



and departments.

Finally, the report found that DFG fails to exercise adequate oversight and authority over regional fish and game administrators. This lack of a consistent, structured system for monitoring the actions and decisions of regional administrators results in unnecessary difficulties for those attempting to work with the DFG statewide. The Commission suggests that DFG provide for an independent, external assessment of:

- the extent to which the present latitude given to its regional managers in interpreting and implementing policy and regulation is consistent with current and likely future Departmental and public needs;

- the degree to which the present system of issuance of Departmental guidelines sufficiently regulates all levels of field staff; and

- the adequacy of current specifications for regional manager positions, with a view toward augmenting management/administrative and public relations capabilities at the regional and local levels.

Also, FGC, DFG, and the Resources Agency should develop coordinated plans for augmenting its current public information capacities and performance.

The Little Hoover Commission's report states that during the course of its study, and presumably as a result of the Commission's scrutiny, the FGC claims to have reestablished its "direction." Specifically, FGC has (1) asserted its recommitment to functioning as an active and enthusiastic guarantor of the welfare of California's natural resources; and (2) reasserted, in vigorous terms, its authority in judging the adequacy of implementation of its policy decisions by DFG. Following the Little Hoover Commission's June 27 public hearing on the FGC and DFG, FGC explicitly stated its intention to more closely hold DFG accountable for practices, especially where the public perceives that there is a reluctance by DFG to carry out such policies.

The release of this report by the Little Hoover Commission added fuel to an already-intense debate between environmentalists and the existing DFG and FGC. While FGC Commissioner Benjamin F. Biaggini contends that "the Commission has done a very professional and workmanlike job in administering its responsibilities," the critics strongly disagree. Richard Spotts, a Sacramento-based lobbyist for the 80,000-member

Defenders of Wildlife, states that "[t]he Fish and Game Commission is increasingly seen as an impediment to wildlife conservation. They have become part of the problem rather than the solution."

## DEPARTMENT OF CONSUMER AFFAIRS

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

### MAJOR PROJECTS:

*Small Claims Publication.* DCA recently issued a new publication entitled *Collecting Your Small Claims Judgment*. The 75-page booklet is designed to assist small claims creditors in locating judgment debtors and collecting from them. It also includes sample letters and court forms. The publication is available by mail from the Department for a nominal charge.

*Conflict of Interest Code.* In October, DCA published a notice of proposed changes to its Conflict of Interest Code. The code was compiled pursuant to the Political Reform Act of 1974 (Proposition 9), which requires each state agency to list designated employees whose decisions may affect their own financial interest. Those employees are required to file annual statements disclosing their income and investments.

The proposed regulatory changes would update the existing code adopted in 1977 by increasing the list of designated employees subject to disclosure requirements. Additionally, a few of the currently designated positions would be deleted.

A regulatory hearing on December 6 yielded only a few written comments. DCA is considering these comments, and planned to submit a final statement of reasons to the Fair Political Practices Commission by the end of January. After approval by the Commission, DCA will submit the proposal to the

Office of Administrative Law (OAL).

### LEGISLATION:

The following is a status update of bills discussed in CRLR Vol. 9, No. 4 (Fall 1989) at page 36:

*AB 718 (Frazee)*, which would expand disclosure rights of consumers who lease motor vehicles, is pending in the Senate inactive file.

*SB 1078 (Dills)*, which would prevent the imposition of fines for violations of unfair business practices statutes where the violator has paid other penalties for the same conduct, is pending in the Senate Judiciary Committee.

*SB 787 (Rosenthal)*, which pertains to disclosure requirements in the sale of a used car, is pending in the Senate Committee on Insurance, Claims and Corporations.

*AB 552 (Moore)* would provide the buyer of a motor vehicle with the right to cancel a motor vehicle contract until midnight of the first business day after the day on which the buyer signed the contract. This bill is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

*AB 1272 (Eastin)*, which would provide for contact between DCA and the consumer programs of each state agency, is pending in the Assembly Ways and Means Committee.

*AB 1578 (Murray)*, which would broaden the rights of landlords who wish to evict tenants engaged in unlawful activities, is pending in the Assembly Judiciary Committee.

*AB 459 (Frizzelle)* would have provided that any business license issued by DCA could be renewed at any time after expiration without reexamination, if continuing education requirements are met and applicable dues are paid. This bill was dropped by its author.

