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[Anthony Kline Youth Service Proposal]

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STATE OF CALIFORNIA
Court of Appeal
FIRST APPELLATE DISTRICT
DIVISION TWO
MARATHON PLAZA - SOUTH TOWER
303 SECOND STREET, SUITE 600
SAN FRANCISCO, CA 94107

J. ANTHONY KLINE
PRESIDING JUSTICE

TELEPHONE
(415) 396-9770

March 11, 1993

VIA FAX

Mr. Rick Allen
The White House, Room 146
Office of National Service
Washington, D.C. 20500

Dear Mr. Allen:

As requested by Nancy Rubin, I am herewith providing you a copy of my recent letter to Eli Segal (to which I have as yet received no reply).

Also enclosed is a memorandum I prepared about a year ago for Norm Mineta on how certain youth service programs can be financed through public works appropriations.

The memo commences by describing the manner in which our state bottle-recycling legislation has generated millions of dollars for youth service and is the chief reason urban youth corps programs now exist in every major California city. At the time I drafted this memo I was unaware of what I now think is the easiest solution to the Davis-Bacon Act problem, which is to describe the work done under these contracts as "job training." The use of public works appropriations for job training would require the approval not only of the House Public Works Committee but also the Education and Labor Committee. Senior congressional staff persons who understand the issue and how to structure the legislation are Suzanne Sullivan, Chief Committee Consultant to Norm Mineta (202-225-9989) and Omar Waddles, Chief Counsel to the Subcommittee on

*Robert -
Did I give you
a copy of
this? Have you
sent Kline at least
a "place holder"
letter, pending
further funds?
RA*

Mr. Rick Allen
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Employment Opportunities of the House Committee on
Education and Labor (202-225-7594).

To sum it all up, the general idea I am advancing has the virtue of expanding the administration's youth service program to embrace out-of-school youth--"the forgotten half" to which Hillary Clinton has been drawing attention--without any additional public expense. One of the difficulties in explaining this idea is that it connects national service to a form of legislation conventionally considered under the rubric of "job stimulation." It is therefore necessary to keep in mind that the young adults attracted to urban youth corps programs represent groups suffering the highest levels of unemployment in the nation.

I genuinely appreciate any interest you may have in this idea and would very much like to discuss it further with you on the phone.

All the best,

A handwritten signature in dark ink, appearing to read "Jay Bybee", followed by a long horizontal line extending to the right.

cc: Nancy Rubin
Office of National Service



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(415) 398-8770

January 29, 1993

Eli J. Segal
Director
White House Office of National Service
Executive Office Building
Washington, D.C. 20500

Dear Mr. Segal:

I am writing as Chairman of the Board of Directors of the San Francisco Conservation Corps, which I founded about a decade ago together with then Mayor Dianne Feinstein. I have helped establish similar organizations throughout California and elsewhere in the nation and have been associated with most of the national organizations advancing the idea of national service in recent years, such as Youth Service America, the National Association of Service and Conservation Corps and Public/Private Ventures.

My purpose is to persuade you that what are known in California as "community conservation corps" provide a distinctive model for youth service that should receive strong support from your office. Given the constraints of the federal budget, there is one particularly attractive feature of this model: it can be significantly expanded at no additional cost.

Enclosed herewith is a report on the SFCC that, although a little out-of-date, provides a good quick idea of what a community conservation corps looks like and does. (The statutory definition of a "community conservation corps" is also enclosed.) As you will see, such corps rely for financial support primarily upon work contracts involving public service work at the local level. A significant amount of these contracts, related to recycling activities, utilize funds generated under the state Beverage Container Recycling Act. That state legislation, enacted in 1986, is one of the reasons community conservation corps now exist in every major California city.

I have for several months been discussing with Congressman Norm Mineta (and other California Congressman, as well as Senators Boxer and Feinstein) the possibility of replicating the California model on the national level by

Eli J. Segal
January 29, 1993
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directing a relatively small portion of certain federal public works contracts to "youth corps programs," which are the federal analog of "community conservation corps." As you may be aware, a "youth corps program" is defined in the National and Community Service Act of 1990 as "a conservation corps or youth service program, that offers full-time productive work . . . with visible community benefits in a natural resource or human service setting and that gives participants a mix of work experience, basic and life skills, education, training and support services." (42 U.S.C. § 12511(29).)

