



tary's duties in this regard. It would require adopting agencies to submit specified information to OAL that is pertinent to the Secretary's comments, objections, or recommendations. It would also require OAL to return regulations to the adopting agency under certain additional circumstances. [A. *Appr*]

**AB 1160 (Morrissey)**, as introduced February 23, would require OAL and the Secretary of Trade and Commerce, on or before January 1, 1998, to recommend to the legislature the suspension or repeal of all state regulations determined by OAL and the Secretary to be more stringent than federal regulations on the same subject. This bill would make this provision inoperative on July 1, 1998, and would repeal it on January 1, 1999. [A. *CPGE&ED*]

**AB 1857 (Brewer)**. The APA authorizes departments, boards, and commissions within Cal-EPA, the Resources Agency, and the Office of the State Fire Marshal to adopt regulations that are different from regulations contained in the Code of Federal Regulations addressing the same issues upon a finding by the public entity adopting the regulations that certain justifications exist. As introduced February 24, this bill would broaden this authorization to permit all state agencies to adopt regulations that are different from regulations contained in the Code of Federal Regulations. It would also require a state agency, prior to adopting any "major regulation" (as defined) to evaluate alternatives to the requirements of the proposed regulation and consider whether there is a less costly alternative or combination of alternatives that would ensure full compliance with statutory mandates in the same amount of time as the proposed regulatory requirements. [A. *CPGE&ED*]

**AB 1659 (Woods, Goldsmith, Machado)**, as amended July 17, would require specified state agencies, until January 1, 2001, to determine whether a proposed regulation or amended regulation would be a "major regulation" or a part of a "major rulemaking action," as defined, prior to giving notice of that adoption or amendment, to include that determination in the notice of proposed action, and to provide for public comment on that determination. It would require these agencies to provide specified related information and findings in the statements of reasons submitted with the notice of proposed action and with the adopted regulation. It would provide that in the event an agency cannot make specified findings required in this regard in the final statement of reasons for the adopted regulation, the agency shall report to the legislature and the Governor with respect to the agency's determination

that these findings could not be made and the agency's recommendations of further legislative action.

The APA requires OAL to review regulations adopted by state agencies according to specified criteria. The APA also specifies that a state agency that adopts or amends a regulation mandated by federal law or regulations, the provisions of which are identical to a previously adopted or amended federal regulation, shall be deemed to comply with the provisions of the APA requiring a final statement of reasons. This bill would also provide, until January 1, 2001, that a state agency that adopts or amends a regulation mandated by federal law as described in these provisions shall be deemed to have complied with the criteria for review by OAL if a specified statement is included in the notice of proposed adoption or amendment.

The APA also requires OAL to adopt regulations specifying the methods, standards, presumptions, and principles OAL uses, and the limitations it observes, in reviewing regulations, and requires OAL to return any regulation to the adopting agency if certain conditions exist. This bill would require OAL, until January 1, 2001, to return any regulation to the adopting agency if the rulemaking file does not contain substantial evidence, as defined, to support the conclusions of the adopting agency. [S. *GO*]

**SB 329 (Campbell)**, as introduced February 10, would prohibit a state agency, commencing January 1, 1996, from adopting any regulation in an area over which a federal agency has jurisdiction, unless the state agency notifies each house of the legislature thirty days prior to the effective date of the regulation. The bill would also declare that it is the intent of the legislature that the rules of each house shall ensure that a bill prohibiting the adoption of a particular regulation may be acted upon by both houses within the thirty-day period specified above. [S. *GO*]

**AB 1142 (Baldwin)**, as introduced February 23, would prohibit all regulations adopted by a state agency that has been determined by OAL to have a substantial adverse job creation impact from remaining in effect for more than four years from the date of its filing with the Secretary of State. [A. *CPGE&ED*]

**SB 690 (Mountjoy)**, as amended March 30, would exempt the Department of Personnel Administration from the APA and instead provide alternative procedures for the Department to use in the adoption, amendment, or repeal of a regulation. The alternative procedures include, among other things, a public comment period, preparation of specified information relative to

the proposed rule action, public notice, a public hearing, and publication in the California Code of Regulations. This bill would require Department policies, guidelines, rules, and documents not subject to these rulemaking procedures to be made reasonably available to state agencies, state employees and their representatives, and other interested parties. This provision, rather than the APA, would also apply to the State Personnel Board for the purposes of adopting, amending, and repealing civil service classifications in accordance with the California Constitution. This bill would continue all Department regulations, policies, guidelines, rules, and documents in effect on the effective date of this article until they are amended or repealed, as specified. [A. *CPGE&ED*]

