i>	<i>Allocated to Agencies</i>	<i>Deficiency Appropriation</i>	<i>Appropriated</i>	<i>Allocated to Agencies</i>	<i>Deficiency Appropriation</i>
1978-79 .....	\$1,500,000	\$253,817	—	\$1,500,000	\$675,711	—
1979-80 .....	1,500,000	821,310	—	1,500,000	6,271,858	5,300,000
1980-81 .....	1,500,000	1,859,000	1,000,000	1,500,000	3,969,000	—
1981-82 .....	1,500,000	208,000 <sup>a</sup>	—	1,500,000	3,969,000 <sup>a</sup>	3,500,000
1982-83 (proposed)	1,500,000	—	—	1,500,000	—	—

<sup>a</sup> Total amount of current-year allocations made and anticipated by the Department of Finance as of January 1982.

### Other Deficiencies

As indicated in Table 1, the budget proposes a General Fund deficiency appropriation of \$29.7 million to supplement the amounts appropriated in the 1981 Budget Act for defraying contingency or emergency expenses. The budget proposes additional deficiency appropriations totaling \$323,908,000 (\$231,304,000 General Fund) for 1981-82 in the budgets of various individual agencies. These deficiencies are detailed on pages GG 239 and 240 of the Governor's Budget. Of the total amount, \$180 million is allocated to the Department of Health Services for the Medi-Cal program. The Medi-Cal funds are requested for additional caseload, other work-load increases, federal matching fund reductions, and savings that are lower than budgeted.