



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.

In August, Governor Wilson announced the appointment of Kurt Sjoberg as State Auditor; Sjoberg, who served as acting Auditor General from 1989-93, will receive a salary of \$101,340 a year. The appointment does not require Senate confirmation.

MAJOR PROJECTS

BSA Reviews Drug and Alcohol Abuse Reduction Programs. On September 23, BSA released a report entitled *A Review of the Accomplishment of Goals Designed to Reduce Drug and Alcohol Abuse in California*; the report was mandated by SB 2599 (Seymour) (Chapter 983, Statutes of 1988), which added provisions to the Health and Safety Code designed to reduce drug and alcohol abuse in California, improve the coordination of efforts to reduce drug and alcohol abuse, and provide direction for public policy decisions affecting drug and alcohol services. Among other things, SB 2599 encourages state and county governments to prepare master plans for reducing drug and alcohol abuse and sets long-term, five-year goals that focus on the elimination of drug and alcohol abuse in California.

In its report, BSA found that state agencies have achieved thirteen of the forty goals they could address. The attainment of these goals has resulted in—among other things—more training in the detection and prevention of substance abuse for law enforcement officials, judges, teachers, and school administrators; the dissemination to California drivers of information on the dangers of drinking and driving; sobriety checkpoints by the California Highway Patrol; and a program, operated by the California National Guard and local law enforcement agencies, designed to curb the transport of illegal substances in the state. BSA also found that state agencies have partially achieved 22 goals but have made no progress on five specific goals.

BSA also noted that all 58 counties in California are in some stage of developing master plans for reducing drug and alcohol abuse. However, BSA noted that information on the counties' progress in meeting other goals is not available to the Department of Alcohol and Drug Programs, the lead agency administering SB 2599; according to BSA, the Department does not require counties to address the goals

or report their progress in meeting the goals on the basis that it does not have the statutory authority to do so.

BSA Takes Over Whistleblower Functions. Following the dismantling of the former Office of the Auditor General (OAG) in December 1992, no state agency was authorized to administer the Reporting of Improper Governmental Activities Act [13:2&3 CRLR 31]; the Act encourages state employees and other persons to disclose improper governmental activities by prohibiting any employee from directly or indirectly using or attempting to use official authority or influence for the purpose of intimidating, threatening, coercing, commanding, or attempting to intimidate, threaten, coerce, or command any person for the purpose of interfering with the right of that person to disclose matters within the scope of the Act. At the time of OAG's restructuring, it was receiving 400-500 calls each month on its whistleblower hotline.

However, SB 37 (Maddy) (Chapter 12, Statutes of 1993) delegated to BSA—among other duties previously performed by OAG—the responsibility for administering the Act. As of July 21, BSA's whistleblower hotline is in operation and state employees and the public may once again report misconduct in state government, anonymously if they so choose. The statewide hotline number is (800) 952-5665.

LEGISLATION

AB 787 (Campbell). BSA administers the Reporting of Improper Governmental Activities Act, which prohibits an employee from directly or indirectly using or attempting to use his/her official authority or influence for the purpose of intimidating, threatening, coercing, commanding, or attempting to intimidate, threaten, coerce, or command any person for the purpose of interfering with the right of that person to disclose improper governmental activity pursuant to the Act. For purposes of the Act, the term "employee" means any individual appointed by the Governor or employed or holding office in a state department or agency. As amended June 14, this bill would have expressly included employees of the California State University as employees of a state agency for purposes of the Act. This bill was vetoed by the Governor on September 21.

AB 1127 (Speier), as amended June 29, would have included a member of the legislature among those entities to whom a person may disclose improper governmental activity pursuant to the Reporting of Improper Governmental Activities Act. This bill was vetoed by the Governor on October 8.

SB 813 (Greene), as introduced March 4, would provide that if OAG is requested to perform an audit of a state agency, the state agency shall be required to pay the administrative costs associated with only one audit per fiscal year; the bill would also require that payment of the administrative costs associated with any additional audits conducted during that fiscal year be made by the person or entity requesting the audit. At this writing, SB 813 has not been amended to refer to BSA instead of OAG. [S. GO]

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

Executive Director:
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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.

MAJOR PROJECTS

A Chance to Succeed: Providing English Learners with Supportive Education (July 1993) assails California's native language instruction program as seriously deficient in teaching non-English-speaking children to speak English; according to the study, only 5% of all such children become fluent in English, while a quarter of a million receive no English instruction at all. Under the Department of Education's native language instruction program, children are taught core courses in their native language until they are literate in English.