**SB 235 (Hughes)**. Existing law establishes procedures for the enforcement of child support obligations through the courts and through state and local agencies. Under existing law, the state Department of Social Services is the administrator of the state plan for securing child and spousal support and determining paternity. Existing law requires each county to maintain a unit in the office of the district attorney for the same purposes. As introduced February 7, this bill would establish the Division of Child Support Enforcement in OAL, and would provide for the administrative adjudication of child support obligations. The bill would establish procedures for hearings to establish child support and paternity, the enforcement and modification of support obligations so established, and for judicial review of final orders issued by an administrative law judge. [S. *GO*]

## BUREAU OF STATE AUDITS

*State Auditor: Kurt Sjoberg*  
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Created by SB 37 (Maddy) (Chapter 12, Statutes of 1993), the Bureau of State Audits (BSA) is an auditing and investigative agency under the direction of the Commission on California State Government Organization and Economy (Little Hoover Commission). SB 37 delegated to BSA most of the duties previously performed by the Office of Auditor General, such as examining and reporting annually upon the financial statements prepared by the executive branch of the state, performing other related assignments (such as performance audits) that are mandated by statute, and administering the Reporting of Improper Governmental Activities Act,



Government Code section 10540 *et seq.* BSA is also required to conduct audits of state and local government requested by the Joint Legislative Audit Committee (JLAC) to the extent that funding is available. BSA is headed by the State Auditor, appointed by the Governor to a four-year term from a list of three qualified individuals submitted by JLAC.

The Little Hoover Commission reviews reports completed by the Bureau and makes recommendations to the legislature, the Governor, and the public concerning the operations of the state, its departments, subdivisions, agencies, and other public entities; oversees the activities of BSA to ensure its compliance with specified statutes; and reviews the annual audit of the State Audit Fund created by SB 37.

## MAJOR PROJECTS

**County Investments: Treasurers Should Avoid Risky Investment Strategies** (June 1995) follows BSA's March 1995 report entitled *Orange County: Treasurer's Investment Strategy Was Excessively Risky and Violated the Public Trust*, in which the Bureau audited the Orange County Treasurer's Office and traced the events which led to Orange County's December 1994 bankruptcy filing. [15:2&3 CRLR 12-13]

In its follow-up study, BSA surveyed the other 57 county treasurers in California and visited eight counties (Colusa, Monterey, Placer, Sacramento, San Bernardino, San Diego, Solano, and Sonoma) to determine the prevalence of risky borrowing and investment practices similar to those which led to the downfall of Orange County. BSA found that several counties, including seven of the eight visited counties, employ at least one of three high-risk strategies which put public funds at risk: (1) holding excessive concentrations (more than 30% of their portfolios) of often volatile structured notes; (2) excessively leveraging or borrowing against portfolios through reverse repurchase agreements ("reverse repos"), and (3) investing significant proportions of portfolios in securities with long-term maturities (2.5 years or more). These strategies increase the affected portfolios' sensitivity to interest rate changes, reduce the ability of county treasurers to meet unanticipated cash needs, and expose portfolio participants to increased risks.

BSA also found that some counties use agents, many of whom also act as security custodians, to execute securities lending or repurchase agreement transactions. These agents make investments on behalf of the counties by negotiating securities lending or repurchase agreements and purchasing various other securities with

the proceeds. However, there are no laws, regulations, guidelines, or standards requiring county treasurers to record these transactions in their accounting records or to inform their pool participants or boards of supervisors regarding securities lending or repurchase transactions conducted by agents. In three counties visited by BSA, the investment pools bear all the market risk of investments transacted by agents, while the profits are shared with the agents for services which, in one case, were not competitively bid. And in two of the counties visited, the agents were permitted to transact investment business with their affiliates.

