



# INTERNAL GOVERNMENT REVIEW OF AGENCIES

for any employees in an appropriate unit where an employee organization has been chosen as the exclusive representative." However, the court held that DPA did have the authority under Government Code section 22825.15 to unilaterally impose, at impasse in negotiations, the rates of state contributions to health care premiums to its last, best offer.

Both *Tirapelle v. Davis*, No. 368222, and *Tirapelle v. Davis*, No. 367558, are pending in the Third District Court of Appeal. In No. 368222, the Sacramento County Superior Court upheld a 5% wage cut ordered by Governor Wilson for 28,500 state officials, legislators, managers, and supervisors. In No. 367558, the superior court upheld state Controller Gray Davis' refusal to comply with Governor Wilson's order to withhold larger amounts of state employees' salaries for health coverage. [12:1 CRLR 37; 11:4 CRLR 54]

## ASSEMBLY OFFICE OF RESEARCH

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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.

On February 1, Sam Yockey took office as new AOR Director. Prior to his appointment, Yockey served as San Francisco City and County controller for three years. In addition, he served for five years as chief consultant to the Assembly Ways and Means Committee. Yockey, who has a bachelor's degree in accounting from CSU Sacramento, replaces Steve Thompson, who left AOR to work for the California Medical Association.

## MAJOR PROJECTS:

*Survey of Business Closures and Layoffs in California, 1990* (January 1992) examines the results of AOR's sur-

vey of factors affecting business closures and layoffs in California, in light of the "business-flight-from-California" hypothesis. Under this oft-cited theory, California is losing an increasing number of private companies and jobs, especially in manufacturing, purportedly because of the state's hostile business climate. The study, initiated in response to interest by Senate President pro Tempore David Roberti and Assembly Speaker Willie Brown, is based on a survey of companies that filed a Worker Adjustment and Retraining Notification (WARN) during calendar year 1990. In general, employers are required to file a WARN 60 days before closures or mass layoffs if (1) they have 100 or more employees, excluding employees who have worked less than six months in the last twelve months and excluding employees who work an average of less than twenty hours per week; and (2) they schedule a closure of a site (or facilities or operating units) causing employment loss for 50 or more employees, or a mass layoff of 500 or more employees or 33% of the active work force.

According to the report, 362 business establishments in California filed a WARN with the Employment Development Department during calendar year 1990. Of the 281 companies contacted by AOR, 99 companies responded to the survey. The AOR survey sent to these businesses listed 27 possible factors that might have affected the business decision to close or lay off; AOR asked the companies to rank each item's importance as it related to their situations. The study categorizes these factors into six major groups: national and regional economy, available infrastructure, labor quality, market and supply access, cost of doing business in California, and government regulation. The study revealed that, of the six factor groups, high business costs, the slow economy, and government regulation were the three most frequently reported reasons for business closures or layoffs. Labor quality, access to markets and/or supplies, and available infrastructure were found to be relatively unimportant to the businesses surveyed.

The study also noted that, with some factor groups, a significant difference existed between the responses of manufacturers and non-manufacturers. For example, manufacturers placed considerably more importance on high business costs, the slow economy, and government regulation than the other factor groups; manufacturers' concerns over high business costs exceeded all other factor groups with 40% more relative importance. In

contrast, for non-manufacturers, the differences in the relative importance among the factor groups were much smaller, although they ranked high business costs as being 20% more important than the other factor groups. Overall, the report stated that about two-thirds of the 99 responding companies (68.7%) claimed that the high cost of doing business in California is an important or very important factor in decisions to curtail operations. Significantly more manufacturers (79.3%) than non-manufacturers (53.7%) indicated that high costs were a problem. According to the survey, manufacturers were concerned about costs across the board (energy costs, taxes, land and housing prices, and labor costs), while non-manufacturers were primarily concerned about land and housing prices. Of the companies which ranked high business costs as being an important factor, 19.1% claimed that workers' compensation rates in California are too high.

Also, the report noted that half of the responding companies (49.5%) considered government regulation to be an important or very important factor influencing business cutbacks; according to those companies, regulatory requirements are too complex, too costly to meet, or inconsistent and conflicting. A fairly high percentage (40.8%) of the companies which found regulation to be excessive were critical of agencies responsible for environmental regulation, such as air quality management districts.

Finally, the report compared AOR's survey results with several other studies addressing the business-flight-from-California hypothesis and concluded that the survey by itself does not directly prove or disprove the hypothesis. However, the report noted that, despite the image of a negative business climate and some exodus, California has been successful in attracting new businesses and achieving a net gain over recent years.

*Streamlining the Permitting Process for Business Development and Regulatory Compliance* (February 1992). In the AOR survey described above, one of the most frequently-cited reasons for business closures and layoffs in California is complicated and costly environmental permitting processes and compliance requirements. This report focuses on improving permitting and regulatory compliance processes rather than changing environmental quality standards.