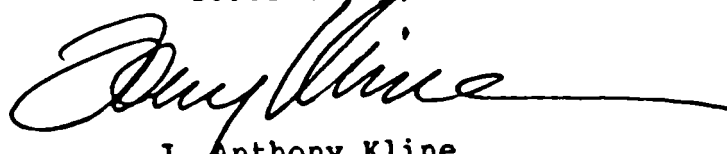
Congressman Mineta, who as Chairman of the House Public Works and Transportation Committee is of course crucial to the success of this idea, has indicated to me and others that he will be supportive, provided the administration is willing to incorporate the idea as a part of its concept of National Service or in other measures that come before his Committee. Senator Boxer, who is a member of the Senate Committee that passes on public works issues, has indicated she too will be supportive.

Due to the bi-partisan consensus in support of public works, this is among the few expenditures that will be increased by the present Congress. What we are proposing is that these funds, which will be appropriated in any event, can at the same time support an important form of youth service that not only improves the quality of the urban environment, but provides a socializing experience for inner-city youth not served by most other forms of national service.

If, as I hope, you and the administration are interested in this idea, I would be most eager to pursue it with you further, as there are significant details that require further discussion.

I very much look forward to hearing from you.

Yours truly,



J. Anthony Kline

cc: Congressman Norman Mineta
Senator Barbara Boxer

Community Service Plan Scaled Back

Deficit Pinches Clinton's 'Dream'

By Mary Jordan
and Ann Devroy

Washington Post Staff Writers

President Clinton is planning to unveil a small pilot program allowing some college students to repay government loans through community service instead of the huge new "defining initiative" described during his campaign.

Eli Segal, the presidential assistant in charge of the national service plan, said in an interview that Clinton's "dream" for a nationwide program that would be available to all students will have to give way at the outset to "the reality of the deficit."

Segal said the president does not want to create a "massive new federal program" but plans to start small, relying on the most successful existing programs, and build from there. The administration also will seek financial support from state and local governments as well as businesses and nonprofit groups.

During the campaign, Clinton said that allowing all interested students—rich, middle income and poor—to work off college debt as teachers, police officers or in other service in the community is a "symbol of what this campaign is all about." Clinton often referred to his proposed National Service Trust Fund as "the best money we will ever spend."

But now, White House advisers are worried that it may cost too much. It could run \$18,000 a year to place one student for a year in a service job, according to those involved in shaping the administration's proposal. And,

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there are now more than 5 million college students with government loans—potential candidates for joining a new service corps.

Because of costs and logistics—some estimates say there are no more than 30,000 community service slots now available in the country—it could be years before more than a fraction of eligible students could participate in Clinton's proposed program.

Charles Moskos, a Northwestern University professor involved in planning the National Service Trust Fund, said there is "general agreement" among Clinton's advisers that, for the program to be meaningful, the government would have to offer a loan forgiveness "of between \$5,000 and \$10,000 a year" for each student.

In addition, the community service models being studied show that it costs another \$10,000 for one community service worker's yearly pay, medical insurance and administrative costs.

Figuring an average of \$18,000 per student, a program involving 100,000 students would cost \$1.8 billion.

"This program is very, very expensive," said Brian Fitzgerald, staff director of the Advisory Committee on Student Financial Assistance, the standing committee created by Congress to advise it on student aid. "Realistically, this means you have to start small."

Many others on Capitol Hill agree. Yesterday, the National Commission on Responsibilities for Financing Postsecondary Education, a commission set up by Congress, met with the House and Senate education leadership and recommended that no more than 50,000 students be involved in startup of the service program.

Also, citing competing educational needs, it urged that no more than 20 percent of a student's loan, or an average of \$2,000, be forgiven annually.

If local businesses or communities benefiting from the student help pay the stipend and other costs, the commission said, it would still cost the federal government \$100 million a year.

Two weeks ago, the group charged with studying this issue, the Commission on National and Community Service, projected that, realistically, about 60,000 students—about the number that attend Ohio State University's Columbus campus—could participate in the first year. The group set the cost at more than \$1 billion.

White House advisers said they are still working out the number of students to include and the amount of loan forgiveness. They also are considering allowing high school graduates to participate, on the theory that it makes sense for students to do the work before they get the loan benefit, and that it also may be easier for younger students to live on what may amount to \$5,000 a year in living expenses.

Bill Galston, the deputy to the president's chief of staff, said Clinton recently placed a high priority on "national service" and so.