### LEGISLATIVE ANALYST'S OFFICE

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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



# INTERNAL GOVERNMENT REVIEW OF AGENCIES

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 consists of 76 professionally trained analysts and 26 support staff. The staff is divided into ten operating sections, each of which is responsible for a specific subject area. These areas are health, welfare and employment, taxation and economic research, agriculture and natural resources, business and transportation, criminal justice, employee compensation and general service agencies, education, capital outlay, and long-term policy issues.

## MAJOR PROJECTS:

*California Maritime Academy; Options for the Legislature (January 1990).* LAO conducted this review of the California Maritime Academy (CMA) to evaluate the cost-effectiveness of the Academy and to determine whether alternative approaches for carrying out the Academy's mission should be considered. The CMA, which was established by Chapter 661, Statutes of 1929, is an accredited four-year college, with an enrollment of approximately 390 students. It is supported primarily by the state, at a budgeted general fund cost of \$6.6 million in 1989-90 (excluding salary increases). The CMA's mission is to provide licensed deck and engineering officers for the U.S. merchant marine and California maritime industries. Almost 90% of the 1988 CMA graduating students obtained employment in the maritime industry, primarily on merchant marine ships.

Because of its small size and its mission to serve as a full-service four-year college, the CMA cannot take advantage of the economies of scale available to campuses of the University of California or California State University (CSU) system. As a result, the state cost per student at the CMA is three times as much as the cost at the CSU.

LAO's framework for evaluating the CMA consisted of an examination of the costs and benefits of (1) maintaining the Academy; (2) eliminating the Academy; and (3) continuing merchant marine training at lower state costs. In its cost-benefit analysis of continuing support of the CMA, LAO found that of the \$6.6 million paid out by the general fund, approximately \$200,000 is offset by federal reimbursements. Therefore, in 1989-90, the state will spend \$6.4 million, plus salary increases, to support the Academy. The benefits of continued state support of CMA accrue primarily to the students, the industry, the Academy's employees, and the local economy proximate to the Academy.

Turning to the costs of eliminating support of the CMA, the report noted that the state would still incur the costs of supporting the estimated number of potential CMA students who would attend other public institutions of higher education. Elimination of the CMA would have a negative impact on students by reducing the scope of occupational training opportunities available to state residents. Further, although under present conditions, current supply of merchant marine officers exceeds demand, elimination of the CMA may have an adverse impact on industry productivity in terms of operational efficiency and effectiveness. Finally, elimination of the CMA would adversely affect the Academy's 145 employees and the local economy through job displacement and revenue loss, respectively.

The benefits of eliminating support of the CMA include the savings and revenues that would be realized by the state and federal government. The state would save \$6.4 million annually and, if CMA's property were sold, would gain several million dollars in one-time revenues.

LAO's report considered four alternatives to continuing state support for the CMA. All four alternatives provide opportunities for merchant marine training while attempting to reduce the state costs for such training. The alternatives are summarized as follows:

-Eliminate the Academy, and establish a program at a CSU campus designed to prepare students to become licensed deck and engineering officers in the merchant marine.

-Eliminate the Academy, and establish a financial assistance program for state residents who attend other maritime academies and secure employment as licensed officers in the merchant marine.

-Continue support for the Academy, and acquire financial support from the maritime industry to reimburse the state for costs in excess of the costs that the state would incur if the students had instead attended the CSU.

-Continue support for the Academy, and raise student fees to reimburse the state for some or all of the costs in excess of those it would incur if the students had attended CSU.

The report concluded by identifying three options for the legislature in its consideration of the CMA: (1) eliminate state support of the CMA on the basis that the Academy is not necessary to meet projected labor market demand for licensed deck and engineering officers, and thus is not cost-effective; (2) continue the existing level of state support of the CMA on the basis that its job placement success reflects superior productivity, thereby indicating that the Academy is cost-effective; or (3) continue to provide merchant marine officer training, but reduce the state's costs by increasing the level of CMA support provided by students and the industry, or by replacing the CMA with a comparable program at a CSU campus or a financial assistance program for students out-of-state maritime academies. LAO recommended that the legislature conduct an oversight hearing to review options for continuation, modification, or elimination of state support of the California Maritime Academy.

