



by the Budget Act is a "special law" which violates the state constitution because it requires physicians to pay more in general taxes than other similarly situated persons. Second, the court held that because the Budget Act transfer language purports to amend the Medical Practice Act (which restricts the use of physician licensing fees for consumer protection activities by the Medical Board and expressly prohibits the transfer of those fees to the general fund), the Budget Act language violates the single subject rule of the state constitution.

Although *CMA v. Hayes* pertained only to the Medical Board, several other cases had been filed and converted to a class action on behalf of other regulated professions whose licensing fees—which are statutorily restricted to consumer protection uses related to that particular trade or profession—had been similarly appropriated and transferred to the general fund. Apparently due to the pendency of those cases and the court's strong decision in *CMA v. Hayes*, the Department of Finance (DOF) decided not to appeal the superior court's ruling and Governor Wilson subsequently signed executive orders returning all the transferred funds to other affected agencies.

OFFICE OF THE LEGISLATIVE ANALYST

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Created in 1941, the Legislative Analyst's Office (LAO) is responsible for providing analysis and nonpartisan advice on fiscal and policy issues to the California legislature.

LAO meets this duty through four primary functions. First, the office prepares a detailed, written analysis of the Governor's budget each year. This analysis, which contains recommendations for program reductions, augmentations, legislative revisions, and organizational changes, serves as an agenda for legislative review of the budget. Second, LAO produces a companion document to the annual budget analysis which paints the overall expenditure and revenue picture of the state for the coming year. This document also identifies and analyzes a number of emerging policy issues confronting the legislature, and suggests policy options for addressing those issues. Third, the Office analyzes, for the Assembly Ways and Means Committee and the Senate Appropriations and Budget and Fiscal Review Committees, all proposed legislation that would

affect state and local revenues or expenditures. The Office prepares approximately 3,700 bill analyses annually. Finally, LAO provides information and conducts special studies in response to legislative requests.

LAO staff is divided into nine operating areas: business and transportation, capital outlay, criminal justice, education, health, natural resources, social services, taxation and economy, and labor, housing and energy.

MAJOR PROJECTS

LAO Analyzes Governor's 1994-95 Proposed Budget. In January, LAO released *An Overview of the 1994-95 Governor's Budget*; this document was followed by the February release of *Analysis of the 1994-95 Budget Bill*, LAO's comprehensive examination of budget issues facing the state and the Governor's proposal to resolve them. LAO explained that in 1993, the legislature and Governor adopted a two-year plan to achieve a balanced budget by 1994-95. [13:4 CRLR 25-26] However, due to the continuing stubborn state recession, the plan has been undermined; the administration's forecast for the California economy now assumes that the state's economic recession will extend well into 1994, with only a moderate recovery in 1995.

According to LAO's February analysis, if no corrective action is taken, the state will face a budget gap of \$4.9 billion at the end of 1994-95; this consists of a carryover deficit from 1993-94 of \$2.5 billion and a \$2.4 billion operating shortfall between baseline spending and estimated revenue in 1994-95. The Governor's budget proposes to address most of the budget gap by shifting costs to other levels of government; unlike the 1993-94 budget proposal, which relied primarily on shifting costs to local governments, the current proposal primarily relies on shifting costs to the federal government to gain \$3.1 billion toward reducing the budget gap. Of that amount, the Governor is requesting \$2.3 billion in federal funding to cover the state's education, health care, and incarceration costs related to undocumented immigrants; the other major increase in federal funding (\$600 million) would result from increasing the federal match in the state's health and welfare programs from the current 50% to 54.4%; according to LAO, both of these budget proposals would require action by Congress and the President.

The Governor's proposed 1994-95 budget also includes the following features. No overt tax increases are proposed; in fact, the budget proposes legislation which would reduce income taxes for moderate-income individuals and newly established businesses. The Governor pro-

poses to save \$1 billion through program funding reductions, including reductions in grants to poor families on Aid to Families with Dependent Children and related welfare programs, the elimination of certain Medi-Cal optional benefits (services which are not required by federal law), and the elimination of funding for perinatal services for undocumented women and their children. Through an expansion of the "realignment" concept initiated in 1991, the Governor also seeks to shift about \$3.2 billion in existing state costs for health and welfare programs from the state to the counties; to pay for these programs, counties would be allocated a higher proportion of local property tax revenues, an additional shift of state sales tax revenue, and greater state support for local trial courts. (See report on SENATE OFFICE OF RESEARCH for a summary of a related report on realignment.)