Editor Post 2-4-93

MEMORANDUM

I.

Financing Youth Service Through Public Work Appropriation

Though the predicament of highly unemployed inner-city youth is a significant source of crime and delinquency, long-term welfare dependency, drug and alcohol abuse, and urban decay, there is no coherent social policy addressed to this group.

II.

The chief assumption of this memorandum is that a structured program of public service work can effectively integrate significant numbers of at-risk, out-of-school teenage youth into the mainstream of society if it also provides basic literacy skills, instills a sense of personal responsibility and civic consciousness and assists in permanent job placement. Models of such youth service programs have emerged during the last several years in several areas of the country, particularly California.

One of the most distinguishing features of these programs is that they have the capacity to become largely self-supporting. Many do not primarily rely on direct government grants or charitable support, but on work contracts under which they receive a fee for a service.

This memorandum proposes that existing government expenditures for public works and environmental restoration can, in part, be used to support such programs without prejudice to the different purposes for which they were originally conceived.

III.

The State and local conservation corps programs that have proliferated in California during the last several years are the inspiration for this idea.

In 1976 the State of California established the California Conservation Corps (see Calif. Pub. Resources Code, § 14300), based on the model of the Civilian Conservation Corps created by President Roosevelt at the national level in 1934. During the last 25 years the state program has achieved national prominence and stimulated the establishment of similar programs in 14 other states.

In 1983 the City of San Francisco created the San Francisco Conservation Corps (SFCC), the first municipal conservation corps in the United States. At about the same time, local conservation corps were also created elsewhere in the Bay Area: the East Bay Conservation Corps (serving Alameda and Contra Costa Counties) and the Marin Conservation Corps. Today, local corps are common throughout the State.

Unlike the federal and state programs, the local programs are not residential (and are therefore much less expensive) and pay corpsmembers a salary, starting at slightly

above the minimum wage. The programs rely primarily on work contracts with land managing agencies, such as water and park districts and other public agencies and private concerns. All of the programs have an educational component that, at a minimum, provides basic literacy skills; most also enable corpsmembers to earn the equivalent of a high school diploma.

IV.

The State of California began providing work for local corps in 1985, when it enacted a Beverage Container Recycling and Litter Reduction Act. (Calif. Pub. Resources Code, § 14500 et seq.) The Act requires distributors of bottles and cans of beer and soda to deposit 2.5 cents in a special fund in the State Treasury for each unit distributed in the state during a one-year period, which amount is given to the consumer for each bottle or can returned to a recycling center. At the present time about \$300 million is deposited in the special fund. Because substantially less than 100% of bottles and cans are returned for redemption, there is always a surplus in the fund. Under the Act, a portion of this surplus must be provided to "community conservation corps" that perform recycling services consistent with the purposes of the legislation.

The Act (§ 14507.5) defines a "community conservation corps" as a non-profit corporation whose "program is based upon a highly disciplined work experience, includes an educational component, and is designed to develop corpsmembers character

and civic consciousness through rigorous work on public projects." Such a corps must "compensate corpsmembers at not less than the federal minimum wage, and provide corpsmembers assistance in obtaining permanent employment following their participation in the corps program." (Ibid.) The corps must be engaged in recycling activities as well as conservationist projects "which assist agencies of local government and other nonprofit community organizations in developing, rehabilitating, and restoring parklands, recreational facilities, and other community resources." (Ibid.)

The recycling law directly resulted in the creation of community conservation corps in every major California city. Without any appropriation of general fund monies or use of tax revenues, the recycling law now annually provides about \$6 million dollars for such programs, which collectively employ, educate and train nearly 2,000 corpsmembers.

Use of the recycling law to create employment and training for targeted populations has encouraged other attempts to utilize environmental and public works legislation for this additional purpose. For example, bills are pending in the California Legislature that would encourage the employment of state and local conservation corps in the construction and maintenance of certain state parkways (AB 350 Costa) and state parks (AB 72 Cortese).

V.

Non-profit organizations that fit the California statutory definition of a "community conservation corps" also fit the federal definition of a "youth corps program" under the National and Community Service Act of 1990 (42 USC §§ 12501 et seq.), that is, "a conservation corps or youth service program, that offers full-time productive work . . . with visible community benefits in a natural resource or human service setting and that gives participants a mix of work experience, basic and life skills, education, training and support services." (§ 12511(29).) Since the provision to "young people" of employment in public service work that "help[s] meet human, educational, environmental, and public safety needs" is among the purposes of the National and Community Service Act (§ 12501), that statute provides a legislative vehicle for a much more ambitious effort to employ and develop youth in need, which does not require any new money.

