



the state to determine if they are efficient and cost effective.

■ MAJOR PROJECTS

Proposition 159 Defeated; Legislature Shuts Down OAG. OAG closed its offices on December 4 as a result of the November 3 defeat of Proposition 159; the measure would have established OAG in the California Constitution with the mandate to conduct independent, non-partisan, professional audits as required by law or requested by the legislature. The initiative would also have exempted OAG from the expenditure limits imposed on the legislature by Proposition 140, and required that not more than 50% of the Joint Legislative Audit Committee be composed of members of the same political party. [12:4 CRLR 35] Although the 1992-93 Budget Act appropriated \$5 million from the general fund to OAG, it provided that this amount could be expended only if Proposition 159 was approved by the voters. Thus, the defeat of Proposition 159 resulted in OAG's continued reliance on the legislature to fund the Office from its own annual operating budget. However, the legislature did not allocate any part of its funds for the operation of OAG during 1992-93, effectively eliminating the Office.

Because of OAG's closing, California will have to contract out audits to private entities in order to continue receiving \$16 million in federal funding; OAG estimated that this will cost the state about twice as much as having OAG perform the audits. OAG also estimated that it had saved taxpayers \$513 million over the last ten years at a cumulative cost of less than \$80 million. Acting Auditor General Kurt Sjoberg opined that OAG returned \$6 to the state for every \$1 that was invested in the Office. While legislation to reopen the Office has been introduced, the fate of those bills is uncertain. (See *infra* LEGISLATION.)

The loss of OAG may also affect the willingness of state employees to step forward and report wrongdoing by government officials. Under the so-called "Whistleblowers' Act," Government Code section 10540 *et seq.*, state employees who report governmental fraud, waste, and abuse to OAG are protected from retaliation for their actions and entitled to confidentiality. The loss of OAG as the forum for such reporting leaves potential whistleblowers unprotected.

During the November election, voters also defeated Proposition 158, which would have amended the California Constitution to create an independent Office of California Analyst to replace another

legislative entity, the Legislative Analyst's Office (LAO). However, unlike OAG, LAO was funded by the legislature until at least June 30.

■ RECENT AUDITS

OAG has not issued any reports since September. [12:4 CRLR 35]

■ LEGISLATION

AB 5 (Brown), as introduced December 7, would create the Bureau of State Audits in state government under the direction of the Little Hoover Commission and headed by the State Auditor. The duties of the Bureau would be to examine and report annually upon the financial statements prepared by the executive branch of the state and to perform other related assignments, including performance audits, that are mandated by statute. The State Auditor would be nominated by the Little Hoover Commission and would take office upon confirmation by both houses of the legislature for a four-year term. The State Auditor would also serve as a member of the Commission.

This bill would continue in existence the Office of the Auditor General under the direction of the Joint Legislative Audit Committee; its duties would be limited to the performance of special audits and investigations of public entities, including performance audits, that are requested by the legislature, and the implementation of the Reporting of Improper Governmental Activities Act.

This bill would also abolish the Auditor General Fund and transfer the balance in that fund to the State Audit Fund, which the bill would create as a continuously appropriated fund for the expenses of the State Auditor. The unexpended \$5 million appropriation to OAG contained in the 1992-93 Budget Act (*see supra*) would be transferred to the State Audit Fund. This bill would take effect immediately as an urgency statute. [A. Rls]

AB 24 (Campbell), as introduced December 7, would create the Office of the Auditor General in state government, with specified duties and responsibilities. [A. Rls]

SB 37 (Maddy), as introduced December 8, would create the Office of the Auditor General in state government under the direction of the Little Hoover Commission and would recodify its duties. The Auditor General would be appointed by the Commission, subject to confirmation by the Senate, for a six-year term, and would serve as an *ex officio* member of the Commission. This bill would also transfer the unexpended \$5 million alloca-

tion to OAG contained in the 1992-93 Budget Act to the Auditor General Fund. This bill would take effect immediately as an urgency statute. [S. Rls]

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

Executive Director:

Jeannine L. English

Chairperson: Nathan Shapell
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The Little Hoover Commission 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 or 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.

Although the Little Hoover Commission, which is funded totally from the general fund, survived the 1992-93 budget negotiations, it suffered a 15% cut in its budget; the Commission will receive \$453,000 in 1992-93, compared to \$533,000 in 1991-92 and \$609,000 in 1990-91.

MAJOR PROJECTS

Recent Hearings. On November 19, the Commission held the second of two hearings on state procurement policies and practices; the first was held on September 23. [12:4 CRLR 42] The November hearing focused on preference programs for contracting, including the Minority Business Enterprise/Women Business Enterprise/Disabled Veterans Business Enterprise program. Speakers included representatives from state departments that are required to attempt to meet specified goals for contract participation by minorities, women, and disabled veterans, large businesses that bid on state contracts, and the Public Utilities Commission, who discussed a similar, older program that has been in operation for utility companies.

On January 19, the Commission was scheduled to hold a hearing on bilingual education. Specifically, the Commission was expected to examine ways to enable school districts to make bilingual education more efficient and effective for the thousands of California students who speak one of over 100 different languages.

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DEPARTMENT OF CONSUMER AFFAIRS

Director: Jim Conran

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Consumer Infoline:

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Infoline for the Speech/Hearing

Impaired: (916) 322-1700

In addition to its functions relating to 37 boards, bureaus, and commissions, the Department of Consumer Affairs (DCA) is charged with carrying out the Consumer Affairs Act of 1970. The Department educates consumers, assists them in complaint mediation, advocates their interests before the legislature, and represents them before the state's administrative agencies and courts.

The Department may intervene in matters regarding its boards if probable cause exists to believe that the conduct or activity of a board, its members, or employees constitutes a violation of criminal law.

MAJOR PROJECTS

MBC Executive Director Resigns as Investigation of Medical Board Continues. Ken Wagstaff, Executive Director of DCA's Medical Board of California (MBC), resigned on October 23 in the wake of an investigation of MBC's enforcement unit. The investigation, requested by DCA Director Jim Conran, is being conducted by the California Highway Patrol; Conran initiated the investigation to probe allegations of serious misconduct by upper staff members in the MBC enforcement unit. [12:4 CRLR 42; see *infra* agency report on MBC for related discussion.] Results of the investigation were first expected in late October, but were delayed; at this writing, DCA expects to receive the results by the end of January.

DCA Restructuring Update. Proposals involving the restructuring of DCA are still on hold. DCA itself does not expect to propose legislation to reorganize either the Department or its constituent agencies, and the legislature's interim study of AB 118 (Eastin) and other DCA reorganization plans has been postponed. [12:4 CRLR 43]

LEGISLATION

Future Legislation. At this writing, DCA's plans for proposed legislation during the 1993-94 session are not finalized. According to Anne Sheehan, DCA Deputy Director in charge of legislation, the Department is not planning any major reform legislation this session. Instead, legislative proposals will focus on strengthening the enforcement programs of DCA agencies. For example, DCA may pursue legislation that will give many of its boards interim suspension authority over their licensees, similar to the authority currently possessed by both MBC and the Board of Podiatric Medicine.

OFFICE OF THE LEGISLATIVE ANALYST

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.