The Commission found that schools are not helping children to become fluent in English quickly. The report noted that schools are awarded money from the state according to the number of students who are not fluent in English, a policy which effectively creates incentives to keep these children from learning English. In response, the Commission recommended that the Governor and the legislature enact legislation to revise the state funding mechanisms for educating English learners so that schools are encouraged to help students attain English proficiency rapidly.

The Commission also concluded that the Department of Education's bias toward native language instruction as the best method for educating students who do not speak English permeates all of the Department's policies and procedures, effectively punishing schools that wish to pursue other options. According to the Commission, the Department's policy is inappropriate because federal law, court cases, and state policy all recognize that various methods of instruction may be

effective in helping English learners become fluent; unwarranted because numerous academic studies have yielded conflicting results about a single, "best" method of teaching non-English-fluent students; not feasible because about one-fourth of California's non-English-fluent students speak a language other than Spanish and there are relatively few bilingual teachers for languages other than Spanish; and counterproductive because schools are required to expend energy and resources documenting the success of other options or providing plans on how native language instruction can be achieved in the future. Accordingly, the Commission recommended that the Governor and the legislature enact legislation establishing a state framework for local control of educational methods for non-English-fluent students, directing the Department of Education to focus on holding schools accountable for student achievement rather than requiring the implementation of a single academic approach, and directing the Department to produce a report examining funding for English learner education and documenting the supplemental use of earmarked funds.

Finally, the Commission found that there is a severe shortage of teachers with the expertise in language acquisition, training in cultural diversity, and skills to enhance the classroom learning environment that are vital for meeting student needs in today's schools. In response, the Commission recommended that the Governor and the legislature enact a resolution directing the Department and the Commission on Teacher Credentialing to focus on improving teaching techniques rather than on creating a cadre of bilingual teachers.

DEPARTMENT OF CONSUMER AFFAIRS

Director: Jim Conran
(916) 445-4465

Consumer Infoline:
(800) 344-9940

Infoline for the Speech/Hearing Impaired: (916) 322-1700

The Department of Consumer Affairs (DCA) oversees the activities of 37 administrative agencies which regulate 180 diverse professions, occupations, and industries. The primary function of DCA and its constituent agencies is to protect consumers from incompetent, dishonest, or impaired practitioners.

Most of the multi-member boards under DCA's jurisdiction are relatively autonomous of DCA control. However, the

DCA Director is authorized to review and reject regulatory changes proposed by all DCA agencies; only a unanimous vote of the agency's board will override the Director's rejection. Additionally, 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 its employees constitutes a violation of criminal law.

DCA maintains several divisions and units which provide support services to its constituent agencies, including a Legal Unit whose attorneys advise DCA boards at meetings and regulatory hearings; a Division of Investigation whose investigators gather evidence in complaint cases filed against the licensees of some DCA agencies; a Legislative Unit which assists agencies in drafting language for legislation and regulations affecting DCA agencies and their licensees; a Central Testing Unit whose psychometricians analyze and assist in validating licensure examinations used by DCA agencies; and a Budget Office whose technicians assist DCA agencies in assessing their fiscal status and preparing budget change proposals for legislative review.

In addition to its functions relating to its various boards, bureaus, and examining committees, DCA is also charged with administering the Consumer Affairs Act of 1970. In this regard, the Department educates consumers, assists them in complaint mediation, and advocates their interests before the legislature, the courts, and its own constituent agencies.

The DCA Director also maintains direct oversight and control over the activities of several DCA bureaus and programs, including the following:

• **Bureau of Automotive Repair**—*Chief: James Schoning; (916) 366-5100; Toll-Free Complaint Number: (800) 952-5210.* Established in 1971 by the Automotive Repair Act (Business and Professions Code section 9880 *et seq.*), DCA's Bureau of Automotive Repair (BAR) registers automotive repair facilities; official smog, brake and lamp stations; and official installers/inspectors at those stations. BAR's regulations are located in Division 33, Title 16 of the California Code of Regulations (CCR). BAR's other duties include complaint mediation, routine regulatory compliance monitoring, investigating suspected wrongdoing by auto repair dealers, oversight of ignition interlock devices, and the overall administration of the California Smog Check Program, Health and Safety Code section 44000 *et seq.*, which provides for mandatory biennial emissions testing of motor vehicles in federally designated urban nonattainment areas,