LAO noted that the Governor's proposed budget also relies on favorable outcomes in certain pending lawsuits. For example, in one case the state could gain \$600 million from a favorable decision; however, an adverse decision could require the state to refund \$2.1 billion of past tax collections, according to a preliminary estimate by the Franchise Tax Board. LAO also pointed out that other currently-pending lawsuits could have substantial negative budget impacts by 1994-95.

According to LAO, the 1994-95 outlook indicates that the state's ongoing shortfall between revenues and spending will worsen, even with a modest economic recovery; in its analysis, LAO contended that the situation requires a budget strategy that looks beyond 1994-95 and achieves ongoing and growing savings over the next several years. To that end, LAO offered six guidelines for the legislature to consider in developing a long-term budget strategy:

- One-time savings actions can buy time to implement ongoing savings; they should not be adopted as a substitute for them.
- Actions that produce significant future savings should be adopted even if they yield little or no savings in 1994-95, because the need for future savings will grow.
- Similarly, actions which result in significant future costs should be avoided.
- Existing laws that end savings, reduce revenues, or restore spending during the next few years should be reviewed.
- Federal health care reform efforts should be closely monitored since Medi-Cal cost increases are a major factor driving state spending growth. The legislature should encourage Congress and the Pres-



INTERNAL GOVERNMENT REVIEW AGENCIES

ident to adopt reforms that help to bring the state's Medi-Cal costs under control.

- Efforts should be made to evaluate potential savings in corrections programs that will reduce the rapid growth in those costs and focus resources on protecting the public from violent crime.

In addition to its analysis of the Governor's proposed budget, LAO also released its companion document, *The 1994-95 Budget: Perspectives and Issues*, during February. Among other things, this publication provides an overall perspective on the serious fiscal problems currently facing the state; describes the current economic situation and the administration's forecast for the budget year; provides a review of the revenue projections in the Governor's budget and assesses their reliability; provides an overview of the state spending plan for 1994-95 and evaluates the major expenditure proposals in the budget; and discusses the issue of public sector restructuring.

LAO Reviews Crime in California. In January, LAO issued *Crime in California*, which addresses the extent of crime in California, the California criminal justice system's attempt to deal with crime, and the costs of crime. This report is but one of several studies of various aspects of crime recently released by California research and oversight agencies, and reflects the importance of the issue in the 1994 election year. (See reports on LITTLE HOOVER COMMISSION and SENATE OFFICE OF RESEARCH for summaries of related studies.)

According to LAO, the legislature and Governor have enacted numerous laws in recent years in efforts to respond to public concerns about crime in California; such actions include measures to stiffen penalties for existing crimes, the enactment of laws defining new criminal offenses, the construction of correctional facilities, and financially supplementing current law enforcement budgets.

The report indicates that, although the violent crime rate has increased steadily over the past forty years, overall crime in California reached its peak in 1980; that is also the trend nationwide. In its report, LAO estimated that California spent approximately \$13.7 billion to fight crime in 1991-92, which includes costs for police, prosecution, courts, probation, and incarceration. However, other costs of crime are not easily measured and thus are not included in the estimate; these costs include medical injuries suffered, stolen or damaged property, loss of productivity and work, loss of real property values, and pain and suffering.

LAO urged policymakers to consider several factors when addressing crime-re-

lated issues, such as the state's changing demographics (which it says may result in a return to the high crime rates of the late 1970s and early 1980s); the interrelationships among the various parts of the criminal justice system and the need for flexibility; and the fact that incarceration may have a very limited effect on overall crime. According to LAO, the best course of action may be to target violent crime, at-risk offenders, and rehabilitation programs, and to place high priority on prevention and early intervention efforts.

LAO Issues California K-12 Report Card. In February, LAO issued its *California K-12 Report Card*, which reviews the available evidence on the comparative success of California's public education system, taking into account comparative demographics, California's performance on the National Assessment of Educational Progress (NAEP) tests (which measure fourth-grade reading, fourth-grade mathematics, and eighth-grade mathematics), the state's scores on Scholastic Aptitude Tests (SAT) administered to high school seniors, and dropout rates. LAO compared California scores to the scores of Arizona, Florida, New York, and Texas; LAO chose those four states because—as in California—the populations of those states are ethnically and linguistically diverse. Among others, LAO's report included the following findings:

- Compared to other states, students in California and Texas are more likely to be nonwhite and much more likely to speak a language other than English at home.

- California's 1992 NAEP scores are significantly lower than all comparison states, except for Florida's eighth-grade math score; California's scores are lower than national averages in all three tests, with the gap ranging from 6 to 13 points.

