

management systems and low-cost operational improvements "have not been fully considered for use on a statewide basis."

In the near term, the Commission recommends that CalTrans be permitted to contract with private engineering firms for project development activities, and that cities and counties be encouraged to do the same. The Commission would also require counties and/or regions to adopt a Transportation Systems Management Plan prior to state funds allocation. High priority is also recommended for funding of projects which provide for "the efficient use of existing freeways."

The Commission also recommends the following long-term solutions:

- Establishment of a "Blue Ribbon Ad Hoc Commission" on transportation to plan for the state's transportation needs through the year 2010;

- Expansion of the criteria for statutory exemption from the environmental clearance process, providing that "[p]rojects which do not individually or cumulatively have a significant impact on the environment" are exempt (currently, only explicitly listed projects are exempt);

- Development by CalTrans of recommendations to the legislature on measures to "streamline" the environmental review process;

- Modification of the timing of the State Transportation Improvement Program to allow for better coordination with the state budget process;

- Enhancement of state funding sources to address the long-term state funding shortfall;

- Adoption by the legislature of a joint resolution stating which federal program the state prefers upon completion of the interstate program in 1992;

- Modification of county minimum allocations to exclude funds necessary for safety and support costs, and restructuring of the minimum formula based on interstate program eligibility.

LEGISLATION:

The Commission's review of existing state services for children and youth (see CRLR Vol. 8, No. 1 (Winter 1988) pp. 37-38) has resulted in the introduction of several legislative proposals:

AB 1763 (Wright), *AB 2736 (Hansen, Leslie)*, and *SB 722 (Hart, Morgan, Seymour)* are various proposals which would provide tax credits to employers for child care assistance given to employees and/or for start-up expenses of establishing child care facilities for employees. The bills propose tax credits

in amounts equal either to 30% or 50% of the costs incurred. *AB 1763* passed the Assembly on January 28 and is pending in the Senate Revenue and Taxation Committee. *AB 2736* passed the Assembly Revenue and Taxation Committee on April 18 and is pending in the Assembly Ways and Means Committee. *SB 722* passed the Senate by a vote of 37-0 on January 21, passed the Assembly Revenue and Taxation Committee on April 18, and is pending in the Assembly Ways and Means Committee.

AB 3149 (Cortese) would provide that for certain low-income taxpayers, existing tax credits for child care expenses incurred to enable a taxpayer to be gainfully employed would be available to the extent of the taxpayer's tax liability plus a refund in excess of that amount up to the allowable credit amount. The bill passed the Assembly Revenue and Taxation Committee on May 16, and was scheduled for a June 1 hearing in the Assembly Ways and Means Committee.

AB 4645 (Bronzan) was urgency legislation which would have required the Governor to appoint a State Advocate for Children, who would be autonomous from agencies or departments of the executive branch, as recommended by the Commission in its October 1987 report. The Advocate would have been required to report to the Governor and the legislature on specified matters relating to the health and well-being of children in California. The bill would also have directed the Department of Health Services to conduct research regarding children's health problems, and to institute a comprehensive identification and assessment program for children in enumerated high-risk target groups. The bill was dropped while pending in committee.

AB 3145 (Cortese) would require the state Department of Education to establish local government planning and coordination grants to be used by cities and counties to fund initial costs for a child care coordinator or coordinating group not already in existence. The bill passed the Assembly Human Services Committee on March 23, and is pending in the Assembly Ways and Means Committee suspense file.

AB 3357 (Roos) would have allowed for the financing of child care services and child care facilities with special taxes levied by existing community facilities districts. The bill was dropped on April 15 while pending in the Assembly Local Government Committee.

AB 3358 (Roos, Hayden) is land use planning legislation designed to require every redevelopment plan adopted pursuant to the provisions of the Community Redevelopment Law to make adequate provision for specified child care facilities. The bill would exempt those redevelopment projects whose plans contain a finding that defined persons and families of low or moderate income will not be housed or employed in that area. The bill would also authorize the use of monies in a redevelopment agency's Low and Moderate Income Housing Fund for child care facilities. At this writing, this bill is pending on the Assembly floor.

AB 2745 (Friedman, Cortese) would require counties and cities to consider child care in adopting or amending the land use element and housing element of the local general plan. The bill passed the Assembly Local Government Committee on April 20, and is pending in the Assembly Ways and Means Committee at this writing.

DEPARTMENT OF CONSUMER AFFAIRS

Director: Michael Kelley
(916) 445-4465

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 Court Support Program. One of the functions of DCA's Legal Services Unit is to act as a legal resource on small claims court procedures to consumers, attorneys, judges, and small claims court advisors. In recent years, the small claims court system has been inundated by an increasing number of people using it to resolve marketplace disputes.

To ease the burden on the existing system, many attorneys have volunteered to become temporary judges. The Legal Services Unit has prepared a legal sourcebook and training book for attorneys who serve as temporary judges in small claims courts throughout the state.

INTERNAL GOVERNMENT REVIEW OF AGENCIES

Additionally, staff members have developed a training program for those attorneys wanting to act as temporary judges. The program attempts to ensure consistency within the system and improve the quality of small claims court judgments. Unit personnel have already presented the program in several counties.