To remedy these serious problems, BSA recommended that the legislature amend the Government Code to (among other things):

- require written investment policies for all local governing bodies to ensure that safety and liquidity are paramount to yield;

- limit the use of reverse repurchase agreements to 20% of the portfolio and only for specified purposes;

- establish and define a prudent person rule for local investment officers;

- limit the use of derivatives or other structured investment instruments and prohibit those that put principal at risk, by requiring that none of these instruments may be purchased with borrowed or leveraged funds, any which are purchased must be openly traded in the secondary market on a recognized exchange, and limiting investment in these instruments to no more than 5% of the portfolio;

- require separate competitive bidding for lending agent and custodial services, and ensure that all county investment activity by agents or the county are properly recorded and disclosed to interested parties; and

- require investment reports, at least quarterly, to the governing body and investment participants.

The legislature recently enacted SB 866 (Craven), which contains many of the reforms recommended by BSA (*see* LEGISLATION).

**State of California: Financial and Compliance Weaknesses Have a Cumulative Effect on the State's Operations** (June 1995) is BSA's review of the state's control of its financial activities and its compliance with federal grant requirements and state regulations; the review accompanied BSA's examination of the state's general purpose financial statements for the fiscal year ending June 30, 1994. Once again [14:4 CRLR 16], BSA found that the state has many weaknesses in its accounting, auditing, and administrative control structure; these weaknesses, which BSA

found in numerous departments, result in inaccurate financial statements, noncompliance with state and federal regulations, and waste, loss, and misuse of state resources. Among other things, BSA found the following:

- The Department of Motor Vehicles had approximately \$9.2 million in cash collections at the end of the fiscal year in its uncleared collections account remaining unallocated to programs supported by DMV revenue. This problem originated prior to fiscal year 1985-86 and has not yet been corrected. Also, DMV had approximately 83,000 checks (totalling \$23 million) which had not been honored by banks; although it has transferred responsibility for collecting delinquent vehicle registration fees in excess of \$250 to the Franchise Tax Board, it does not reconcile the dishonored checks transferred to FTB to the checks collected or pursued, such that it cannot ensure that it collects on all dishonored checks for vehicle registration.

- The Department of Alcohol and Drug Programs spent at least \$195,900 in federal grant funds to plan, promote, manage, and attend a national conference in San Diego in June 1994; BSA questioned the propriety of certain expenditures, including a \$50,000 payment to the Hotel del Coronado because the Department reserved too many rooms.

- The Department of Health Services did not have adequate procedures for monitoring and collecting approximately \$421 million in accounts receivable, nor did it adequately distribute responsibilities among its staff for activities related to accounts receivable.

- The state still does not recognize its liability for earned vacation credit in its budgetary basis financial statements; as of June 30, 1994, the liability was approximately \$1.3 billion.

- The Department of Housing and Community Development is not able to reconcile a difference of approximately \$25.4 million between its accounting records and program records for housing loans distributed from three loan funds, and has failed to properly identify correct names, addresses, and account numbers for borrowers of loans totalling approximately \$28 million. Also, DHCD has commingled approximately \$258 million in cash from nine federal programs in its Federal Trust Fund since at least fiscal year 1989-90; consequently, the Department cannot determine actual cash balances for specific federal grants during the period of commingling.

- The state has numerous deficiencies in its monitoring or recipients of federal or state moneys, such that it cannot ensure



that the recipients are complying with regulations or laws governing the receipt or use of these moneys.

- State departments have numerous deficiencies in preparing accurate state and federal financial reports.

- The State Controller's Office does not have an adequate system for identifying all special districts that are required to submit annual single audit reports to it for review.

The Bureau also noted some improvements resulting from prior years' recommendations by BSA or its predecessor office, the Office of the Auditor General (OAG). For example, for fiscal years 1990-91 through 1992-93, OAG or BSA reported that the Governor's Office of Emergency Services had not appealed all of the \$7.7 million in claimed costs related to the 1989 Loma Prieta earthquake that the Federal Emergency Management Agency denied; since last year's report, however, the Office has now resolved approximately \$7.1 million of its claimed costs.

**The Department of Education Has Not Spent Millions for Child Care and Development Services** (August 1995) is BSA's audit of the Department of Education's (DOE) administration of federal- and state-subsidized child care and development programs during fiscal years 1991-92 through 1993-94. These programs subsidize the provision of child care and development programs to families meeting certain eligibility requirements, to assist them in becoming self-sufficient by providing a safe environment and comprehensive development services to children while their parent(s) work or complete education or vocational training programs. During the subject years, the legislature appropriated more than \$1.2 billion from the general fund to DOE for the provision of child care and development services. In turn, DOE contracted with various public and local agencies to provide child care and development programs to eligible families.