*AIDS Education in Correctional Facilities: A Review (January 1990).* SB 1913 (Presley) (Chapter 1579, Statutes of 1988) required LAO to determine whether the Department of Corrections (CDC) and the Department of the Youth Authority (CYA) have adequate education, prevention, and treatment programs related to acquired immunodeficiency syndrome (AIDS), and whether the programs are being properly implemented. SB 1913 further required LAO to assess the quality of AIDS education and prevention programs in county and city jails. In response to this legislative man-



date, LAO reviewed HIV education programs in 42 state and local correctional facilities in California. LAO interviewed a limited number of inmates and wards, as well as the individuals at each facility who were most knowledgeable about HIV programs for staff, inmates, and wards.

By way of background information, the report noted that the term "HIV disease" is used to describe the spectrum of HIV infection, ranging from asymptomatic HIV seropositive (HIV-positive) to AIDS. The general terms "HIV infection," "infected with HIV," and "HIV-positive" all refer to those who test positive and are anywhere along the spectrum of the disease. Of California's 86,600 inmates in state prisons in 1989, 0.4% have been identified as infected with HIV. There is, however, some uncertainty as to how many California prison inmates are actually infected with HIV. A study by the Department of Health Services (DHS) estimates that about 2.6% of male inmates and 3.1% of female inmates in the state's prisons are infected with HIV. Out of the 8,300 wards in the CYA's ten facilities in November 1989, two have been identified as infected with HIV. The CYA estimates that 0.6%, or about 50 wards, are infected with HIV. Finally, a DHS study estimates the HIV infection rate in California's county jails to be 1.3%.

Presently, all new CDC correctional officers and new CYA correctional officers are required to attend HIV education classes during academy training, and on an annual basis thereafter. Also, the CDC provides written HIV information and videos for staff and inmates, and the CYA provides similar information for its staff and wards. All CYA wards are required to attend six hours of HIV education classes. Although all of the county jails reviewed by LAO provide some type of HIV education to inmates, none of the city jails reviewed provide any HIV education to inmates. Overall, LAO found that staff, inmates, and wards are potentially at risk of HIV infection because they are not kept up-to-date with current information and procedures for decreasing their risk of HIV infection, and the value of HIV education as a means to reinforce information is lost. Further, attendance requirements are not enforced or attendance is voluntary at many facilities.

LAO recommended that the CDC, CYA, and Board of Corrections (BOC) ensure that all high-risk target groups

are identified, and that staff, inmates, and wards attend HIV education classes and periodically receive written HIV information. The report also recommended that the CDC, CYA, and BOC should ensure that all HIV education efforts are coordinated within each facility.

In addition to HIV education programs, two other methods are used to manage HIV transmission in California's correctional facilities: HIV antibody testing and housing policies. California law prohibits mandatory HIV antibody testing of inmates or wards except when an employee, inmate, or ward requests that an inmate or ward be tested in response to a specific incident, such as a violent attack, and a court order for testing of the inmate has been issued. The CDC and the CYA, as well as most county jails reviewed, provide voluntary testing of an inmate if requested by the inmate. Generally, none of the city jails reviewed routinely test for HIV infection because inmates only remain in these facilities for short periods of time before they are released or transferred to county jails.

Regarding HIV housing policies, California state prison inmates identified as infected with HIV are housed separately from general population inmates, in order to prevent HIV transmission, concentrate resources and staff to provide necessary specialized care, protect staff, and protect inmates infected with HIV from assault. The CYA maintains known HIV-positive wards in the general population until they require special medical attention, at which time they are housed in the infirmary.

The report noted that risk reduction skills, such as safety and equipment sterilization procedures, are consistently taught to CDC, CYA, and BOC staff. However, risk reduction skills, such as the proper use of condoms, are not taught to all inmates or wards. Also, condoms are generally not available to inmates and wards. As a result, these inmates and wards are at risk of HIV infection if they engage in high-risk activities.

The report suggested that the CDC examine its current policies on the demonstration and availability of condoms in prisons. Further, the report recommended that the CDC central office contract with an organization which has expertise in this area to: (1) evaluate the effects of the prison condom demonstration and availability programs that cur-

rently exist nationwide; and (2) determine whether such programs should be tested and/or implemented in California. Both the BOC and the CYA should follow similar courses of action, according to the report.

