

9/27/65

Memorandum 65-65

Subject: Commissioner's compensation

At a recent meeting, the staff was requested to obtain information concerning the per diem authorized for members of boards and commissions in the state government of California.

Attached (pink pages) is a listing prepared by the Office of the Controller. Of the 59 boards and commissions listed, the per diem rate for eight are below the rate (\$20) payable to the Law Revision Commission, eight are at the same rate, 37 are at the \$25 rate, and six are at the \$50 rate. We are advised by the office of the Legislative Analyst that this listing, although undated, represents the rates in effect as of December 1964. It has not been revised to reflect changes by law in 1965. The office of the Legislative Analyst states that "I am under the impression, however, that there was very little, if any, changes in this regard in 1965."

The Senate Factfinding Committee on Business and Commerce made a report (Part I) on the per diem payments made to boards and commissions in other states at the 1965 session (appearing on page 285 of the committee's report). The committee recommended that the per diem rate of all boards within the Department of Professional and Vocational Standards be raised from \$25 to \$50 per day, but the recommended legislation was not enacted. Attached (green pages) is an excerpt from this report. We suggest that you read this material.

The members of the Constitutional Revision Commission receive their travel expenses but do not receive any per diem compensation. (Incidentally, both Joe Ball and Herman Selvin are members of this Commission.)

We have written to New York to obtain information on the compensation paid to members of the New York Law Revision Commission but have not yet received a reply to our inquiry.

The office of the Legislative Analyst indicated that there is some reluctance on the part of the legislative committees to raise any particular per diem to a realistic amount because of the fear that all other boards and commissions will wish to receive the same treatment. At the same time, the office of the Legislative Analyst understands that the present compensation paid to members of the Law Revision Commission does not provide and has never provided a realistic rate of compensation.

Any change in the rate of Commission compensation would require amendment of Government Code Section 10302 which provides:

10302. The members of the commission shall serve without compensation, except that each member appointed by the Governor shall be paid a per diem of twenty dollars (\$20) for each day's attendance at a meeting of the commission. In addition, each member shall be allowed actual expenses incurred in the discharge of his duties, including travel expenses.

Reimbursement of travel expenses is, of course, subject to the rules and regulations of the State Board of Control applicable to members of boards and commissions appointed by the Governor.

We estimate that the cost of increasing Commission compensation would be about \$3,000 for each \$20 additional.

Respectfully submitted,

John H. DeMouilly  
Executive Secretary

Non-Salaried Board and Commission Members for  
Whom Per Diem is Authorized by Statute

<u>Board or Commission</u>	<u>Amount of Per Diem</u>	<u>Statutory Reference</u>
<b>DEPT. OF AGRICULTURE</b>		
Agricultural Prorate Advisory Comm. (8)	\$10	Ag Code 2085
Local Advisory Boards - Producers	12.	" " 4274
Local Advisory Boards - Distributors	10.	" " 4363
<b>STATE COMPENSATION INSURANCE FUND</b>		
Board of Directors (4)	20.	Ins Code 11770
<b>STATE BOARD OF CONTROL (1)</b>		
	25. (n.t.e. 100. mo.)	Gov Code 13902
<b>DEPT. OF CORRECTIONS</b>		
Board of Corrections (2)	25. (n.t.e. 20 days per f.y.)	Penal Code 6025
Board of Trustees, Institution for Women (5)	50. (n.t.e. 120 days in any yr. Chairman n.t.e. 150 days)	" " 3305
Correctional Industries Commission (5) (excludes chairman)	25. (n.t.e. 20 days per f.y.)	" " 5088
<b>DISTRICT SECURITIES COMMISSION (2)</b>		
	50. (n.t.e. 1000. in any cal. yr.)	Water Code 20019
<b>STATE EMPLOYEES' RETIREMENT SYSTEM</b>		
Bd. of Administration (5)	25.	Gov Code 20100.1
<b>DEPT. OF FISH &amp; GAME</b>		
Fish & Game Commissioner (5)	10; (n.t.e. 50. in any one mo.)	F & G Code 103
<b>DEPT. OF INDUSTRIAL RELATIONS</b>		
Apprenticeship Council (14)	20.	Labor Code 3070
Fair Employment Practices Comm. (5)	50.	" " 1416
Housing Commission (5)	20.	" " 77