BSA found that DOE can do more to maximize the delivery of child care and development services, primarily because (1) contractors did not spend almost \$84.7 million that DOE allocated to them to provide services—some contractors perceived state regulations as impediments to their ability to provide more services, and others had simply been allocated more funds than necessary; and (2) DOE did not allocate all of the Federal Child Care and Development Block Grant (FBG) funds it received, and its plan to spend FBG funds is flawed.

BSA also noted that during the audit, DOE could not tell BSA the demand for

services offered by the programs it funded during 1991-92 through 1993-94; nor could it tell BSA the actual number of children currently served by its programs. However, in July 1995, DOE estimated that it service 130,000-140,000 eligible children during each fiscal year from 1991-92 through 1993-94; and in April 1995 DOE told the legislature that California provides subsidized child care and development services to less than 20% of eligible low-income families.

To maximize the provision of child care and development services to families in need, BSA recommended that DOE determine the level of unmet need for each child care and development program that it administers and the level of unmet need in each county; periodically compare the allocations it provided to contractors with the amounts they actually spent to identify those not spending all of their allocations; and identify options and implement solutions to assist the contractors so that they can provide more child care and development services to eligible families who need them.

**Department of Health Services: Drug Treatment Authorization Requests Continue to Increase** (August 1995) is the ninth in a series of semiannual reports evaluating the way DHS processes drug treatment authorization requests (TARs) for certain prescribed drugs under the Medi-Cal program [15:2&3 CRLR 12; 14:4 CRLR 15; 14:2&3 CRLR 13]; this report focuses on drug TARs processed from December 1994 through May 1995. During this six-month period, DHS received 321,362 drug TARs, a 309% increase in requests since the first six-month period reviewed and a 53% increase over the number received during the prior six-month period; according to BSA, this increase is largely due to a change in the governing code which reduced the number of prescriptions allowed per beneficiary per month for most contract drugs—thus increasing the number of required drug TARs.

In April 1995, DHS implemented a new policy concerning drug TAR processing time. The Department's policy now states that all drug TARs will be processed within one working day (defined as a day on which Medi-Cal's Drug Section is open for business). Prior to April, DHS required the processing of all drug TARs received by fax and DHS' audio response telephone system within 24 hours, and the processing of mailed-in drug TARs within five working days. Between December 1994 and May 1995, BSA found that both of DHS' drug units (Stockton and Los Angeles) generally met the requirement for processing mailed-in drug TARs. Of a ran-

dom sample, Stockton processed 92% of faxed drug TARs within 24 hours of receipt; of those drug TARs for which processing time exceeded 24 hours, Stockton processed almost all within one working day as required by the new policy. Los Angeles processed only 53% of faxed drug TARs within 24 hours of receipt; during April, however, Los Angeles processed 89% of faxed drug TARs within one working day.

**State Departments: Many Do Not Comply With Consultant Contract Requirements** (September 1995) sets forth BSA's findings following its audit of the practices of 19 state departments in contracting for consultant services. The State Administrative Manual and the Public Contract Code specify that consultant contracts call for "a product of the mind," rather than mechanical skills, and usually provide services of an advisory nature. California law places specific requirements on state departments when using consultant contracts (including the preparation of an annual report containing specified information on consultant contracts), and assigns the Department of General Services (DGS) the responsibility of reviewing and approving contracts entered into by state departments for consultant services.

Among others, BSA made the following findings:

- 55% of the 1,688 consultant contracts awarded were sole-source (not competitively bid or advertised).

- Not all consultant contracts provide adequate documentation to justify the cost of sole-source contracts.

- Several departments' annual reports for consulting contracts failed to disclose required information, such as the type of bidding used, the fact of sole-sourcing, or the justification for sole-sourcing.

- Certain departments did not always adhere to legal requirements for consultant contracts, such as approval prior to commencement of work, reviewing credentials of potential contractors, and providing contractor evaluations after completion of work.

- Faithful performance bonds were not always obtained from contractors as required for certain electronic data processing (EDP) or telecommunication goods and services contracts.

- DGS did not ensure that departments complete internal audits of their contracting programs and submit reports to DGS as required.