Finally, the report found that due to a lack of coordination between the Office of AIDS (OA) and individual CDC and CYA facilities, duplicative HIV education programs exist. As a result, the state is paying more than once (through the correctional agencies and the OA) for comparable HIV programs for the same group of inmates and staff; and staff, inmates, or wards within a given facility who attend an HIV education class conducted by one contractor may not receive the same information as others who attend a class conducted by another contractor, or by facility staff.

LAO recommended that the CDC, CYA and BOC should each improve its coordination with the OA. Also, each correctional agency and the OA should jointly evaluate the correctional agency's HIV education program. Further, outside organizations should not be granted contracts for providing HIV education classes in correctional facilities unless: (1) the correctional agency and the OA have jointly determined beforehand that there is a need for the organization's classes in a particular facility; and (2) the contractors' classes are consistent with the correctional agency's overall HIV education goals.

*A Perspective On Housing in California (January 1990).* LAO published this report to provide the legislature with an overview of housing in California, including information that will assist it in making decisions affecting the future performance of the state's housing market and thus the economy generally. The report focuses on four specific issues: (1) the basic characteristics of California's housing market; (2) the key challenges confronting the state's housing market; (3) existing public programs and policies which address California's housing needs; and (4) opportunities to improve the future performance of the state's housing market.

Regarding the basic characteristics of California's housing market, LAO's report noted that there are 11 million housing units in the state, about 65% of which are single-family houses and 35% are apartment-type units. Approximately 55% of households own their dwellings, while 45% are renters. Housing in California is geographically concentrat-



ed, with 38% of the state's housing units in the Los Angeles region, 21% in the San Francisco Bay region, 9% in the Riverside-San Bernardino region, and 8% in the San Diego region. About 66% of the state's households are white, 19% Hispanic, 8% black, and 8% Asian and "all other." Average household size is 2.7 persons statewide, although average size varies with ethnicity. Median family income per household in 1988 was about \$34,000.

The report noted that while the national median price for an existing home is \$95,000, California's median statewide existing home price topped \$200,000 during mid-1989. Further, in the major metropolitan areas, where most Californians live, median prices were still higher, often in the mid-to-high \$200,000s. The report cited a number of reasons for the rise in housing prices, including demand pressures from growing urban populations, shortages of buildable land in prime residential areas and established communities, increased demand for real estate investment by both Californians and non-Californians, and, in many areas, restrictive local land use policies and growth control measures.

The report cited the following key challenges presently facing the state's housing market:

- high housing costs and affordability, both for homeowners and renters;
- locating housing and job centers sufficiently close to one another;
- reducing noneconomic barriers to housing choice, such as ethnicity;
- encouraging coordinated and consistent governmental housing policies;
- maximizing the effectiveness and efficiency of state housing programs;
- homelessness;
- the unique housing problems faced by special population groups;
- maintaining and improving the housing stock's quality; and
- expanding the housing stock to meet future housing needs.

Turning to the third issue addressed by LAO, of the housing programs that currently exist, federal programs top of the list in providing the largest dollar volume of government housing assistance to the state, including direct expenditure programs, mortgage loan guarantee and insurance programs, and tax expenditure programs. The single largest program is the mortgage interest income tax deduction. State programs which offer housing assistance include

direct assistance programs, such as low-interest loans and grants, tax-exempt bond programs, and tax expenditures, such as the mortgage interest deduction and the new low-income housing tax credit.

Also, the California Statewide Housing Plan articulates the state's basic housing needs and objections, and the housing elements of local general plans essentially represent the local "action plans" for addressing the state's basic housing needs. However, no means or authority currently exist for ensuring that local housing elements are consistent with state goals and are actually implemented.

Finally, LAO highlighted certain areas in which the legislature may wish to focus in light of LAO's findings. These areas include:

- improving the effectiveness and efficiency of government housing programs;
- improving the statewide housing planning process, including the quality and implementation of local housing elements;
- ensuring that the public capital infrastructure needed to accommodate housing growth is adequately provided for;
- promoting policies that have the potential to hold down housing costs;
- encouraging public-private housing partnerships in order to increase the financial resources directed at housing problems and broaden the range of housing needs that are addressed; and
- addressing the pressing housing needs of low-income persons, especially the homeless.

