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.

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 serve as a member of the Commission. *[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. *[S. Rls]*

DEPARTMENT OF CONSUMER AFFAIRS

Director: Jim Conran
(916) 445-4465
Consumer Infoline:
(800) 344-9940
Infoline for the Speech/Hearing Impaired: (916) 322-1700

In addition to its functions relating to its 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:
Elizabeth G. Hill
(916) 445-4656

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 consists of approximately 75 analysts and 24 support staff. The 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

Budget Analyses Portend Another Summer Budget Battle. LAO released two reports in October and November on the 1992–93 state budget. Both reports suggest that, during the summer of 1993, the state will face its fourth consecutive budget shortfall and—based on past experience—another protracted battle between the Governor and the legislature.

In its *State Spending Plan for 1992–93* released on November 19, LAO summarized the fiscal effect of the 1992-93 Budget Act (Chapter 587, Statutes of 1992), including the effects of several major trailer bills accompanying the budget that were enacted as part of the overall state spending plan for 1992–93. The report described how the $11.2 billion budget funding gap was resolved, noting that program funding reductions played the biggest role in closing the gap; other savings came from shifting general fund costs to local governments and to the federal government and from cost deferrals and revenue accelerations.

LAO also assessed the general fund outlook for the current and future years, noting that slow or stagnant economic growth will have by far the greatest impact on the budget this year and in 1993–94. Based on the performance to date of certain key economic indicators, LAO opined that the economic forecast for California on which the 1992–93 budget is based is overly optimistic. LAO estimated that the state will end the 1993–94 fiscal year with a deficit of at least $7.5 billion, absent corrective action.

Next, LAO noted that the total amount of state expenditures budgeted for 1992–93, $57.4 billion, represents an overall decrease of 0.8% from 1991–92 spending levels. Although spending from special funds and selected bonds funds increased by 8.4% and 73%, respectively, general fund expenditures decreased by over $2.2 billion, or 5.2%. LAO then reviewed the spending levels from 1982–83 through 1992–93, noting that 1992–93 is the only year during the period in which total spending in current dollars declines.

Finally, LAO reviewed the major features of the 1992–93 budget plan, making the following comments:

–The budget provides an increase of $781 million, or 3.7%, over 1991–92 funding levels for K–12 educational programs. This increase is primarily the net result of (1) a $1.5 billion reduction in state appropriations; (2) a $732 million state loan from future years; and (3) a $1.5 billion increase in local property tax revenues. The budget will enable schools to maintain per-pupil funding at the 1991–92 level.

–The 1992–93 budget for health and welfare programs includes $12.8 billion from the general fund and $3 billion from state special funds, for a total of $15.8 billion in state funds; the general fund amount represents a reduction of $967 million, or 7%, below estimated spending for these programs in 1991–92. Programs facing reductions include the Aid to Families with Dependent Children (AFDC) program, which provides cash grants to low-income families and children, and grants to pay for the care of children placed in foster care family homes or group homes. The Budget Act and related legislation also make several reductions and policy changes in the Medi-Cal program that are estimated to total more than $350 million in general fund savings in 1992–93.

–The budget agreement contains a major reduction in local government funding for 1992–93, and also affects cigarette tax subventions, funding for mandated local programs, and county responsibilities in a number of program areas.

Californians Address Fiscal Matters on November Ballot. The following measures addressing budgeting, taxation, and LAO appeared on California's November ballot:

• ***Proposition 165***, the Government Accountability and Taxpayer Protection Act of 1992, was Governor Wilson's proposal which would have increased the power of the Governor in the budget process and reduced welfare payments. *[12:4 CRLR 46]* Proposition 165, which was soundly defeated, would have:

–required the Governor to submit his/her proposed budget to the legislature on March 1 each year, instead of by January 10;

–suspended the salaries, travel, and living expenses of legislators and the Governor if the legislature fails to return a budget bill to the Governor by the constitutional deadline of June 15;

–permitted the Governor to declare a fiscal emergency if revenues, costs, or both are off by 3% after the new fiscal year begins. Budget-balancing cuts identified by the Governor would take effect in thirty days unless the legislature, by a two-thirds vote, passes an alternative plan which the Governor signs;

–permitted the Governor, during a fiscal emergency, to issue an executive order to furlough or cut the salaries of state employees who are not covered by union-negotiated contracts to save up to 5% of their pay;

–reduced AFDC's maximum aid payment (MAP) by 10%, and by an additional 15% after a family (1) has been on aid for more than six months, or (2) goes off aid after six months and returns to the program within 24 months;

–eliminated three pregnancy-related AFDC benefits currently extant;

–provided that during their first twelve months of residence in California, AFDC applicants from other states would be eligible for a grant based on the lesser of the grant they would receive using California's eligibility requirements or the MAP in their former state;

–required parents under a specified age to remain in the home of their parent, guardian, or adult relative, or in certain other living arrangements, in order to receive AFDC; and

–eliminated automatic cost of living adjustments for most AFDC programs.

LAO estimated that Proposition 165 would have resulted in annual savings of about $680 million to the general fund and $35 million to counties, due primarily to the reductions in AFDC programs. The measure was opposed by a number of public interest organizations, child and welfare advocacy organizations, and public employee unions.

