



# INTERNAL GOVERNMENT REVIEW OF AGENCIES

The Commission states that California "has been placed in a straitjacket that limits its decisions in other areas while guaranteeing no better education for the state's children," resulting in high dropout levels and an illiterate and unprepared workforce.

In its report, the Commission made five major findings. First, it stated that current school funding methods prevent school districts from shifting priorities and allocating more money for instruction. Much of California's education money has been restricted by state or federal law for specifically defined purposes, such as food services and child development centers. The report recommends that, in order to allow more flexibility in the decisionmaking of the districts and to further coordinate funding for special programs, the Governor and the legislature should allow additional block grant funding to local school districts. The Commission warns that such a program would need to include sufficient safeguards to ensure that the funds ultimately accomplish the objective of programs identified as being necessary in state statute.

Second, the report found that the collective bargaining process improperly controls how school districts spend the majority of general fund monies; these collective bargaining processes not only regulate school employees' salaries and benefits, but also affect a variety of costs in categories other than instruction. The report recommends that a study be conducted to examine the feasibility of the establishment of a statewide council of recognized exclusive bargaining representatives to carry out the collective bargaining process with a joint council of school districts. In addition, the report recommends a review of the current parameters of what may be included in the collective bargaining process so as to identify areas that might be better removed from the realm of negotiations, as well as a limit on the amount that districts may be reimbursed for mandated cost claims related to collective bargaining costs.

Third, the Commission found that California's K-12 education system continues to operate without adequate controls and with no accountability at the top. According to the report, the current assignment of local authority and responsibility for fiscal decisionmaking, coupled with a primarily state-funded education system, does not ensure the financial stability of the districts. "It appears that many local decisions defy sound fiscal practices, without the state able to exert control early enough to prevent fiscal adversity." Consequently,

many districts are at risk of financial failure which will result in the costly process of the state bailing out the districts. The report recommends that the state's Superintendent of Public Instruction or the State Board of Education be given additional fiscal authority and responsibility when it appears that a district may fail to meet its financial obligations. In addition, the report recommends that penalties be assessed against any school board member who knowingly votes to approve a budget or expenditure which violates current statutory standards and criteria approved by the Board of Education.

Fourth, the report notes that the state's dropout rate now exceeds 20% and that Department of Education statistics are incomplete. Although state law allows the collection of dropout statistics on students leaving school as early as seventh grade, the Department counts dropouts from only the tenth grade forward. The report recommends the implementation of a statewide, student-level database that will incorporate the use of standard student identification numbers in order to track dropouts who later return to school, as well as periodic review of the dropout data sent to the Department by school districts.

Fifth, the report states that if California fails to reduce its dropout rate, the state's economy will be severely affected. Although the figures are imprecise, California's dropout rate indicates that large numbers of students annually leave school without graduating. As a result, California's economy could eventually suffer the consequences. The report recommends that the Governor and the legislature support current successful efforts at dropout prevention and recovery; the Department continue its efforts to develop and implement initiatives that will substantially contribute to the alleviation of the dropout problem; and the Department place special emphasis on the unique problem of Hispanic dropouts.

**Conflict of Interest Code Amendments.** In July, the Commission announced that, pursuant to Government Code section 87306, it intends to amend its conflict of interest code in Division 8, Title 2 of the California Code of Regulations. Pursuant to Government Code section 87302, the code will designate Commission employees who must disclose certain investments, income, interests in real property, and business positions, and who must disqualify themselves from making or participating in the making of governmental decisions affecting those interests. The written comment period on these

proposed regulatory changes ended on September 9.

**Recent Hearings.** On August 22, the Commission held a public hearing regarding California's transportation system and needs. The Commission hopes to release a report in January.

## DEPARTMENT OF CONSUMER AFFAIRS

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In addition to its functions relating to its 38 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.

## MAJOR PROJECTS:

**DCA Issues Final Report on Demise of Bureau of Personnel Services.** DCA recently issued its final report to the legislature on the abolition of the Bureau of Personnel Services (BPS). AB 2113 (Johnson) (Chapter 704, Statutes of 1989), the bill which abolished BPS, required DCA to issue a report summarizing the legislation's impact on California consumers. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 74 for background information.) DCA's report indicates that abuse of consumers by employment agencies, while still problematic, has not increased substantially with the abolition of the Bureau. Overall, DCA found minimal evidence of consumer abuse by employment agencies, but found that job listing services, which had accounted for substantial consumer abuse while BPS was operating, continue to warrant special attention.