LAO emphasized that because California is growing so rapidly and undergoing so many other significant changes, the time for making and implementing plans for accommodating the state's housing challenges is now. The sooner and more effectively California's housing challenges are addressed, the better will be the state's future economic performance, and the living standards and overall quality of life of its citizens.

*An Overview of the 1990-91 Governor's Budget (January 1990 Policy Brief).* In this release, LAO noted that while the 1990-91 Governor's budget recognizes the need to restrain state expenditure growth to the level of available resources, it proposes changes in existing policies as to how those resources are allocated. The changes proposed reflects the administration's

preferences as to how the state's money should be spent.

General fund revenues for the current fiscal year are approximately \$875 million lower than previously forecast. This lower level of revenue, partially offset by other changes, reduces the balance in the state's reserve fund from the \$1.1 billion anticipated by the administration last July to \$512 million by June 30, 1990.

For the upcoming budget year, the administration is projecting general fund revenue growth totalling approximately \$3.5 billion in additional revenue. The first \$300 million of these new revenues must be used to fund the existing level of state expenditures. Also, the budget proposes that \$489 million be used to restore the state's reserve fund in 1990-91, which would bring the state's reserve to \$1.1 billion. These allocations leave about \$2.7 billion available to fund increases in state programs.

LAO estimates that the amount necessary to maintain current service levels in existing programs, comply with existing statutory requirements for the expansion of certain programs, and restore the state's reserve to the 3%-of-expenditures level is about \$4.6 billion. As the amount of general fund revenues available for new spending in the budget is estimated to be only \$2.7 billion, the state is left with what LAO describes as a \$1.9 billion "funding gap." Although California continues to experience at least moderate economic growth, the level of expected revenues is insufficient to fund anticipated growth in the state's existing programs. Some of the state programs that require higher state expenditures than in the past include the following:

-There has been a dramatic increase in corrections-related expenditure requirements to accommodate the rapidly increasing prison inmate population.

-State costs related to entitlement programs in the health and welfare areas have been increasing, due in part to changes in federal requirements which have expanded eligibility for some programs and shifted existing costs to the state.

-As a result of Proposition 98's passage in November 1989, the state may not reduce K-12 current service levels as a part of an overall budget-balancing strategy.

The administration's strategy for closing the "funding gap" and balancing the budget include the following



proposals:

-The budget includes two proposals which would defer certain existing general fund costs to 1991-92. This proposal would result in a savings of \$98 million.

-The budget proposes to further reduce expenditures by \$380 million, by maintaining reserve funding at the 3%-of-expenditures level used in recent years minus \$380 million.

-The budget proposes to provide reduced levels of services in a variety of areas, resulting in a savings of \$1.3 billion. Some of the most significant reductions include cutbacks in a variety of welfare programs and the elimination of funding for a variety of state mandated local programs.

-Finally, the budget proposes to shift certain program costs to county governments. Such a move would save the state \$157 million.

LAO concludes by noting that given the context in which the budget must be developed, the legislature should focus its effort on trimming the state's spending requirements to match its available resources. The legislature may be faced with adopting a budget that makes significant reductions in existing programs and does not provide the traditional level of protection against economic uncertainties.

*Distribution of State Tax Forms by Public Libraries (January 1990).* Assembly Bill 129 (Jones) (Chapter 918, Statutes of 1987) requires California public libraries to continue their participation in the Franchise Tax Board's (FTB) tax form distribution program until July 1, 1991. After that date, library participation in the program becomes voluntary. The bill also requires LAO to prepare an evaluation of the effectiveness of libraries as tax form distribution centers; the burden imposed on libraries by the tax form distribution program; and the necessity, if any, for libraries to receive funding for continuation of the program.

As background information, LAO noted that the FTB has three basic methods for distributing state tax forms to state taxpayers. The primary method for distribution is direct mail, providing over 90% of all state taxpayers with their forms. The second major method of distribution is the FTB toll-free telephone service. This method is responsible for meeting about 5% of the total demand for tax forms. The third method for distributing the forms consists of

publicly accessible institutions, including banks, post offices, libraries, state and local government offices, and legislative district offices. These institutions are shipped a supply of forms by the FTB at the beginning of each tax season, based on their usage of forms in the prior tax year. Banks, post offices, and certain other public outlets handle about 2.5% of the demand, and libraries meet the remaining 2.5%. According to the FTB, 1,046 libraries participated in the program for the 1987 tax year, distributing about 1.6 million forms.

