

# POWER TO THE CONTROLLER UNDER THE NEW GANN PLAN

*By* **ED SALZMAN**

On July 1st, 1980, State Controller Ken Cory will probably become the third most powerful official in state government, trailing only Governor Jerry Brown and Assembly Speaker Leo McCarthy. The reason: the controller on that date could gain a large measure of control over the budgets of every governmental entity in the state. Cory won't be able to tell state and local officials how they can spend their money, but he will be able to tell them that they can spend a specified amount and no more.

This significant jump in the controller's authority is predicated on the assumption that California voters will approve a spending-limit initiative, sponsored by Paul Gann of Proposition 13 fame, on the June 1980 ballot. Gann has not yet qualified the initiative for the ballot, but he had about four-fifths of the necessary signatures in early December and was expected to exceed the necessary 500,000 with ease by the March 19th deadline. And does anyone doubt that the proposition will pass if it reaches the ballot?

The Gann proposal, carefully written by a drafting committee, would restrict the state and every unit of local government from increasing spending in any year more than the increase in the cost of living and population. (For details, see box.) The job of policing the initiative would fall on the shoulders of the controller's office, unless the Legislature decided to establish a new bureaucracy to do that job.

## **The practical effects**

The local-affairs and accounting units in the controller's office already exercise some measure of control over government expenditures — but that is nothing compared to the power Cory would get under the Gann plan. Even though the authority is not specifically given to him in the measure, it is significant. The controller could establish each year the allowable percentage increase for the state and for each school district, city, county and special district. He could crack down on any entity exceeding the limit, and he would have to interpret some of the more esoteric provisions of the initiative, pending court rulings. It is entirely possible that disputes could arise between the controller and a governmental agency over the proper expenditure limit in any given year. The initiative itself is silent on how the proposed limit law would be implemented. In all probability, the Legislature would have to establish a procedure for establishing the allowable percentage increases in spending each year.

But for the average citizen, the key question is what practical effect the initiative would have on governmental budgets. Barring a major change in economic conditions, both state and local government would be able to increase spending about 7 percent a year, according to Kirk West, executive vice president of the California Taxpayers Association (Cal-Tax). For school districts, the increase would be less, about six percent, because enrollments are declining



and average daily attendance is one factor involved in establishing spending limits for public schools.

How does that compare with the recent rate of increase in government spending? Over the past 10 years, the total state budget has been rising at the average rate of 14 percent. But that includes subventions to local government, capital outlay and some items that would be excluded from the Gann limit. A better comparative figure is the average general-fund increase of 10 percent. According to West, a typical unit of local government has spent 11 or 12 percent more each year over the past decade, but there are great variations within the hundreds of units.

Thus, the net effect of this initiative would be about the same as the spending-limitation measure sponsored by then-Governor Ronald Reagan in 1973. The Reagan plan, which was defeated, was tied to personal income and would have reduced the amount of the increase over a period of years from 8.3 percent to 7 percent, which would hold firm starting in the 1989-90 fiscal year.

One of the key participants in the drafting of the Reagan proposal was William Craig Stubblebine, an economics professor at Claremont Men's College. He also served on the committee that wrote the current initiative. Others on the

# The 'Spirit of 13' initiative

Here is an outline of the main provisions of the spending-limitation initiative sponsored by Proposition 13's Paul Gann and expected to qualify for the ballot in June of 1980:

- State and local government appropriations each year generally shall not exceed the limit set for the previous year, adjusted for changes in the cost of living and population.

- Surplus funds shall be returned to the taxpayers through downward revision of tax rates and fee schedules during the subsequent two fiscal years.

- In the event of any emergency, the limit may be exceeded. However, the excess must be "paid off" through appropriation reductions in the subsequent three years.

- The limits may be revised upward or downward by a majority vote of the people at the state or local level. However, these changes cannot remain in effect for more than four years without another vote of the people.

- Whenever a state agency mandates a new program or higher level of service on local government, the state shall provide the funds for the costs of these programs and services. There are three exceptions: mandates requested by local government, new crimes and mandates enacted before 1975.

- State appropriations subject to limitation include all expenditures from the proceeds of taxes except those funds subvented to local government, refunds of taxes, and benefits for retirement, unemployment insurance and disability insurance. Appropriations subject to limitation at the local level include all expenditures from the proceeds of local taxes and subventions from the state; the only exception is tax refunds.

- In effect, state and local government would be prohibited from charging user fees higher than necessary to provide the product or service for which the fee is established.

- For purposes of calculating the spending limit, the federal Consumer Price Index shall be used. However, the allowable percentage increase shall not exceed the change in California per capita income from the previous year. Federal census figures shall be the basis for establishing population trends, although the Legislature is given some leeway in this area. For purposes of establishing school limits, average daily attendance will be used instead of overall population statistics.