To that end, the report recommends three statutory changes to protect consumers. First, DCA suggests that the criminal penalty for abuses by job search firms increase from a misdemeanor to a "wobbler," which would be treated, in the discretion of the district attorney and judge, as either a misdemeanor or a felony. Second, the report recommends that all contracts between an employment firm and a consumer be required to disclose the firm's agent for service of process; DCA anticipates that this



would create more accountability on the part of firms and increase the potential for recovery on the part of abused consumers who may choose to seek redress through litigation. Third, the report advocates sanctions for failure on the part of employment firms to file the appropriate surety bond.

In addition to these statutory changes, DCA's report recommends increasing consumer education and outreach in order to prevent abuse by job listing firms and employment agencies. Specifically, the report suggests consumer publications targeted at communities impacted by such consumer fraud and abuse.

## LEGISLATION:

**Preprint SB 1 (Presley)**, as proposed April 2, would establish the Board of Legal Technicians in DCA. The bill would create seven initial categories of legal technicians to be regulated by a five-member board consisting entirely of public members. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 201 for background information on the bill.) The bill includes measures for the discipline of new licensees, notification to consumers of "non-attorney" status, and the creation of a fund to compensate consumers injured through licensee dishonesty. Senator Presley is expected to introduce the bill during the 1992 legislative year.

**SB 771 (Beverly)** and **AB 1827 (Bentley)** are DCA-sponsored clean-up bills to SB 2627 (Beverly) (Chapter 1305, Statutes of 1990), which enacted the new Small Claims Act at Code of Civil Procedure section 116.110 *et seq.* (See CRLR Vol. 11, No. 1 (Winter 1991) p. 44 for background information.)

SB 771, which was signed by the Governor on October 13 (Chapter 915, Statutes of 1991), revises the small claims court law with respect to various procedural and jurisdictional matters, including extensions of time, prejudgment attachment, retention of jurisdiction following judgment, limits on multiple claims, fees for service by mail, pretrial discovery, service on out-of-state motorists, postponements, venue, fictitious business names, appearance by representative, assistance for parties not fluent in English, the content, delivery, and recordation of judgments, motions to vacate a judgment, fees, costs, notices, and other procedural matters on appeal, enforcement of judgments, and entry of satisfaction of judgments.

AB 1827, which was signed by the Governor on July 22 (Chapter 133, Statutes of 1991), removes unlawful detainer actions from the jurisdiction

of small claims court; authorizes a small claims court to continue matters in order to permit the parties to attempt resolution by informal or alternative means; and specifies that upon appeal of a small claims court judgment to the superior court, no party has a right to a trial by jury.

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 3 (Summer 1991) at page 52:

**AB 1555 (Filante)**, as amended May 30, would, among other things, require DCA to administer and enforce the provisions of the Filante Tanning Facility Act of 1988; make it unlawful for any and all tanning facilities to operate at a specific location without a license issued by DCA; and permit DCA to deny, suspend, or revoke a license. This two-year bill passed the Assembly on June 18 and is pending in the Senate Business and Professions Committee.

**AB 168 (Eastin)** would create the Board of Legal Technicians in DCA and require every person who practices as a legal technician to be licensed or registered by the Board, which would determine which areas require licensure and which require registration. This two-year bill is still pending in the Assembly Committee on Consumer Protection, Governmental Efficiency and Economic Development.

**AB 1893 (Lancaster)**, as amended August 19, is DCA's omnibus bill which makes numerous changes to existing laws providing for the licensing and regulation of various businesses and professions pursuant to the provisions of the Business and Professions Code. This bill was signed by the Governor on October 7 (Chapter 654, Statutes of 1991).

**AB 1382 (Lancaster)**, as amended July 18, no longer applies to DCA agency licensees in general and specifically concerns licensees of the Contractors State License Board (*see supra* agency report on CSLB for details).

**SB 961 (Senate Business and Professions Committee)**, as amended April 30, provides that the DCA Director may initiate an investigation of any allegation of misconduct in the preparation, administration, or scoring of an examination which is administered by a DCA board, or in the review of qualifications which are a part of the licensing process of any DCA board. SB 961 also allows the DCA Director to intervene in any matter of any DCA board, where an investigation by DCA's Division of Investigation discloses probable criminal activity of a board, its member(s), or its employee(s). This bill was signed by the Governor on October 13 (Chapter 1013, Statutes of 1991).

## 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 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:

**Governor Signs Budget.** Shortly before midnight on July 16, Governor Wilson signed a \$55.7 billion 1991-92 state budget package consisting of over fifteen separate measures which cut expenditures and raise revenues. The bills were the final result of negotiations between Wilson and the legislature to close a record \$14.3 billion projected budget deficit. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 52 and Vol. 11, No. 2 (Spring 1991) p. 49 for background information.)

The new budget resulted in the following changes:

-A \$0.0125 increase in the sales tax effective July 15. In addition, the sales tax was extended to newspapers,