To remedy these deficiencies, BSA recommended that state departments obtain required approvals before a contractor begins work to ensure they do not expose the state to potential financial liability for



work performed if the contract is not approved; document that a review of the contractor's prior evaluation was performed to ensure that new contracts are not awarded to contractors whose prior work for the state was substandard; complete evaluations of contractor performance promptly so that information about contractor performance and contract usefulness can be reviewed before other contracts are awarded; and secure a performance bond when making progress payments on contracts for EDP or telecommunication goods and services that are not suitable for sale to others to ensure the state is protected from potential loss.

Additionally, BSA recommended that DGS re-emphasize the requirements of Public Contract Code section 10359 to ensure that state departments provide all of the information required in their annual report of consultant contracts; require departments to provide sufficient documentation to justify the costs of all sole-source contracts before they are approved; and ensure that departments submit internal audit reports of contracting programs by the due dates specified by DGS.

**Department of Fish and Game: Administrative Processes Need Improvement** (October 1995) is the result of BSA's audit of DFG's management of its administrative costs, and of funds that are restricted for specific purposes. BSA made several major findings:

- DFG is allocating some of its costs as indirect costs, even though these costs are directly chargeable to a particular program; thus, programs which are forced to bear these costs inappropriately are not benefiting in any way from the expenditure. Contributing to this problem is the fact that DFG has not had a written cost allocation plan since fiscal year 1992-93.

- DFG's management of its restricted funds is flawed because it does not always capture the actual costs of program activities funded by these restricted funds, has permitted inappropriate loans from restricted funds, and does not provide its managers with sufficient accounting information to allow them to properly manage these funds.

- In 1993, the discovery of numerous irregularities at one of DFG's five regional offices led the Department's auditors to do similar audits of headquarters and the other four regional offices. These audits have confirmed that weaknesses in DFG's purchasing of goods and services are not restricted to only one regional office but are widespread.

- DFG's award and management of contracts for services is not always effective.

- Over the past ten years, DFG's headquarters has grown at a faster pace than its field activities; additionally, the ratio of executive and administrative to total DFG staff is higher than that of two comparable departments, and DFG has not always used high-level positions appropriately.

To improve its administrative processes, BSA recommended that DFG revise its cost allocation methodology to ensure that costs are charged to the appropriate programs and paid by the proper fund; improve its management over the expenditure of restricted revenues to ensure these revenues are spent for targeted purposes as expressed in state law; assign responsibilities related to its purchasing, payment, and contracting practices to appropriately trained employees accountable for adherence to these practices to ensure that state purchasing and contracting laws and regulations are followed; improve its controls over the procurement of goods and services where competitive bidding is not used to ensure that the costs for these goods and services are reasonable; and better distinguish field staff positions from headquarters staff positions so it can properly evaluate the need for new headquarters positions.

**Department of Forestry and Fire Protection: A Review of Allegations Concerning the State's Management of the Federal Excess Personal Property Program** (November 1995) reports that the Aviation Management Unit of the California Department of Forestry and Fire Protection (CDF), which operates and maintains a fleet of aircraft used in providing fire protection for approximately 36 million acres of publicly and privately owned wildlands, borrows federal excess personal property (FEPP) from the federal government through the U.S. Forest Service. CDF, which began borrowing FEPP in the mid-seventies as a way to obtain its own fleet of aircraft and spare parts at no cost, agrees to use the property primarily for fire protection and to secure and return the property when it is no longer needed.

In November 1992, numerous allegations were made dating back to 1982 involving a variety of issues, including potential theft and misuse of FEPP aircraft and aircraft parts. The Resources Agency and CDF investigated 28 allegations, and CDF summarized its findings and actions in a report issued in February 1994. In that report:

- CDF determined that no action was called for in five of the 28 allegations.

- For eight allegations (which included employee misuse of state or federal property and theft of FEPP), CDF took defendable disciplinary or corrective action.

- For eight other allegations, no action was necessary because the evidence did not substantiate the allegation.

- For four allegations, no action was necessary because the evidence did not indicate a violation of any law or regulation.

- For the final three allegations, CDF determined that its employees did not comply with state or federal regulations but concluded that no further action was warranted because the activities benefited the state.