- California's fourth-grade mathematics score ranks 38th out of the 41 states participating in the testing program; its fourth-grade reading score ranked 40th out of 41 states; and its eighth-grade mathematics scores placed the state 29th out of 41 states.

- Scores for California's disadvantaged urban students are considerably worse than similar students in the comparison states—well over one grade level lower than some states.

- California's average SAT score was virtually the same as the national average in 1990, and exceeded three of the four comparison states.

- Asian-Americans and Hispanic students in California score below the national average for those groups on the SAT; whites and African-Americans in California score above the national average.

- California's dropout rate exceeded 14% in 1990, compared to a national average of 11%.

The LAO report concluded by emphasizing the need to focus particular effort on improving the achievement of low-performing students, noting that the failure to adequately address the needs of these students not only carries serious consequences for those individuals but for society as a whole. According to LAO, policymakers should review whether programs aimed at low-performing students are sufficiently flexible, targeted, and funded to give local educators the tools needed to successfully address the needs of these students.

LAO Reviews Judicial Retirement Plan. In its *Analysis of the 1994-95 Budget Bill* and its policy brief entitled *Creating a New Retirement Benefits Plan for Judges* (February 1994), LAO offered a list of recommendations on how to make California's Judges' Retirement System financially sound, as it is now plagued by a \$1.3 billion unfunded liability. According to LAO, revenues in the System's trust fund are inadequate to honor pension payments to current retirees of the system, requiring the state's general fund to make annual subsidies—\$37.8 million in 1994-95 and growing. LAO recommended that the legislature enact legislation to establish a new, actuarially sound retirement program for judges taking office in the future in order to reduce long-run state costs for judges' retirement; the legislation should incorporate the retirement plan developed by a select committee appointed by the Chief Justice of the California Supreme Court. LAO recommended the following additional modifications to further reduce state costs:

- raise the minimum age for full retirement benefits from 63 to 65;

- increase the contribution rate for new judges from 8% of salary to 11%;

- provide for the judges' contribution rate to rise or fall in concert with the state's rate in response to actuarial valuations, based on a fixed ratio between state contributions and judges' contributions of 17.4 to 11;

- increase that portion of civil court filing fees dedicated to judges' retirement to provide start-up funding for the new judicial retirement program; however, use residual revenues to offset general fund appropriations for the system; and

- retain the legislature's right to reduce program benefits and increase contribution rates if future conditions warrant.

LAO also recommended that the existing system be modified so as to increase the contribution rate for current judges in the system from 8% to 11%.



LAO Critical of DMV's Computer Modernization Program. In April, LAO released a supplemental report to its *Analysis of the 1994-95 Budget Bill*, in which it examined the Department of Motor Vehicles' (DMV) redevelopment of its driver license and vehicle registration database. To date, the database redevelopment project has cost over \$40 million; however, according to DMV, the computer modernization program will never work as currently implemented. Experts in the field said the plan—to convert a 1965 database to a modern relational database—was technologically infeasible and involved insurmountable incompatibilities between hardware platforms and program codes. LAO, however, reported that it may have failed due to mismanagement and lack of technical expertise in the Department. Accordingly, LAO recommended that the database project be suspended, thus deleting \$7.5 million originally allocated in the Governor's budget for the redevelopment project. Instead, LAO recommended that the legislature appropriate \$4.4 million for the hiring of an independent consultant to review and propose a course of action for the project and to pay for continuing costs required under the terms of existing contracts.

LAO noted two main reasons for its recommendations. First, DMV has proposed to radically shift the approach of its database redevelopment project, effectively abandoning most of the investment to date. LAO contends that the Department's new plan for a much less ambitious database redesign may not provide benefits that justify its cost and may not meet the Department's long-range needs. Also, based on the failure of the initial project, LAO notes that DMV may lack the ability to develop and implement a new approach—thus LAO's recommendation that a consultant be contracted to review the Department's needs and determine DMV's best course of action. LAO suggested the consultant address the following questions upon review:

—How urgent is the need to redevelop the database?

—Are the goals, approach, and conclusions of DMV's initial Feasibility Study Report still valid?

—Is the Department's initial project plan viable?

—Is the new plan viable?

—Evaluating all available options and reasonable constraints, and considering the Department's long-range information technology strategy and business needs, what is the most cost-effective option for database redevelopment?

—Which is the preferred alternative and to what extent should DMV staff be in-

involved in the project execution? In what areas is DMV expertise essential? What areas should be contracted to the private sector?