The DCA is currently developing several publications designed specifically for consumers. Soon to be released are the "Small Claims Court Plaintiff's Brochure," the "Small Claims Court Defendant's Brochure," and "How to Enforce Your Small Claims Judgment."

LEGISLATION:

ACR 117 (Bane) would direct DCA to conduct a public information program regarding existing law requiring physicians to provide written disclosure to their patients that they have a significant beneficial interest in an organization to which the patient is referred. The bill passed the Assembly Health Committee on May 3 and, at this writing, is awaiting hearing in the Assembly Ways and Means Committee.

AB 4007 (Lancaster) is DCA's omnibus bill and would clarify, amend, or delete existing sections of the Business and Professions Code relating to the Bureau of Personnel Services and the Bureau of Home Furnishings and Thermal Insulation.

The following bills were previously discussed in CRLR Vol. 8, No. 2 (Spring 1988) at p. 34 and Vol. 7, No. 3 (Summer 1987) at pp. 51-52:

AB 2862 (O'Connell) would have prohibited the production or packaging of any consumer product which contains a hazardous waste, a hazardous waste constituent, or a concentration level of a hazardous substance which cannot be recycled, treated, destroyed, or disposed of in compliance with the hazardous waste control law.

The bill was dropped by its author in April while it was awaiting hearing in the Assembly Environmental Safety and Toxic Materials Committee.

AB 1177 (Floyd) would shift all line responsibilities and memberships on commissions and boards formally within the state's "Super Agencies" to the respective departments under the Agencies. The bill passed the Senate Governmental Organization Committee on May 19, and is pending on the Senate floor at this writing.

AB 1913 (Harris) would raise to \$10,000 the monetary jurisdiction of small claims courts for money damages actions which involve personal injury or property damage, or both. Limits for all

other actions in small claims court would be raised from \$1,500 to \$2,500. At this writing, the bill is scheduled for hearing in the Senate Judiciary Committee on June 14.

SB 1157 (Davis) would allow the imposition of double the usual civil penalty when acts of unfair competition are perpetrated against senior citizens. The bill passed the Assembly Judiciary Committee on May 18 and is presently awaiting hearing in the Assembly Ways and Means Committee.

LITIGATION:

Board of Cosmetology (BOC) and Denise Ostton v. Michael Kelley, No. 358630 (Sacramento Superior Court) concerns DCA Director Michael Kelley's failure to either approve or disapprove BOC's August 1987 appointment of Denise Ostton as the Board's Executive Officer (EO). Ostton has served as BOC's interim EO since July 1987. The controversy underlying this litigation stems in part from Kelley's attempt to force the Board to employ a recruitment process not of its choosing in hiring a permanent EO. Kelley's efforts to impose departmental procedural guidelines on the Board's appointment process were resisted by BOC—partly because the guidelines were reportedly imposed after Board members had already voted to appoint Ostton to the EO position.

The Board also believed that Kelley was overstepping his authority, as set out in Business and Professions Code section 7305. That section provides in part that "...subject to the approval of the director, the board may appoint an executive officer, who shall not be a member of the board."

Specifically, Ostton and BOC petitioned the court for a writ of mandate commanding Kelley to (1) exercise his discretion to either approve or disapprove the appointment of Ostton as BOC executive officer "without consideration of the selection process sought to be imposed by the Director upon the [BOC] for recruitment of an executive officer;" (2) state his reasons if he elected to disapprove Ostton's appointment; and (3) take all steps necessary to ensure Ostton receives compensation commensurate with her duties as BOC's acting EO for the entire period she served in that capacity.

Kelley moved for dismissal of Ostton's and BOC's cause of action relating to out-of-class compensation, contending, *inter alia*, that petitioners failed to plead and exhaust available administrative remedies and failed to comply with claims presentation requirements con-

tained in Government Code section 945.4. Kelley also answered that he approved Ostton's appointment on May 23, 1988, thus rendering petitioners' writ to compel action moot.

As of June 8, Ostton had not yet received her appointment papers and had not received an out-of-class compensation differential for recent months in which she has served as interim EO while being compensated at the assistant EO level. Thus, petitioners had not elected to drop the suit, notwithstanding Kelley's approval of Ostton as BOC's executive officer.

A hearing on these matters was scheduled for July 16 in Sacramento Superior Court.

ASSEMBLY OFFICE OF RESEARCH

Director: Steve Thompson
(916) 445-1638

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:

The Invisible Diet: Gaps in California's Pesticide Residue Detection Program (April 1988) was prepared in response to a request by Assemblymember Lloyd Connelly for an examination of the state's ability to monitor California's food supply for the presence of pesticide residues. Health risks associated with such residues are at the center of a growing controversy in the legislature (see *infra* report on the DEPARTMENT OF FOOD AND AGRICULTURE).

AOR's report examines existing state and federal food testing programs, focusing on the capability of the state program to detect pesticides already identified as presenting the greatest risks to public health. AOR also reviewed possible tech-