In reviewing CDF's determinations, BSA noted that CDF is not relieved of its obligation to follow state and federal regulations simply because the state benefits from employee misconduct. BSA also reviewed CDF's internal controls over the acquisition, disposal, loan, security, and physical inventory count of FEPP, and found that CDF is not counting and reconciling its FEPP inventory; CDF does not accurately record FEPP in its inventory records; CDF does not appropriately tag FEPP as required; and CDF is not adequately safeguarding FEPP. BSA recommended that CDF exercise more oversight in administering the FEPP program by complying with state and federal regulations; failure to do so may result in suspension of the state FEPP program and require the state to purchase aircraft and related parts and equipment at a significant increase in cost to meet its needs in providing fire protection services.

**Other Reports.** Between May 21 and December 31, 1995, BSA also released the following reports: *Department of Health Services: The Orange County District Office Needs To Further Improve Its Oversight of Health Care Facilities* (July 1995); *Department of Rehabilitation: Business Enterprise Program for the Blind Financial Report for Year Ended June 30, 1994* (August 1995); *Investigations of Improper Governmental Activities: January 1 through June 30, 1995* (August 1995); *Los Angeles County Metropolitan Transportation Authority* (September 1995); *Department of Motor Vehicles: Collegiate License Plate Revenues Have Been Overallocated* (November 1995); *Department of Motor Vehicles: No Firefighters' License Plates Have Been Issued to the Public* (November 1995); *Trade and Commerce Agency: The Effectiveness of the Employment and Economic Incentive and Enterprise Zone Programs Cannot Be Determined* (November 1995); *CSU and UC: Campuses Generally Provide Access for Students with Disabilities* (November 1995); and *Student Aid Commission: Problems Continue With Its Automated Financial Aid Processing System* (December 1995).



## ■ LEGISLATION

**SB 866 (Craven)**, as amended August 31, implements some of BSA's recommendations resulting from its audit of Orange County's bankruptcy and public funds investment practices in other counties (see MAJOR PROJECTS).

Existing law specifies the duties of the county treasurer with respect to the investment of funds in the county treasury. SB 866 authorizes the board of supervisors to delegate to the county treasurer the authority to invest or reinvest the funds of the county and the funds of other depositors in the county treasury; the county treasurer is then required to assume full responsibility for those transactions. The bill also specifies that the county treasurer is a trustee and a fiduciary subject to the prudent investor standard, as specified, and specifies the objectives for investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds; applies the same standards to other local officials and governing bodies investing public funds; requires the board of supervisors in each county or city and county that is investing surplus funds to establish a county treasury oversight committee with specified membership who meet certain qualifications; requires the county treasurer, in any county that establishes the committee, to annually prepare an investment policy with prescribed contents that would be reviewed and monitored by the committee and requires the committee to conduct an annual audit to determine the county treasury's compliance with the policy; and requires approval of the county treasurer to withdraw funds to invest outside the county treasury pool.

Under existing law, the legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate necessity of the local agency may invest the funds in any of several specified investments, including repurchase agreements and reverse repurchase agreements. This bill requires a local agency that decides to purchase or obtain a security for investment under these provisions to require delivery of the security to the local agency by book entry, physical delivery, or third-party custodial agreement. The bill also restricts the repurchase and reverse repurchase agreements that may be invested in under these provisions, and prohibits investment in inverse floaters, range notes, interest-only strips that are derived from a pool of mortgages, or any security that could result in zero interest accrual if held to maturity, except as specified.

Existing law authorizes a local agency, as defined, to temporarily borrow funds subject to specified conditions and to issue notes and grant anticipation notes in order to borrow money, as specified. This bill specifies that the proceeds of sales or funds set aside for the repayment of any notes issued in these circumstances shall not be invested for a term that exceeds the term of the notes.

Existing law sets forth the qualifications required of a person appointed or elected county auditor. Among other things, a person may be appointed or elected pursuant to these provisions if that person possesses a valid certificate or diploma of graduation from a school of accountancy, or has served as county auditor or deputy county auditor for a continuous period of not less than three years. This bill incorporates changes to this provision made by Chapter 107 of the Statutes of 1995 to provide that a person may be appointed or elected pursuant to these provisions if he/she possesses a baccalaureate degree from an accredited university, college, or other four-year institution, with a major in accounting or its equivalent. It provides that a person may be appointed or elected if he/she has served as county auditor, chief deputy county auditor, or chief assistant county auditor for a continuous period of not less than three years. The bill also adds persons who possess a certificate issued by the Institute of Internal Auditors, with a minimum of sixteen college semester units, or their equivalent, in accounting, auditing, and financing among the persons who may be elected or appointed to the office of county auditor.