Regarding the effectiveness of libraries as distributors of tax forms, LAO found that libraries are the most effective of the existing public distribution channels for a variety of reasons. For example, as compared to banks and post offices, libraries offer certain advantages as public distribution centers. They typically have a wider range of operating hours, including weekends and evenings in many cases. Libraries are likely to have a copier available for public use, if necessary. Finally, libraries tend to provide a higher quality of service in forms distribution than the other public institutions.

Turning to the burden imposed on libraries by the tax form distribution program, LAO sent a survey to 108 libraries and received responses from 71. Approximately 40% of the responding libraries indicated that, given the choice, they would opt to discontinue their participation in the program.

LAO found that many libraries felt that the program suffered from inadequate merchandising practices on FTB's part. For example, additional tax forms ordered by the libraries did not arrive in a timely fashion, and FTB did not provide adequate display equipment and signs. Librarians were often distracted from their regular duties to assist taxpayers. Further, the amount of library staff time involved in ordering forms, maintaining displays and copier machines, and dealing with taxpayers is often significant. One library contacted by LAO noted that the tax forms distributed represented 1% of the volume of materials circulated by the library, but represented fully one-third of all customer contact during the filing season.

LAO also found that participation in the program reduced the level of service libraries could provide their "regular" library patrons. The influx of tax form patrons often resulted in longer waits for librarian assistance and usage of copier

machines.

Finally, many libraries surveyed by LAO noted that participation in the program creates a public expectation that libraries will always have the proper forms in stock, that librarians will be able to answer tax questions, and that librarians will go out of their way to resolve taxpayer problems. As these expectations cannot always be met, a public dissatisfaction with library performance may arise.

Regarding the necessity of additional state funding for libraries participating in the program, LAO found that some form of state funding will be necessary if the legislature wishes to continue library participation at or near current levels. LAO estimates the state reimbursement requirement to be about \$3 million annually if all participating libraries filed claims for a basic level of service.

LAO concluded this report by noting that libraries play a valuable role in the distribution of tax forms, and the FTB should continue its efforts to improve program operations affecting libraries. However, LAO noted that the FTB should pursue a number of different options in its efforts to provide better access to tax forms before it seeks to have the mandatory participation requirements continued.

*Review of Medi-Cal Reimbursement Rates for Emergency Physician Services (December 1989).* AB 4081 (Leslie) (Chapter 785, Statutes of 1988) requires LAO to report on Medi-Cal reimbursement rates and payment policies applying to emergency physician services. In particular, the law requires LAO to examine how these rates and policies differ from the rates and policies applying to nonemergency physician services, and to comment on whether the differences are warranted. For purposes of the report, the term "emergency physician services" is defined as physician services provided in a hospital emergency room, not services provided on an emergency basis or services provided by specialists in emergency medicine.

The Department of Health Services (DHS) sets Medi-Cal reimbursement rates for physician services based on the type of procedure involved. In general, reimbursement for a particular procedure is determined by multiplying a "value" for that procedure by a dollar "conversion factor." In some cases, DHS applies an additional adjustment to reflect differences in physician overhead



costs. The California Medical Association's (CMA) "1969 California Relative Value Studies" (RVS) establishes a "value" for each procedure within four categories: medicine, anesthesia, surgery, and radiology/nuclear medicine. This value is intended to be a composite measure of the various factors affecting the charge for that procedure, including but not limited to physician time and skill, liability exposure, and the need for nursing or other assistance. For example, the RVS value for a "brief office visit" is 20, and the value for a "limited office visit" is 30. DHS is responsible for establishing values for those procedures not assigned values by RVS.

To convert RVS values to reimbursement rates, DHS established dollar "conversion factors." Originally, there was one conversion factor for each of the four major categories of procedures. However, lawmakers have subsequently chosen to provide rate increases for various groups of procedures within each category. There are currently four conversion factors for medical procedures: (1) \$0.92 for primary care services; (2) \$0.86 for services provided in emergency rooms; (3) \$1.01 for children's comprehensive services; and (4) \$0.82 for all other services.

DHS annually reviews the need for an increase in its conversion factors. However, LAO found that DHS's recommendations have not usually been made public or implemented. For the past several years, the Governor has vetoed general rate increases proposed by the legislature on the basis of competing demands for general fund monies.