<u>Board or Commission</u>	<u>Amount or Fee Limit</u>	<u>Reference</u>
Industrial Safety Board (4)	\$20	Labor Code 141
Industrial Welfare Commission (5)	20.	" " 72
Wage Boards	15.	" " 1179
CALIFORNIA LAW REVISION COMMISSION (7)	20.	Gov Code 10302
NARCOTIC ADDICT EVALUATION AUTHORITY (3)	50.	Penal Code 6515
BOARD OF OSTEOPATHIC EXAMINERS (5)	Not to exceed 10.	Osteopathic Act, Deering Act 5727
PACIFIC MARINE FISHERIES COMM. (1)	10.	F & G 14102
BOARD OF PILOT COMM. FOR SAN DIEGO HARBOR (3)	25. (n.t.e. 2 days per mo.)	H & N Code 1353
PILOTAGE RATE COMM. FOR S.F., SAN PABLO, SUISUN (1)	50.	" " " 1204
<b>DEPT. OF PROFESSIONAL &amp; VOCATIONAL STANDARDS</b>		
Board of Accountancy & Secretary - Treasurer of Board (8)	25.	B & P Code 103 & 51
Accountancy Bd. Committees (12)	25.	" " " 103 & 51
Board of Architectural Examiners (9)	25.	" " " 103 & 55
Athletic Commission (5)	25.	" " " 103 & 18
Cemetery Board (6)	25.	" " " 103 & 96
Chiropractic Examiners (5)	25.	Ch 706/1961 & 103 B & P Code
Board of Registration for Civil & Prof. Engineers (9)	25.	B & P Code 103 & 67
Contractors' State License Board (9)	25.	" " " 103 & 70
Board of Cosmetology (7)	25.	" " " 103 & 73
Board of Dental Examiners (8)	25. & 25. for ea. exam. reviewed	" " " 103 & 16
Board of Dry Cleaners (7)	25.	" " " 103 & 95
Electronic Repair Dealer Registration Advisory Bd. (5)	25.	" " " 103 & 98

Board or CommissionAmount of Pay Ann.Statutory

<u>Board or Commission</u>	<u>Amount of Pay Ann.</u>	<u>Statutory</u>
Board of Funeral Directors & Embalmers (6)	\$25	B & P Code 103 & 76
Bureau of Furniture & Bedding Inspection Advisory Board (7)	25.	" " " " 103 & 19
Board of Guide Dogs for the Blind (7)	25.	" " " " 103 & 72
Board of Landscape Architects (5)	25.	" " " " 103 & 56
Board of Medical Examiners (9)	25.	" " " " 103 & 21
Secretary - Treasurer Bd. Member	25.	" " " " 103 & 21
Physical Therapy Exam. Comm. (5)	25.	" " " " 103 & 26
Podiatry Examining Comm. (6)	25.	" " " " 103 & 21
Psychology Examining Comm. (8)	25.	" " " " 103 & 29
Board of Nursing Ed. & Nurse Reg. (6)	25.	" " " " 103 & 27
Board of Optometry (6)	25.	" " " " 103 & 30
Board of Pharmacy (8)	25.	" " " " 103 & 46
Certified Shorthand Reporters Board (5)	25.	" " " " 103 & 80
Board of Social Work Examiners (7)	25.	" " " " 103 & 90
Structural Pest Control Board (6)	25.	" " " " 103 & 85
Board of Examiners in Veterinary Medicine (6)	25.	" " " " 103 & 48
Board of Vocational Nurse Examiners (11)	25.	" " " " 103 & 28
Yacht & Ship Brokers' Comm. (5)	25.	" " " " 103 & 85
<b>DEPT. OF PUBLIC WORKS</b>		
Calif. Highway Comm. (7)	15.	Sta & Hwys Code 70.
State Aeronautics Board (5)	25.	Pub Ut Code 21222
<b>STATE RECLAMATION BOARD (7)</b>	20. (n.t.o. 1000. in any one yr.)	Water Code 8552
<b>DEPT. OF SOCIAL WELFARE</b>		
Board Members (7)	25. (n.t.o. 6 ca. no.)	W & I Code 101
<b>DEPT. OF VETERANS AFFAIRS</b>		
Board Member, Calif. Veterans' Board (7)	20.	Military & Vet Cod

Board or Commission

Amount of Per Diem

Statutory Reference

DEPT. OF WATER RESOURCES

Member, Calif. Water Comm. (9)

\$50 (n.t.e. 2000. as Water Code 150 & :  
fiscal yr.)

*Per Diems Paid to Members of Licensing Boards, Commissions, and/or Committees Within the Department of Professional and Vocational Standards*

Senate Bill 807, as introduced in the 1963 session of the Legislature by Senator Alan Short, originally proposed to increase per diems for the members of the various boards and commissions of the Department of Professional and Vocational Standards from \$25 per day to \$50 per day. The bill was subsequently amended in the policymaking committee, and the per diem allotment then proposed was \$35 per day—with the extra restriction that no member should receive more than 6 per diems in any one month, nor more than 60 per diems in any one year.

The payments would be made subject to the availability of moneys in that fund for which the particular member of the board or commission was serving. The proposed increase in per diem was intended to cover the increased cost of living which has occurred since the present \$25 per diem was instituted.