LAO estimated that this approach would entail \$500,000 in additional costs and could take up to one year for the consultant to fully review the project. However, LAO stated that the costs are warranted to ensure the most cost-effective and productive course of action, especially after the state has already spent over \$40 million to get to this point. Further, should the consultant recommend that private-sector contractors participate in the project, LAO recommended that the consultant be involved in the overall selection process, including the drafting of the request for proposals, evaluation of the proposals, and ultimate selection of the contractor.

LAO Reports on School-to-Work Transition Programs at High Schools. In February, LAO released a report entitled *School-to-Work Transition: Improving High School Career Programs*. School-to-work programs are generally designed to serve the needs of students who do not plan on attending college. Such programs are intended to strengthen high school career programs by blending academic and vocational material with the needs of employers in order to increase student academic and work skills.

LAO described the elements of a good school-to-work program, which include early career counseling and exploration; high-quality, integrated, academic and vocational education; a focus on higher-skill occupations; work-based education; certification of occupational and academic skills; and collaboration among high schools, postsecondary institutions, and employers. The LAO report also includes an estimate of the possible costs high schools would incur to develop and operate school-to-work programs and discusses the resources available to support school-to-work programs, such as local, state, and federal programs which dedicate funds to vocational education and school-to-work programs.

LAO noted several areas in which the legislature could take action to help create an effective statewide school-to-work program. LAO's recommendations include the creation of a program structure to encourage effective programs; the development of program changes to ease implementation of school-to-work programs; and the realignment of state activities to support local school-to-work efforts.

■ LEGISLATION

AB 2711 (V. Brown). SB 500 (Hill) (Chapter 641, Statutes of 1993) requires

the Department of Finance to develop a performance budgeting pilot project, in accordance with specified principles, involving at least four state departments, to be implemented during the 1994-95 fiscal year, for the purposes of improving the delivery of governmental services through the use of strategic planning and performance measurement. [13:4 CRLR 21] As amended May 17, this bill would enact the State Government Performance Review Act, and require the Controller, the Department of Finance, and the Bureau of State Audits, in consultation with LAO, to develop a plan for conducting performance reviews of all state agencies, as specified, and to conduct these reviews of at least three state agencies. [A. Floor]

SB 1233 (Hayden), as amended January 11, would require the Legislative Analyst to analyze all tax expenditure programs to determine if program objectives are being realized, whether each program's benefits exceed its revenue cost, and whether there is a less costly way of providing the same benefits, and to report thereon to the legislature. It would require the Legislative Analyst to include each completed analysis in its annual analysis of the budget, and to complete all analyses by January 1, 2004. [A. Inactive File]

SB 1837 (Campbell), as amended May 5, would require the Legislative Analyst, to the extent that any fiscal estimate of the annual state budget involves one or more proposed changes in state tax law having a designated fiscal impact, to prepare the estimate, except as specified, on the basis of assumptions that estimate the probable behavioral responses of taxpayers and others to the proposed changes, and to include in the fiscal estimate a statement identifying those assumptions. [S. Appr]

SB 2012 (Torres), as amended May 12, would require the Legislative Analyst to conduct a study reviewing the parimutuel license fee structure of the six major United States horseracing jurisdictions and to report his/her findings to the legislature on or before April 1, 1995. [S. Floor]

The following is a status update on bills reported in detail in CRLR Vol. 14, No. 1 (Winter 1994) at pages 23-24:

ACA 2 (Hannigan), as introduced in December 1992, would provide that statutes enacting budget bills shall go into effect immediately upon their enactment and eliminate the two-thirds vote requirement for the passage of appropriations from the general fund. [A. Inactive File]

ACA 3 (Richter). The California Constitution requires each statute to embrace but one subject, which is expressed in its



title. As amended February 1, this measure would permit one statute enacted during each calendar year of the biennium of the legislative session to embrace more than one subject if the statute makes changes in law that are directly related to the implementation of the appropriations in the Budget Act enacted that year, that fact is expressed in its title, and the bill that enacts the statute is presented to the Governor at the same time as the bill that enacts the Budget Act. This measure would also exempt such a bill from the requirement that two-thirds of the membership of both houses approve it, and specify that such a bill would go into effect immediately upon its enactment.

Under the California Constitution, appropriations from the general fund, except appropriations for the public schools, require the approval of two-thirds of the membership of each house of the legislature. This measure would additionally exempt appropriations in the budget bill from that two-thirds vote requirement, and specify that statutes enacting a budget bill go into effect immediately upon their enactment.