An array of existing federal programs designed to improve infrastructure and restore the environment could provide a structured work experience for targeted populations of youth and young adults participating in local organizations that fit the federal definition of a "youth corps program;" the federally financed work programs most obviously amenable are those requiring unskilled or semi-skilled work.

The number of federally financed public works, environmental restoration projects and other programs that might fit within the proposed work program is too great to be

identified here. It should be noted, however, that construction work or other forms of physical labor are not the only forms of employment that should be considered. Several youth service programs, notably the City Volunteer Corps in New York City, are engaged in the delivery of human services, such as homemaker chore services to the elderly and child care services.

VI.

Consideration must, of course, be given to the Davis-Bacon Act (40 USC §§ 276a to 276e), which presents a threshold obstacle to the foregoing idea. That Act provides that contracts "for construction, alteration and/or repair, including painting and decorating of public buildings and public works of the United States . . . shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village or other civil subdivision of the State in which the work is to be performed" (§ 276a.)

The purpose of the Davis-Bacon Act is to protect local wage standards by preventing contractors on government projects from basing their bids on wages lower than those prevailing in the area, and to give local labor organizations fair

opportunity to participate in government subsidized building programs. (University Research Ass'n Inc. v. Coutu (1981) 450 U.S. 754.)

The work program advanced in this memorandum contemplates that targeted youth would participate through the vehicle of a highly structured non-profit youth service organization similar to California's community conservation corps, which can provide direct supervision and the educational and counselling services that are essential. Community conservation corps support themselves by retaining a portion of the fee they receive for corpsmembers' work services before they pass through to the corpsmember a salary closer to the minimum wage than the prevailing wage. Since contractors cannot be asked to pay more than the prevailing wage, payment at that level directly to participating youth would exhaust funds that might otherwise be available to support the administrative expenses of the youth service organization.

There are several possible approaches to this problem. The first would be to limit the work program to projects not covered by Davis-Bacon. For example, the statutory phrase "construction, alteration and/or repair" has been interpreted not to include demolition projects. (38 Op. Atty. Gen. 229 (1935). Conceivably, certain types of environmental restoration and land management contracts or other forms of federally financed work may be exempt from the Act. In any case, government contracts that do not involve

construction or other conventional forms of physical work, such as contracts for the delivery of human services, may not be covered by Davis-Bacon.

A second approach would be to compensate participating youth at the prevailing wage level but confine participation to young persons belonging to a youth service organization independently supported by other public or private sources.¹ One of the advantages of this approach is the incentive it would create for state and local governments, community organizations, foundations and others to establish qualifying youth service organizations, provide seed money funding and develop local support. As earlier noted, the growth of community conservation corps throughout California was the result of the availability of state recycling funds to compensate corpsmembers, even though it was clearly provided in the recycling law that such funds "shall not comprise more than 75 percent of the annual budget of a community conservation corps." (Calif. Pub. Resources Code, § 14581(a).) The purpose of this provision, which has been realized, was to make it

¹ It is worth noting that the National and Community Service Act authorizes direct grants to state and local youth corps programs which serve "economically and educationally disadvantaged youth" if there are assurances that "program agencies consult with each local labor organization representing employees in the area who are engaged in the same or similar work as the work that is proposed to be carried out by such program." (42 USC § 12543(d)(3)(7).)

necessary for corps to develop and maintain a base of local support.

A third approach would be modification of the Davis-Bacon Act to authorize payment of the prevailing wage to the non-profit youth service organization, permitting it to pass through most of the payment to participating youth and retain a small portion to defray its own expenses. A provision of this sort might be acceptable to organized labor, since it would not prejudice one of the chief purposes of the Act: to provide protection to local craftsmen, who were losing work to contractors who obtained workers from distant cheap labor areas. Such an exception might also be made palatable to organized labor if it were limited to a small portion of any given project, or if youth participation were associated in some fashion with an appropriate apprenticeship program.

* * * * *

It is hoped this memorandum will stimulate the considerable research that will, of course, be necessary before the general concept advanced here can be advanced legislatively.

J. Anthony Kline