Existing law authorizes the county board of supervisors to establish the Office of Director of Finance subject to voter approval. The question of whether the office, if established, shall be elective or appointed by the board may also be submitted to the voters at the same election. This bill provides that any person may be appointed by the board of supervisors, or be a candidate for election, to the Office of the Director of Finance, consolidated from other offices pursuant to existing law, if he/she meets the qualifications for the office of the Director of Finance.

Existing law does not specify qualifications of county treasurer. This bill authorizes a county board of supervisors to enact an ordinance adopting certain qualifications applicable to persons appointed or elected after January 1, 1998, and continuing education requirements applicable to persons elected after January 1, 1996, or appointed and serving on or after the year 2000, for the office of county treasurer, county tax collector, or county trea-

surer-tax collector. This bill was signed by the Governor on October 12 (Chapter 784, Statutes of 1995).

**SB 477 (Maddy)**. Existing law specifies that the head of BSA is the State Auditor who shall be appointed by the Governor from a list of the three qualified individuals submitted by the Joint Legislative Audit Committee. As amended March 23, this bill specifies that the three qualified individuals be nominated by that Committee.

Under existing law, whenever a state agency is authorized by special or general statute to fix the salary of an employee, the salary is subject only to the approval of the Department of Personnel Administration (DPA) before it becomes effective and payable, except for the salaries paid to state court and judicial employees. Existing law specifies that, consistent with this authority, the State Auditor may fix the compensation of the employees working under his/her charge. This bill instead provides that consistent with authority to establish and administer the personnel policies and practices of BSA without DPA's oversight or approval, the State Auditor may employ and fix the compensation of the Bureau personnel.

Existing law specifies that persons employed by BSA shall be allowed to enroll in civil service employee benefit programs. This bill specifies that those employees shall be allowed to enroll in Public Employees' Medical and Hospital Care Act programs.

Existing law specifies that there shall be appropriated annually in the Budget Act to the State Audit Fund the amount necessary to reimburse the State Audit Fund for the cost of audits to be performed. This bill authorizes the State Auditor to directly bill state agencies for the costs of specified audits of the executive branch.

Existing law authorizes the State Auditor or his/her authorized representative to have access to the records and property of any public entity being audited or investigated to the same extent that employees or officers of that agency or public entity have access. This bill extends that authority to include access to the records of any private entity or person subject to review or regulation by the public agency or public entity being audited to the extent that the agency employees have that access.

Existing law specifies the requirements of an administrative subpoena in order for a governmental agency to obtain financial records. This bill exempts the State Auditor from these specific requirements when he/she issues a subpoena for financial records of financial institutions.

Existing law exempts the State Auditor from supervision by certain state control agencies that would otherwise be applicable. This bill delegates authority, subject



to the California Constitution, to the State Auditor to establish and administer BSA's personnel policies and practices, and permits the participation of BSA officers and employees in benefits programs administered by DPA, as specified, at the election of the State Auditor. This bill specifically authorizes the State Auditor to audit accounts and records necessary for proper reporting under the federal Single Audit Act of 1984.

Existing law requires the State Auditor, in conjunction with an annual audit of state financial statements, to test compliance with internal state auditing requirements and to report to the legislature, the Governor, and respective governmental entities on the significant variances from the general and specific standards for the professional practice of internal auditing. This bill deletes this requirement. This bill was signed by the Governor on August 1 (Chapter 250, Statutes of 1995).

**SB 974 (Alquist, et al.)**. Under the State Government Strategic Planning and Performance Review Act, the Department of Finance (DOF)—in consultation with the Controller, BSA, and the Legislative Analyst—is required to develop a plan for conducting performance reviews of all state agencies. As amended May 15, this bill would create the Performance Audit Joint Task Force, consisting of the Governor and the Controller, that would be required to periodically identify state executive branch agencies, programs, or practices that are likely to benefit from performance audits. The bill would provide that agencies, programs, or practices that are so identified would be in addition to those otherwise identified under the Act. [A. Appr]

**AB 1390 (V. Brown)**. The State Government Strategic Planning and Performance Review Act requires DOF, by March 1, 1995, and each March 1 thereafter, in consultation with BSA and the Legislative Analyst, to conduct a survey of all state agencies, departments, offices, and commissions, with certain exceptions, containing specified information regarding strategic plans for performance reviews, and to report the results of the survey to the Governor, the legislature, and the Joint Legislative Budget Committee. As amended September 7, this bill would change the dates that DOF conducts the survey and reports its results from March 1, 1995, and each March 1 thereafter, to December 1, 1995, and each December 1 thereafter.