- The limitation shall not include funds for debt service, compliance with certain court orders and expenditures of a few special districts.

- The measure shall go into effect on the first day of the fiscal year following its adoption, presumably July 1st, 1980.

- If any portion of the initiative is thrown out by the courts, the remainder would continue in effect.

committee included West, Dugald Gillies of the California Association of Realtors, James P. Kennedy of the California Chamber of Commerce, and Richard Gann, son of the sponsor. Lewis Uhler, a former Reagan Administration executive and head of a national spending-limitation committee, also participated in some sessions. Paul Gann, who doesn't pretend to be a technician, played a relatively minor role.

The most difficult job for the committee was establishing a definition of "appropriation" so that the initiative could work in the real world. There was a move to substitute a revenue-limitation approach, but that was rejected.

Stubblebine insists that the most important element in the initiative is not that it will control the cost of government but that it establishes a new system under which the people themselves will decide how much they are going to pay in taxes. This is because the proposal does not forever fix limits in the constitution. It allows the people of the state or any local entity to increase the limit by a simple majority vote.

## Fees versus taxes

West thinks a key provision in the initiative is one designed to end a local-government practice that came onto the scene following the passage of Proposition 13 — sharp increases in all fees. There are those who claim that some of these fees are really taxes that are used to pay for the cost of general government, over and above the amount necessary to provide the service for which the fee is collected. Under the Gann measure, any excess fees (above the amount necessary to pay for the service) would be counted as general revenue and thus subject to the limitation. The net effect of this provision should be to reduce or eliminate the use of fees for general government support.

There are all sorts of scenarios that can be written around the fee-versus-tax concept. West says the drafters were trying to get at what he calls the "Folsom zoo" problem: "The city of Folsom has a small zoo. Let's say they get a super attraction, like some panda bears. The revenues from the zoo then might be able to support the entire city." Would that be proper? On the other hand, would it be right to allow the zoo to have so much money in its special fund that it might be forced to build a Taj Mahal of zoological gardens? West says the same problem could arise out of income from marinas, cemeteries, electricity and a variety of other fee-for-service situations.

The initiative also attacks the delicate area of state-local relations. Under legislation enacted several years ago, the state is supposed to reimburse local government for the cost of any new programs or increased workload mandated upon cities, counties and special districts by the Legislature and the governor. The state has managed to step around this pledge on numerous occasions, despite the fact that the state Board of Control was given the authority to resolve disputes over this supposed guarantee. With this so-called SB-90 provision in the constitution via initiative, it will be possible for local governments to sue the state over the mandated cost issue and to win.

## Two trouble spots

At this point, it appears that there is no stopping the initiative. It is being promoted by an organization called the "Spirit of 13" and headed by the senior Gann. Among the organizations supporting the measure are the National Federation of Independent Business, the Chamber of Commerce, the Realtors, Cal-Tax, the California Farm Bureau Association and the California Apartment Owners Association. But there are two potential trouble spots:

- **The Legislature** could enact its own spending-limit initiative or place one on the ballot. There would then be competing measures before the public. Dan Boatwright,



chairman of the Assembly Ways and Means Committee, has come forward with a plan that some claim is a more stringent limitation proposal than the one contained in the Gann initiative. The Boatwright formula is based on California cost-of-living and population statistics — with a 10 percent lid.

- **Howard Jarvis**, lead sponsor of Proposition 13, has been bad-mouthing Gann's new initiative. Should he actually oppose the measure, voters by the droves might follow his lead — as they did in several contests on the November ballot.

The open warfare between Jarvis and Gann should not have been unexpected. Their Proposition 13 marriage was one strictly of convenience. Both of them had failed in prior attempts to cut taxes and decided that they might qualify a measure for the ballot by pooling their resources. But they never were friends. Gann is an efficient and quiet former real estate salesman. Jarvis is a bombastic talker and perennial candidate for office. A classic odd couple.

Jarvis unloaded on his former partner in a television interview. He declared that "Gann is trying to promote something to make money — for Gann." In response, Gann denied he was getting anything but expenses out of the "Spirit of 13" campaign and added: "Howard has a very difficult problem with the English language. It's hard for him to get above a two-letter word. He says 'I' and 'me' very well."

#### Taking a back seat

Within the Legislature this year, the concern about the spending-limit initiative — if indeed there is any concern — will take a back seat to the enormous problems of implementing the second year of Proposition 13. There are many questions to be resolved: How much surplus money does the state have available for local government? How much can the state budget be trimmed? Is Governor Brown's 10 percent cutback feasible for most departments? How will local government survive with reduced support from the state and no additional revenues from local taxes? How soon can local government be told what is available, and how it will be distributed? How much can the state afford to offer public employees in pay increases?