Also, DHS currently reduces reimbursement to 80% of the calculated rate for certain services that would normally be provided in a physician's office but are, instead, provided in an emergency room or hospital outpatient clinic. This policy is based on the assumption that overhead costs to physicians are lower when a service is provided in an emergency room rather than in the physician's office, because physicians do not pay overhead costs associated with the service. There are two exceptions to this policy: (1) when the physician is called into the emergency room (or outpatient clinic) from outside to provide emergency services; and (2) when the physician contracts with the hospital and assumes total financial responsibility for providing outpatient services.

LAO noted that no comprehensive review of DHS's 80%-reimbursement rate policy had been conducted since 1976. Further, LAO has a variety of concerns with the validity of the analysis conducted in 1976, including the fact that the data used were based on what appears to be a nonrepresentative subset of physicians who provide services in emergency rooms. LAO also noted that DHS made arbitrary adjustments to its survey data.

As a result of its research, LAO recommends that the legislature require DHS to report on the funds it would require to (1) develop and implement an RVS system based on recent Medi-Cal claims data; and (2) implement a resource-based rate system for Medi-Cal. A resource-based rate system would consider the amount of time that a physician requires to complete various procedures, and the facilities, equipment, and supplies required. Also, LAO recommends that the legislature require DHS to conduct a new study to determine the appropriateness of its 80%-reimbursement policy.

*Review of the Bank and Corporation Tax Exemption For International Banking Facilities (January 1990).* SB 2289 (Garamendi) (Chapter 1333, Statutes of 1988) required LAO to report to the legislature on the economic and fiscal implications of this tax expenditure program which exempts from the Bank and Corporation Tax income associated with the activities of international banking facilities (IBFs) operated by financial institutions in California. Under the program, the earnings of a financial institution which are attributable to an IBF located in California are essentially exempted from taxation. This is accomplished by excluding the property, payroll, and sales of the IBF from the formula used to apportion the income of its parent financial institution for purposes of determining its California tax liability.

The California Bankers Association has identified 113 IBFs currently established in California. Of these, nine are owned by California banks, eleven are operated by California banks owned by a foreign parent, and thirteen are owned by other financial institutions. The largest number of IBFs—about eighty—are owned by branches of foreign banks. Although only nine of the IBFs are operated by California banks, these nine account for approximately 20% of the IBF assets in the state.

LAO suggests that the rationale for such a policy is to promote federal oversight of the international banking activities of domestic financial institutions, and to promote the location of IBFs in California. Following World War II, in an effort to induce banks operating in Western Europe to relocate their assets in the United States, the Federal Reserve Board implemented new regulations authorizing the creation of international banking facilities for certain kinds of "wholesale" international financial transactions. These transactions consisted of loans and deposits in large sums (at least \$100,000) which were restricted to other financial institutions and multinational corporations. In 1981, the Federal Reserve Board modified its regulations to exempt IBF assets from reserve requirements and interest rate ceilings.

However, the possibility of higher state taxation of these international banking activities could act as a disincentive to relocating activities to the United States. In order to eliminate this disincentive, California, New York, and other states passed statutes exempting IBF assets from state income taxes.

LAO found evidence that may suggest that this tax exemption was, at least in part, responsible for increasing international banking activity in California. LAO bases this finding on a study conducted by the General Accounting Office (GAO), which found that the U.S. share of the international banking market increased by 77% between 1981 and 1983, primarily due to the creation of IBFs. Although no comparable data exist for California, LAO suggests that given California's 13% share in the IBF market, the state's participation in international banking increased.

The GAO study attributed the increased level of international banking in the United States to the Federal Reserve Board's exemption of IBFs. However, LAO noted that the effect of this exemption cannot be separated from the effects of the state tax exemption, as both influenced decisions regarding the location of international banking activities.

LAO found that although IBF business is profitable for the banks engaged in it, there is little evidence of any direct positive impact on the larger California economy. Substantiating this finding, a GAO survey identified only 50-60 new jobs created by IBF business nationwide. However, the state may receive





intangible benefits from its IBF activities. For example, IBFs may promote a greater awareness of California banks in international markets, promoting California business internationally.

