



by reissuing them as 'operations plans' of individual institutions."

-February 21, 1989, OAL Determination No. 3, Docket No. 88-005. OAL found that chapters 100 through 1900 (noninclusive) of the Department of Corrections' Case Records Manual, which establish procedures for use of case records for each inmate, are regulations required to be adopted in compliance with the APA. OAL determined that the challenged rules are standards of general application governing the establishment, maintenance, use, and disposition of inmates' information records which substantially affect all inmates statewide. OAL also found that section 927, entitled "Release to Subsequent Prison Commitments", is not subject to APA rulemaking requirements because this section falls under the internal management exception.

**OAL Offers Training.** OAL, through the Department of Personnel Administration, is offering classes to state employees on how to conduct a rulemaking action under the California APA. One of the goals of the training program is to promote serious consideration by state agency staff of public comments in the rulemaking process. More than 400 people are expected to receive the training by the end of the fiscal year.

**Technical Changes to OAL's Regulations.** OAL recently adopted, approved, and filed minor changes to numerous sections of its own regulations, which appear in Title 1 of the CCR. Due to the enactment of AB 2540 (Leonard) (Chapter 1375, Statutes of 1987), which made several amendments to the rulemaking portion of the APA, three types of changes were made to OAL's regulations: (1) changes to statutory section numbers referenced in the regulations; (2) changes in publication names; and (3) other minor clarifying changes. OAL's amendments to Title 1, sections 10-12, 14, 16, 20, 40, 42, 44-46, 56, 84, 86, 90, 100, and 120-28 are effective at this writing.

#### LITIGATION:

*California Chapter of the American Physical Therapy Ass'n, et al. v. California State Board of Chiropractic Examiners, et al.* Nos. 35-44-85 and 35-24-14, is still pending in Sacramento Superior Court. Plaintiffs challenge, *inter alia*, OAL's approval of regulatory section 302 of the Board of Chiropractic Examiners' regulations. (See CRLR Vol. 8, No. 3 (Summer 1988) p. 36 for background information.) The court is currently hearing motions for reconsideration

of two previous rulings against the Board (see *infra* agency report on BCE for further information).

#### OFFICE OF THE AUDITOR GENERAL

*Acting Auditor General: Kurt Sjoberg (916) 445-0255*

The Office of the Auditor General (OAG) is the nonpartisan auditing and investigating arm of the California legislature. OAG is under the direction of the Joint Legislative Audit Committee (JLAC), which is comprised of fourteen members, seven each from the Assembly and Senate. JLAC has the authority to "determine the policies of the Auditor General, ascertain facts, review reports and take action thereon...and make recommendations to the Legislature...concerning the state audit...revenues and expenditures...." (Government Code section 10501.) OAG may "only conduct audits and investigations approved by" JLAC.

Government Code section 10527 authorizes OAG "to examine any and all books, accounts, reports, vouchers, correspondence files, and other records, bank accounts, and money or other property of any agency of the state...and any public entity, including any city, county, and special district which receives state funds...and the records and property of any public or private entity or person subject to review or regulation by the agency or public entity being audited or investigated to the same extent that employees of that agency or public entity have access."

OAG has three divisions: the Financial Audit Division, which performs the traditional CPA fiscal audit; the Investigative Audit Division, which investigates allegations of fraud, waste and abuse in state government received under the Reporting of Improper Governmental Activities Act (Government Code sections 10540 *et seq.*); and the Performance Audit Division, which reviews programs funded by the state to determine if they are efficient and cost effective.

#### RECENT AUDITS:

In March, Acting Auditor General Kurt Sjoberg issued a report criticizing the financial health of the state of California. According to the report, the state loses millions of dollars each year because of inefficiencies in collecting debts, control of expenditures, and management of cash. The OAG audit estimated that California ended fiscal year 1987-88 with a \$590 million deficit.

The report also criticizes the differing accounting systems used by state financial reporting agencies. Sjoberg recommends that all agencies use Generally Accepted Accounting Principles, or GAAP. This system is a nationally recognized set of accounting principles which would allow the state to be compared with other states.

The report recommends modifications to a variety of spending restrictions to avoid future fiscal problems. These restrictions include the Gann constitutional spending limit, mandatory education spending levels under Proposition 98, and automatic cost-of-living increases for health and welfare programs.

OAG's report is the latest of several audits which have all reached differing conclusions on the severity of the state's deficit depending on the items considered and the accounting method used. State Controller Gray Davis arrived at a \$1.4 billion deficit figure; Legislative Analyst Elizabeth Hill concluded that the state ended 1987-88 with a \$200 million deficit; and the Commission on State Finance found a \$97 million deficit.

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

*Executive Director:*

*Jeannine L. English*

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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