While the Legislature is concentrating on these questions, Paul Gann and company will quietly be rounding up signatures on some 600,000 petitions in circulation. Probably long before March 19th, Gann should announce that he is over the top. It will then be up to the state's politicians to decide whether to join or fight. The best guess is that the Gann measure will have little opposition, and the day will come when Ken Cory may have his vehicle to carry him to higher office. In this era, what better job is there than government-spending traffic cop?



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# **Jonestown, hardly just one of Ryan's things**

**By JOHN FOGARTY**

When Representative Leo J. Ryan decided to investigate conditions at the People's Temple settlement in Guyana, he invited several of his House colleagues from the San Francisco area to accompany him. The People's Temple was a hot issue in the Bay Area, but not one of Ryan's colleagues accepted the invitation. "I just thought Leo was off on another one of his things," said one member who decided not to accompany Ryan on the trip. The explanation was typical.

To many on Capitol Hill — colleagues, staff and press — Leo Ryan was a loner who often went off to do "his thing." He was a man with strong opinions who made up his mind on a subject and seemed driven to prove he was right. He was not always objective and he probably was never fully understood.

Ryan could bully those who disagreed with his views and then turn around and be gracious to them. He might be stubborn and unyielding in the face of opposition, or he might retreat if an opponent seemed to know more about a subject than he did.

Some who worked for him up to the time he was killed, and others who left him years before, agree that it was difficult to predict what Ryan would do next. "You never knew where he was coming from," said one source whose comment was typical. He was a man of many moods. He was capable of genuine warmth and great fury. He could be very friendly and terribly aloof.

Ryan was a good father to his five children, a son who was devoted to his mother and a brother who was close to his sisters. He was married and divorced twice. The second marriage lasted only a few months. Its dissolution was bitter for Ryan. He was a lonely man.

He was something of a father figure to many of the people who worked in his congressional office. His children were grown and the staff seemed to replace them in Ryan's mind. The tears shed by his staff when he died were genuine.

## **'A pro-solar nut'**

Ryan thought of himself as a liberal but his public positions and voting record were moderate to conservative. He was not highly regarded by his colleagues, but in the egocentric world of Congress few members are truly admired. He had few friends in the House and did not haunt the House chamber. The Democratic leadership in the House did not count Ryan as a sure party vote. Ryan did not introduce bundles of bills. He was not a political compromiser who could build coalitions to move legislation through Congress. Instead, Ryan played the role of investigator, congressional muckraker and hell-raiser. He saw

himself — in the words of his mother — "as a doer."

He was passionately in favor of the development of solar energy and vehemently opposed to the construction of more nuclear power plants. Publicly, Ryan said he had an open mind on both subjects, but privately he would say: "I'm an anti-nuclear, pro-solar nut."

As the chairman of an environment and energy subcommittee of the House Government Operations Committee, Ryan held countless hearings that turned out to be critical of nuclear power and favorable to alternative energy sources, particularly solar. His feelings led him to violate a House rule by prematurely releasing a report which concluded the cost of nuclear power would be extremely high.

## **A fair price to pay**

Ryan was called before the Government Operations Committee and reprimanded for releasing the report. Lobbyists for utilities and pro-nuclear organizations took delight in spreading news of Ryan's punishment around town. Ryan was embarrassed but not contrite about the reprimand. He clearly thought it was a fair price to pay for getting an anti-nuclear report into the hands of the press.

Ryan was press conscious. He ran one of the more active news operations on Capitol Hill. Some said he was a headline-hunter. Others said Ryan believed that if he provided the people with the facts they would respond properly. His faith was in the people, not in the system.

His hearings on nuclear waste disposal, supersonic jet noise, dam safety and other controversies garnered a lot of publicity. Visits to the Arctic to highlight the horrors of killing baby seals for their skins, and to a federal prison to join the battle to gain a presidential pardon for Patty Hearst also put Ryan in the national spotlight.

Ryan's efforts did not stop President Carter from granting the French-British Concorde permanent U.S. landing rights, and baby seals are still being slaughtered for their pelts. But Ryan's action to aid Hearst started a stream of statements from others favoring a pardon. And the problems associated with the disposal of nuclear wastes are getting a lot more attention now than they did when Ryan took up the issue:

Ironically, two significant Ryan achievements, as seen by those who knew him, received practically no publicity. Ryan played a major role in laying the groundwork for expansion of Redwood National Park in Northern California. Hearings Ryan held in 1976 on the erosion problems affecting the Tall Trees Grove in the park paved the way for federal legislation to create a larger park. The legislation was drafted and moved through Congress by Democratic Representative Phillip Burton of San Francisco who is chairman of the Interior Committee's subcommittee on parks. Ryan and Burton

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