A recent study by the Franchise Tax Board (FTB) found that the revenue loss due to the IBF tax exemption is relatively small, about \$1 million per year. However, the FTB noted that many banks would transfer their IBFs in order to avoid such a tax, since such transfers are easily accomplished. Further, removing the tax exemption would not equally affect all types of banks operating IBFs in California. Only those banks commercially domiciled in California would have to pay any income tax on IBF income if the tax exemption were repealed. This would place these banks at a competitive disadvantage in the IBF market relative to other banks operating IBFs in California.

LAO concluded its study by recommending the enactment of legislation to continue the tax exemption for IBF income on a permanent basis.

## 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 direction 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:

*California 2000: Exhausting Clean Air (October 1989).* As the fourth installment of the *California 2000* series, this report focuses on major issues presently facing the state of California in managing air quality. The

report chronicles major events of the last four decades which have directly affected (both negatively and positively) California's ability to deal with the problem of air pollution.

For example, during the 1950s, Dr. Arie J. Hagen-Smit, a California scientist, unlocked the secrets of smog formation. He discovered that ozone, a major ingredient in smog, is formed when reactive organic gases (ROG) and nitrogen oxides (NOx) from automobiles and industries react with sunlight. Then, during the 1960s, California was the first state to tackle air pollution problems by establishing automobile exhaust emission standards for smog-producing ROG and poisonous carbon monoxide (CO) gas. In the 1970s, realizing that controlling ROG and CO emissions without concurrent NOx controls increased smog formation, California was first to require NOx control devices on automobiles. In 1975, the catalytic converter, which dramatically reduced ROG and NOx tailpipe emissions, became standard on most American-made cars sold in California. Yet, during the 1980s, despite technical fixes (tailpipe and smokestack pollution control devices), California continued to violate national and state standards for ozone, NOx, CO, and fine particulate matter.

According to the report, preliminary emissions data from the California Air Resources Board (ARB) reveal fossil fuels (oil, coal, and natural gas) to be the major source of air pollution. Fossil fuel burning and fossil fuel-related sources produce most of the ROG, NOx, and CO pollution in the three most heavily-populated of California's air basins: South Coast, San Joaquin Valley, and San Francisco Bay Area. Paved-road dust, construction/demolition, and farming operations produce most of the polluting fine particulate matter. According to the report, two factors guarantee the spread and increased severity of air pollution danger zones in the future: population growth and increased vehicle miles traveled.

The report documents the health and environmental damages caused by air pollution in California. Health costs include increased lung disease, fatalities in heart-diseased patients, skin cancers, and susceptibility to disease. Environmental costs include crop losses, forest damage, material deterioration, acidification of lakes and streams, visibility restrictions, and climate changes. A 1988 University of Southern

California study estimates the annual air pollution bill for the South Coast Air Basin to be over \$7 billion or approximately \$600 per person. According to a recent study for the South Coast Air Quality Management District, however, the cost may be much higher. All parties agree that the costs will continue to rise in the 21st century as population growth and increased automobile and energy use push pollution to destructive limits.

The report concludes with a variety of recommendations aimed at preventing California from exhausting its clean air supply, including the following:

- Create an incentive program for low-polluting vehicles, which could include waiving new car sales tax and five years of registration fees for those who buy new, low-polluting vehicles, and requiring state and local governments to provide parking preference to people who drive low-polluting vehicles.

- Require the state to introduce low-polluting vehicles into private use by selling fleet vehicles sooner than the current practice of seven years.

- Require petroleum refiners to subsidize methanol and other low-polluting fuels through slightly higher gasoline and diesel prices.

- Require the California Energy Commission (CEC) to promulgate regulations that require electric utilities in the state to provide electric vehicle owners with free replacement of standard residential electricity meters with meters that charge different rates based on time-of-day use.

- Require areas violating state air quality standards and suffering from traffic congestion to enhance traffic flow by first improving traffic signal equipment and timing, or similar strategies, rather than building new roads and adding new lanes, which increase traffic and air pollution.

- Limit funding of infrastructure projects to only those local governments with projects that limit regional air quality deterioration.

- Require the CEC to specify strict energy efficiency measures that must be followed in areas that violate state air quality standards. These measures would be required during the initial design or construction of buildings and when buildings are being refurbished or expanded.

- Require that all refrigerators sold in California after 1993 be made with non-chlorofluorocarbon (CFC)-produced