According to the report, the legislature has made repeated attempts to streamline the permitting process. For example, in 1983 the legislature created the Office of Permit Assistance (OPA) in the Office of



Planning and Research to fulfill OPR's responsibilities under the Permit Streamlining Act of 1977, Government Code section 65920 *et seq.* Under the 1983 law, OPA was to develop guidelines and provide grants-in-aid to assist local governments in establishing and operating an expedited permit process; provide information to developers about the permit approval process at the state and local levels; and ensure state agency compliance with all statutory permit streamlining requirements.

However, AOR states that the overall performance of OPA has been "dismal." Guidelines to expedite local permitting processes have never been prepared; no grants to local governments have ever been provided; no master permit document has been developed; OPA does not track permit applications and has not identified alternative mechanisms that will provide the least costly approaches to permitting at either the state or local level; and, without the ability to track permit applications, OPA is unable to ensure state agency compliance with permit streamlining requirements. Although noting that the 1983 law creating OPA is not strong enough, AOR also criticizes OPA itself for failing to take advantage of its limited authority. In response to its findings, AOR recommends that the legislature transfer the responsibility, funding, and positions for permit assistance from OPA to the Department of Commerce (DOC), where staff in the Offices of Small Business and Business Development already perform such assistance functions. AOR also suggests that DOC's existing Small Business Development Centers be expanded to provide assistance in complying with environmental regulations and a "one-stop permit" shop for business.

Next, AOR notes that the state should make a number of permit reforms in order to maximize the potential effectiveness of the organizational reforms discussed above. As an illustration, AOR refers to permit reform programs instituted by the South Coast Air Quality Management District (SCAQMD), which include new standardized application forms and the computerized processing of applications. Among other things, AOR recommends that the state extend the permit reforms adopted by SCAQMD to every metropolitan air pollution control district in California.

AOR also notes that efforts to streamline the permitting process within a more efficient organizational structure should not be separated from subsequent inspection and enforcement functions of regulatory agencies. AOR refers to a set of

regulatory compliance reforms adopted by SCAQMD to ease the burden on businesses within its jurisdiction; those reforms involve a shift from rigid regulatory requirements to more flexible, market-based approaches and from inspection and penalties to compliance assessment and consultation. AOR notes that such reforms result in a new focus on business assistance, and help to diminish business perceptions that the regulatory community in California has an anti-business attitude.

Finally, AOR states that in order to comply with environmental regulations, many businesses require financial assistance. The California Pollution Control Financial Authority uses money from the sale of tax-exempt revenue bonds to finance the acquisition, construction, or installation of pollution control facilities, including equipment, required by environmental regulatory agencies. In addition, the Authority indicates that some type of grant program may be necessary to aid businesses that cannot secure financing elsewhere, based on traditional lending criteria. Among other things, AOR recommends that the Authority report to the legislature by January 1, 1993 on the options for leveraging funds under its control for small businesses and the need for a grant program for small businesses that are not "creditworthy" according to Department of Commerce lending standards.

**Two New Californias: An Equal Division, Historical and Financial Analysis** (April 1992) addresses issues relevant to the possible division of California into two states. The report discusses the process of dividing a state; other states that have been divided; past efforts to divide California; reasons for dividing the state; the geographic distribution of the state's income and expenditures; and the impact of alternative boundary lines on the budget of each new state.

The report explains that Article IV, section 3 of the U.S. Constitution allows a state to be divided into two or more states if consent is given by both the state legislature and Congress. AOR also notes that Congress has approved the creation of four new states which were previously part of a "mother" state: Vermont was split out of New York in 1791; Kentucky was split out of Virginia in 1776; Maine was split out of Massachusetts in 1820; and West Virginia was split out of Virginia in 1863.

The report also describes recurring attempts in the California legislature to divide the state. For example, in 1859, Assemblymember Andres Pico of Los An-

geles introduced AB 223, which proposed a division of the state. The bill, which was approved by a vote of 34-25 in the Assembly and 15-12 in the Senate, directed the Governor to call an election in southern California; if the split was approved by at least two-thirds of those voters, the bill specified that the legislature's consent to divide the state would be operative. After the southern California voters approved the split by a "yes" vote of 75%, a bill was introduced in the U.S. House of Representatives to divide the state. However, there was no further action on the bill due to the start of the Civil War. AOR notes that—technically—the Pico request of 1859 is still pending before Congress.

According to the report, the strongest argument in 1992 for dividing the state is that California has become too large and too complex to be managed efficiently as a single unit. The report notes that advantages of dividing the state are that California's representation in the U.S. Senate would be doubled and state legislators would represent fewer people and have a more reasonable working relationship with their constituents.

Next, the report discusses whether the income of each new state would be sufficient to support the services required by the people living in that state. Specifically, AOR evaluated whether one state would be better off economically than the other. The report concludes that there are ways to divide the state which would result in both states having adequate general fund revenues to pay current general fund expenses; in other words, there are dividing lines which would not create one poor state and one rich state. For example, the report suggested that a state consisting of California's current eight southern counties (which have 59% of the population) would have substantially similar per capita characteristics as a state consisting of the fifty northern counties (which have 41% of the population).

## SENATE OFFICE OF RESEARCH

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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 con-