The California Constitution requires the Governor to annually submit to the legislature a budget for the ensuing fiscal year, and requires the legislature to pass a budget bill for the ensuing fiscal year by midnight on June 15. This measure would amend the California Constitution to require that the total of all expenditures, as defined, that are authorized to be made under the Budget Act enacted for any fiscal year, combined with the total of all reserves that are authorized to be established by the state for that fiscal year, shall not exceed the total of all revenues and other resources, as defined, that are available to the state for that fiscal year.

The California Constitution requires that the legislature establish a prudent state reserve fund in an amount it deems reasonable and necessary. This measure would repeal that provision and instead require that the budget bill enacted for each fiscal year provide for a state reserve fund in an amount not less than 3% of the total of all revenues and other resources projected for that fiscal year, including a contribution of 3% from the revenues received by each state special fund for that fiscal year, except as specified. This measure would authorize the legislature to appropriate money deposited in the state reserve fund for any general fund or special fund purpose, except that any bill that would reduce the balance in the state reserve fund below the minimum 3% level could not be sent to the Governor except with his/her recommendation, as specified, and any expenditure that would re-

duce that balance below 1% of the total of all revenues and other resources would be authorized only in the event of a fiscal emergency, as described below. This measure would provide further that the minimum amount required to be deposited in the state reserve fund for the 1994-95 and 1995-96 fiscal years would be an amount equal to one-third and two-thirds, respectively, of the amount that otherwise would be calculated for that fiscal year.

The California Constitution provides for the enactment of a budget bill authorizing the expenditure of state moneys for each fiscal year, as described above. This measure would authorize the Governor to declare a fiscal emergency if the general fund budget balance for the fiscal year, as projected by the Legislative Analyst after each of the first three quarters of the fiscal year, is less than 1% of the cumulative total of general fund revenues and other resources, as specified. The measure would require the Governor, upon the declaration of a fiscal emergency for any fiscal year, to implement a budget reduction plan established in the Budget Act for that fiscal year, as specified. The bill, enacted as described above, would be required to include provisions that make changes in law necessary to the implementation of the reductions in that plan. The measure also would authorize the Governor, to the extent that the budget reduction plan fails to restore the general fund budget balance to that 1% level, to propose the aggregate reduction of expenditures from that general fund authorized for that fiscal year in order to restore the general fund budget balance. Any proposed reduction would become effective thirty calendar days after the proposal is transmitted to the legislature unless each house of the legislature disapproves the reduction by a two-thirds vote. This measure also would exempt any expenditure reduction made pursuant to this authority from adversely affecting the state's satisfaction of its constitutional funding obligations relating to certain property tax exemptions, state reimbursement of local mandates, and state support of school districts and community college districts, as specified. [A. ER&CA]

ACA 21 (Areias), as introduced March 5, 1993, would provide that if the Governor fails to sign a budget bill on or before June 30, then on July 1 an annual budget that is the same amount as that which was enacted for the immediately preceding fiscal year shall become the state's interim budget for the new fiscal year and the balance of each item of that interim budget shall be reduced 10% each month, commencing August 1, until a new budget bill has been signed by the Governor. [A. RIs]

The following bills died in committee: **SB 1171 (Alquist)**, which would have eliminated the requirement that the Legislative Analyst prepare a judicial impact analysis on selected measures referred to specified legislative committees, and required LAO to conduct its work in a strictly nonpartisan manner; and **SB 1172 (Alquist)**, which would have eliminated the requirement that the Legislative Analyst evaluate the workload of the State Bar Court and submit a final written report of his/her findings and conclusions to specified committees.

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Established in 1966, the Assembly Office of Research (AOR) brings together legislators, scholars, research experts, and interested parties from within and outside the legislature to conduct extensive studies regarding problems facing the state.

Under the director of the Assembly's bipartisan Committee on Policy Research, AOR investigates current state issues and publishes reports which include long-term policy recommendations. Such investigative projects often result in legislative action, usually in the form of bills.

AOR also processes research requests from Assemblymembers. Results of these short-term research projects are confidential unless the requesting legislators authorize their release.

MAJOR PROJECTS

Defense Conversion Resource Guide (Second Edition) (January 1994) was prepared by AOR to assist the bipartisan Assembly Task Force on Defense Conversion, which was created in March 1993 to maximize federal defense conversion funding for California and assist communities undergoing the process of defense conversion. A supplement to the October 1993 first edition [14:1 CRLR 24], the second edition provides the names, addresses, and contact persons of the various local, state, and federal agencies responsible for overseeing defense industry conversion and base closures. The Guide also describes federal and state grants available for defense conversion purposes and summarizes recent federal and state legislation affecting defense conversion. (See report on SENATE OFFICE OF RESEARCH for a summary of a related study.)