In the Department of Professional and Vocational Standards there are 32 boards and commissions, established by the Legislature, and the department acts as the administrative body and policymaking group for the various boards and commissions. The boards meet not less than four times per year, and most of them meet much more frequently.

A public hearing was held in Sacramento on October 29, 1963; the deputy director of the department, and representatives from the Board of Pharmacy, the Board of Dental Examiners, the Bureau of Furniture and Bedding, and the Board of Veterinary Medicine were present and testified.

At the time of the hearings, the Board of Medical Examiners had recorded the highest number of per diems, a total of 1,139, and a low figure of eight had been established by two boards (Guide Dogs for the Blind and the Licensed Physical Therapists) during the last period for which figures were available to the committee. During the year 1964, the low in per diems received by any one appointee serving on the 29 boards and commissions was \$25 for one day. The high was \$4,150 for 167 per diems.

As a result of questions raised concerning the number of meetings by some of the boards, and also because of the locale of some of these meetings, the bill amended, was referred to this committee for interim study. Investigation by the staff revealed that boards were meeting a great many times away from the large metropolitan areas where most of the licensees themselves are situated. The favorite place of these meetings appeared to be Santa Barbara, Monterey, Palm Springs, Tahoe Valley and Yosemite.

The Board of Architectural Examiners during the period from August 1, 1962, to June 8, 1963, met 11 times. Three of these were special meetings of one day's duration. These were held either in Los Angeles or San Francisco. Oral interviews were held on four separate occasions also in San Francisco and Los Angeles. These oral interviews of applicants for licensing took up a total of seven days. For its regular business meetings, the board met once in Santa Barbara for four days; once in Monterey for a period of five days and once in Palm Springs for four days. In addition the board met in Seattle for two days attending the Western Conference of Architectural Examiners.

Listed among its meetings is a committee meeting of the Board of Dental Examiners in Miami, Florida. This turned out to be the annual meeting of the American Dental Association. The Board of Accountancy held meetings in Yosemite and Coronado during the 1962-63 fiscal year. The Landscape Architect Board met a total of six times during the fiscal year. Four of these meetings were held in such places as Lake Tahoe, Yosemite, Palm Springs, and Santa Barbara. Lake Tahoe was a favorite meeting place for the Board of Veterinary Medicine and the Board of Shorthand Reporters. The concern of the committee is best set forth in questioning one of the witnesses:

*Senator Stiern:* "What is the point of going to Bijou with the Veterinary Board?—Why at Bijou? There is nothing central about the Lake Tahoe area."

*Mr. Barbeau:* There is nothing in the law—

*Chairman Short:* Mr. Barbeau aren't there other places that have more veterinarians than Bijou, California?

*Mr. Barbeau:* Yes.

*Chairman Short:* And it is not nearly as close to Stateline as Bijou is.

*Mr. Barbeau:* Actually—

*Senator Stiern:* The point I am getting at is this. It would seem that you would meet where it was an open meeting and people in the profession might like to attend. I don't know how many veterinarians there are in the Bijou area but I don't think there are as many as there are in the Los Angeles area or even in the Fresno area as far as that goes—

Some question was raised as to whether or not the giving of examinations and the grading of papers might not be handled by an independent agency. While it was extremely difficult to pin down the actual number of days spent, a good deal of time is occupied by most of the boards in the preparation, supervision, and correction of examinations. The chairman demonstrated great interest in this function of the boards, as indicated by the following question:

*Chairman Short:* "Let me ask you this, it is possible to get from the department a study of whether it would be feasible to have knowledgeable people, the same as we have in the members of the board, prepare the examinations and correct them, for example, professors in the dental school to prepare a written examination and appropriate members of academic staffs to correct them and to make a survey to determine what they would charge to prepare these examinations and to correct them so that you wouldn't take busy people away from busy jobs. So that these people that are on the boards can best spend their time in policy matters rather than grading papers. Is it possible to make such a survey? May I ask, on behalf of the committee, since the director of the department is here, we would appreciate such a survey being made of some kind or a determination given us as to whether it is feasible or what it would cost. I don't think you are going to have any trouble with the Athletic Commission. Check the dental examiners, the medical examiners and see what they come up with. I think

that we would very much like to have this information and I think that we could use it in our general reports."

The information requested in the report has not yet been received. The department has not completed its study on examinations. This is a complex matter; the per diems are misleading with respect to the examinations of the so-called healing arts: the Chiropractic Examiners, the Dental Examiners, the Funeral Directors, Medical Examiners, Board of Pharmacy, etc. These boards prepare the examinations, give them, and correct the papers. The other boards, in many cases, handle this matter by a combination of arrangements. For instance, the Board of Civil and Professional Engineers employ outside experts to prepare tests and examine applicants. If the costs were reflected in the per diems, the average per diems would be in keeping with those of such others as the Board of Pharmacy and the Board of Dental Examiners. The Contractors' License Board has a permanent staff that handles this function. The Board of Cosmetology uses civil service examiners for this purpose, and has done so for the last three years. The Board of Barber Examiners has this work done by full-time board members, employing two part-time board members as well.