The Act requires each agency, department, office, or commission for which strategic planning efforts are recommended, to develop a strategic plan and to report to the Governor and to the Joint Legislative Budget Committee by April 1, 1995, and by each April 1 thereafter, on the steps being taken

to develop and adopt a strategic plan. This bill would change the dates that this report is due from April 1, 1995, and each April 1 thereafter, to February 1, 1996, and each February 1 thereafter.

The Act further requires DOF, by March 1, 1996, and by each March 1 thereafter, after consultation with the Controller, BSA, and the Legislative Analyst, to recommend to the Governor, and to the Joint Legislative Budget Committee, a plan for conducting performance reviews for agencies, departments, offices, and commissions that have completed strategic plans. This bill would repeal this requirement and instead require the Director of Finance, by March 1, 1996, and each March 1 thereafter, to convene a Joint Performance Audit Task Force, chaired by the Director and including the Controller, the State Auditor, the Legislative Analyst, the Chair of the Joint Legislative Budget Committee, and the Chair of the Joint Legislative Audit Committee, for the purpose of establishing a plan for conducting performance audits for agencies, departments, offices, and commissions that have completed strategic plans pursuant to the Act. It would also require the Task Force, on or after July 1, 1996, and each July 1 thereafter, to direct the commencement of performance audits, in accordance with specified guidelines. [S. Inactive File]

**AB 153 (Napolitano)**, as amended July 3, would require BSA to complete and submit a specified audit regarding accident reporting, insurance coverage of motorcycle drivers, and cost analysis of motorcycle accidents to the legislature and the Governor on or before June 30, 1996. The bill would also create a 10-member Motorcycle Helmet Advisory Committee, require the California Highway Patrol to pay the costs of the audit, and require CHP to request that the U.S. Department of Transportation conduct a report regarding motorcycle safety helmet manufacturers. [S. Trans]

## COMMISSION ON CALIFORNIA STATE GOVERNMENT ORGANIZATION AND ECONOMY (LITTLE HOOVER COMMISSION)

*Executive Director:*

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*Chair: Richard Terzian*

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**T**he Little Hoover Commission (LHC) was created by the legislature in 1961 and became operational in the spring of

1962. (Government Code sections 8501 *et seq.*) Although considered to be within the executive branch of state government for budgetary purposes, the law states that "the Commission shall not be subject to the control or direction of any officer or employee of the executive branch except in connection with the appropriation of funds approved by the Legislature." (Government Code section 8502.)

Statute provides that no more than seven of the thirteen members of the Commission may be from the same political party. The Governor appoints five citizen members, and the legislature appoints four citizen members. The balance of the membership is comprised of two Senators and two Assemblymembers.

This unique formulation enables the Commission to be California's only truly independent watchdog agency. However, in spite of its statutory independence, the Commission remains a purely advisory entity only empowered to make recommendations.

The purpose and duties of the Commission are set forth in Government Code section 8521. The Code states: "It is the purpose of the Legislature in creating the Commission, to secure assistance for the Governor and itself in promoting economy, efficiency and improved service in the transaction of the public business in the various departments, agencies, and instrumentalities of the executive branch of the state government, and in making the operation of all state departments, agencies, and instrumentalities and all expenditures of public funds, more directly responsive to the wishes of the people as expressed by their elected representatives...."

The Commission seeks to achieve these ends by conducting studies and making recommendations as to the adoption of methods and procedures to reduce government expenditures, the elimination of functional and service duplication, the abolition of unnecessary services, programs and functions, the definition or redefinition of public officials' duties and responsibilities, and the reorganization and restructuring of state entities and programs. The Commission holds hearings about once a month on topics that come to its attention from citizens, legislators, and other sources.

## MAJOR PROJECTS

**Budget Reform: Putting Performance First** (October 1995) reviews California's performance-based budgeting pilot project and the implementation of performance-based budgeting formats in other government jurisdictions. Performance-