• ***Proposition 167*** would have, among other things, increased state tax rates for maximum personal income taxpayers, corporations, banks, insurance companies, and oil companies; reduced the statewide sales tax rate to 5.75% on January 1, 1993, and to 5.25% on July 1, 1993; exempted specified snack foods and newspapers from sales tax; and extended the renters' credit to all renters. *[12:4 CRLR 46]* LAO reported that Proposition 167, which was also defeated, would have increased state tax revenues by roughly $340 million in 1992-93, and $210 million annually through 1995–96; provided additional annual revenue increases of roughly $1 billion beginning in 1996–97; replaced state expenditures on schools with increased local property tax revenue of $350 million to $700 million annually beginning in 1993-94; increased property tax revenue to local governments by $750 million to $1.4 billion annually, beginning in 1993–94; and reduced sales tax revenue to local governments by about $95 million in 1992–93 and $200 million annually thereafter.

• ***Proposition 158*** would have replaced LAO with the Office of the California Analyst and established the office in the state Constitution. Spending for the office would have been removed from the ambit of the legislature for the purposes of Proposition 140, which imposed a 38% budget cut on the legislature in 1990; in the wake of Proposition 140, legislators cut LAO's budget by 55% in order to comply with the spending limits. Proposition 158 was defeated by the voters, thus requiring the legislature to continue financing LAO from its own operating budget. The legislature appropriated funding to preserve LAO until June 30, but cut off similar funding for the Office of the Auditor General, resulting in the closure of that entity (*see supra* agency report on OAG).

LITIGATION

Two recent legal developments may restrict the way in which the Wilson administration handles the budget shortfall predicted for the summer of 1993. First, a federal district court struck down the administration's issuance of registered warrants, or "IOUs," to state employees during the two-month period in 1992 in which the state had no budget, due to the failure of the legislature and Governor to agree on one. In ***Parr, et al. v. State of California***, No. CIV-S-92-1115 (Nov. 30, 1992), U.S. District Judge Garland E. Burrell, Jr. ruled that the state's issuance of IOUs violated the federal Fair Labor Standards Act (FLSA), which has been implemented to require employers (including states) to pay employees (1) in cash or its equivalent, and (2) promptly. The registered warrants issued by the state were not payable on demand (as are regular warrants), and not all financial institutions accepted them. The court rejected the state's argument that compelled adherence to the FLSA would violate the tenth amendment, which precludes excessive federal government intrusion with government by states *qua* states, noting that Congress' intent in enacting the FLSA under the commerce clause was "to achieve a uniform national policy of guaranteeing compensation for all work or employment engaged in by employees covered by the Act." In its ruling, the court also observed that California has failed to enact a state budget on time in seven of the last ten years.

Next, the administration backtracked on the 5% pay cut it ordered in 1991 for state government supervisors and managers. On November 23, Governor Wilson announced that he would restore the pay cuts, which will cost the state between $9–$17 million this year. Officials reportedly decided to reverse the pay cut because Wilson was thwarted in his attempt to reduce the salary of all state employees by 5%; labor unions, the state legislature, and the courts all rejected the administration's proposed pay cut for rank and file employees. *[12:1 CRLR 37]* Thus, Wilson reversed the 5% salary reduction for supervisors and managers so that they would not be the only state employee categories made to bear the brunt of the state's fiscal crisis.

ASSEMBLY OFFICE OF RESEARCH

Director: Sam Yockey
(916) 445-1638

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

AOR released no reports between September 26–December 31, 1992.

SENATE OFFICE OF RESEARCH

Director: Elisabeth Kersten
(916) 445-1727

Established and directed by the Senate Committee on Rules, the Senate Office of Research (SOR) serves as the bipartisan, strategic research and planning unit for the Senate. SOR produces major policy reports, issue briefs, background information on legislation and, occasionally, sponsors symposia and conferences.

Any Senator or Senate committee may request SOR's research, briefing, and consulting services. Resulting reports are not always released to the public.

MAJOR PROJECTS

Legislative Accomplishments of 1992 (December 1992) highlights some of the more significant legislation enacted during 1992. According to SOR, key issues in the 1992 legislative session involved civil rights, jobs development, California's business climate, and consumer protection. New crimes created to reflect the changing times include sending faxes to people who declare they do not want them; blocking the passage of a person trying to enter a health facility or place of worship; recording conversations overheard on cellular phones; and brandishing laser scopes with intent to cause fear of harm.

Other new laws make it more difficult for divorced parents to evade child support orders; permit the suspension of students who sexually harass others; and strengthen and broaden prohibitions on discrimination against protected groups, including gays and the disabled. The death penalty will be carried out by lethal injection rather than by lethal gas; judges and the Board of Prison Terms will be asked to consider battered women's syndrome as a mitigating factor in setting sentences or recommending a gubernatorial pardon; fees for transactions at automated teller machines must be disclosed up front to consumers; bereaved Californians have new rights in making price comparisons at different mortuaries; and car dealers must disclose the number of vehicles available at an advertised price.

SOR also noted that many significant bills that reached Governor Wilson's desk were not signed. Vetoed bills would have improved enforcement of labor laws in California's agricultural fields; taken a comprehensive approach to addressing the costs of health care and auto insurance; created a constitutional revision commission to recommend changes in the budgeting process; and prohibited secret lawsuit settlements that conceal evidence of dangerous product defects. *[12:4 CRLR 14]*