With respect to the relationship of costs and per diems, the following interesting testimony was offered by Leon Happell, a member of the Board of Pharmacy:

*Leon Happell:* "One reason why they didn't blush when we asked for this increase was the fact that in 1950 the average wage of a pharmacist was about \$350 a month and now, a young man out of school, who has just received his graduation and is licensed by the commission of the board, will receive a wage of not less than \$850 a month, and I have one pharmacist that I pay \$1,100 a month to. I have several that I pay \$950 a month to, or about that, but the average run of the mill is about \$45 a day for a pharmacist. The law provides that you must have a registered pharmacist in charge of a pharmacy at all times and this is where we vary from all of the other boards. It is mandatory that as long as the door is open, there must be a registered man in charge. A man leaves to attend a board meeting, he has to place a man in his place, if he is operating at full capacity. It will cost him \$50 a day to put a fellow in there to take his place and these facts can be borne out by any kind of an interrogation."

In connection with this increased cost, it might be well to review the present status of per diems for appointees to the board and commissions in the Department of Professional and Vocational Standards. Prior to 1959, the members of the various boards and commissions received their per diems with figures set forth in each individual bill. There was a discrepancy from board to board and an effort was made to achieve uniformity for all appointees during this period.

Legislation was subsequently introduced and passed, setting forth the \$25 per diem presently existing. This achievement obviously required some compromise. As previously stated, the desire to increase the per diems is predicated upon the existence of increased costs. Almost without exception, the appointee suffers a financial loss in deal-

ing with board business and attending board meetings. It is doubtful that any of the board members receive less than \$25 a day in their regular occupations. Where the proprietor of a business is concerned, it is necessary in almost every case that he have someone to replace him and take care of business in his absence. The purpose of the per diems is to compensate for this personal sacrifice.

The committee staff contacted the States of Florida, Texas, Pennsylvania, New York, Massachusetts, Illinois, and Ohio, with a view to ascertaining what these particular states paid in the way of per diems to various appointees to similar boards and commissions in the respective states. In requesting information from the various states, an effort was made to pick those states that were relatively similar to California in economy, and had sufficient population to be properly indicative. The States of New York, Illinois, Florida, Ohio, and Pennsylvania responded. Attached, as an addendum or appendix to the report, is the information received from those states cooperating with the committee.

In none of these states was there a uniformity of payment. In New York, the per diems ranged from \$30 to \$60. In the State of Illinois, interestingly enough, most of the appointees to boards and commissions receive no per diems, but only their actual expenses. The few who do obtain per diems receive from \$10 per day to \$25 per day. While the information from the State of Florida was not clear and covered many of the judicial offices, etc., there appears to be a pattern of payment of \$35 per diem to members of boards. That of the Board of Pharmacy is specifically spelled out in one section of the Florida statutes. In the State of Ohio, the per diems ranged from a low of \$15 per day to a high of \$100 per day. Certain appointees in the State of Ohio receive yearly allocations. For example, the State Racing Commission receives \$2,500 a year and the Ohio Turnpike Commission receives \$5,000 per year. The Board of Building Appeals, which receives the maximum of \$100 per diem, may not exceed \$3,000 per year in per diems. In the State of Pennsylvania, the per diems ranged to a maximum of \$50 per day.

The financial provision factor was discussed at the hearings, and information received from the department indicates that with slight exception there are sufficient funds in each agency or bureau to match increased costs. The comparison of per diems for 1963 and 1964 is attached hereto, and made an appendix. The estimate of increased cost is also attached hereto and made an exhibit and part of this report.

## RECOMMENDATIONS

The committee feels that the per diems of the boards should be increased to \$50 per day. From an equity standpoint, there is a sufficient justification on the basis of increased costs to the members of the boards. Moreover, a comparison of figures from other states indicates that the \$50 figure would not be remiss, and would in fact be in keeping with a logical provision; the \$50 figure would then be in order.

The committee feels that substantial savings could be made and the number of per diems decreased and/or made more meaningful if the examination preliminaries and procedures were investigated. In this connection, the committee feels that there should be a repeal of any statute that provides for the payment of per diems for correcting a given number of examination papers. It is felt that in some cases the time spent in giving and correcting examinations, and the number of people passing upon same, may be open to question. This topic should be the subject of further investigation, and the committee recommends that this matter be referred to an appropriate interim committee for further study and recommendations to the 1967 Legislature.