and the system for reporting incidents to the proper authorities will also be examined.

The Commission will hold several hearings on these issues, including a May 20 hearing in Los Angeles, and a hearing on June 15 in Sacramento.

A Review of the Current Problems in California's Workers' Compensation System (March 1988) looks at the system's escalating costs, the expansion of liability into new and subjective areas of benefits, and the perceived negative effects of the increasing cost of the system upon workers, employers, and the state's business climate.

The Commission concluded that the increase in the costs of the system may be "threatening the system's viability." It reported that the amount of direct written premiums increased 83% from 1982 to 1986, although the weekly benefit rates paid to injured workers remained among the lowest of all urban industrialized states. Additionally, from 1979 through 1986, the number of injuries reported per 1,000 workers decreased 8.4%. The study revealed that the increase in costs is primarily due to an increase in the number of people in the workforce and an increase in the average cost per claim, and not to an increase in the rate of claims filed. Claims relating to soft tissue, stress, and employer liability are among the areas of the system experiencing rapid escalation in cost and size.

More specifically, the Commission reported the following conclusions:

-The cost of California's system is among the nation's highest;

-Insurers and the Department of Insurance are not "actively encouraging the investigation and prosecution of fraud and abuse";

-Delays in the adjudicatory process have slowed payments to workers and increased administrative costs;

-Inaccurate reporting of wages by some employers is forcing other employers to pay higher premiums;

-The increase in stress-related claims has exacerbated administrative hearing backlogs and has delayed payments to workers, because although these claims comprised less than 2% of all injury claims filed in 1986, they accounted for more than 7% of all claims litigated; and

-The effectiveness of and cost-control measures in vocational rehabilitation programs have not been adequately assessed.

The Commission offered thirteen recommendations to the Governor and legislature, including the following:

-Procedures for disposing of fraud and abuse cases should be established, and the reporting and prosecuting of such cases should be encouraged;

-A procedure to identify employers who intentionally fail to report wages or misclassify employees in order to reduce their own workers' compensation premiums should be established;

-Insurance carriers with poor benefit payment performance should be audited;

-The use of professional court administrators to assess and manage the ongoing administrative systems and calendars of the Appeals Board Officers should be considered;

-A single and final "agreed-upon third party" medical report should be required when the results of two previous reports do not provide agreement on the nature or extent of the injury;

-A provision in the law which bars workers injured by power presses from filing claims should be repealed;

-The impact of recently-implemented regulatory examination protocols on the evaluation of claims for psychological and stress-related injuries should be reviewed; and

-Employers should be required to provide newly-hired employees with a thorough description of the benefits available through workers' compensation.

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:

Annual Report. DCA recently issued its annual report for fiscal year 1986-87. The report details activities of DCA's general divisions, as well as the projects and accomplishments of its forty licensing and regulatory agencies. Copies of the annual report are free to those who write to: ANNUAL REPORT, P.O. Box 310, Sacramento, CA 95802.

Dispute Resolution Program. In 1987, DCA began to implement the Dispute Resolution Program, which was created by legislation authored by Senator Garamendi (see CRLR Vol. 7, No. 2 (Spring 1987) p. 34). The program consists of a network of informal and affordable county-based mediation centers throughout the state, based on the idea that an impartial mediator can often help adversaries reach a mutually satisfactory settlement. It is hoped that the program will defuse many disagreements which might otherwise end up in the state's already crowded court system.

Optional for counties, the program is to be partially funded through $1-$3 increases in civil filing fees in the municipal and superior courts of those counties which choose to participate. Funds will be distributed to support existing mediation programs or to staff new programs for the individual counties. DCA believes the program promises unique benefits to consumers because the most common consumer complaints, *e.g.*, landlord-tenant and customer-merchant disputes, appear to be well-suited to informal resolution.

The enabling legislation set up a seven-member Dispute Resolution Council to initially govern the program. Five members were appointed by the Governor; one member was appointed by the Senate Rules Committee; and the final member was named by the Speaker of the Assembly. Mary Alice Coleman, a staff member of DCA's Legal Services Unit, was designated Executive Director of the Council.

Before it sunsets in 1989, the Council is required to determine the program's funding and develop its organizational guidelines. On January 29, the Council adopted temporary guidelines which will be applied by the counties in awarding grants. These guidelines were specifically exempted from the state's Administrative Procedure Act (APA), and thus were not approved by the Office of Administrative Law (OAL).

The Council will now, through the APA's formal regulatory process, develop operating regulations to supersede the temporary guidelines. Public hearings on the proposed regulations will be held on June 3 in Los Angeles. A DCA spokesperson stated recently that the Council expects to submit the regulatory package to OAL by October. After the Council expires in 1989, DCA will assume regulatory responsibility.

Ten counties have been accepted for the program to date, and although these counties have already instituted the required increases in civil filing fees, none are receiving funds yet. According to Executive Director Coleman, some of

these counties will begin receiving funds by June.

LEGISLATION:

AB 2862 (O'Connell) would prohibit any person from producing or packaging a consumer product intended for use by the general public 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 at a permitted hazardous waste facility in the state. Existing law already prohibits the manufacture, production, packaging, or sale within the state, or the introduction into the state, of any package of a misbranded or banned hazardous substance.

If passed, this bill would require the state Department of Health Services to publish a list of the prohibited hazardous wastes and substances annually, beginning September 1, 1988. The prohibition would begin on January 1, 1989. Violators could be subject to civil penalties up to $50,000, and possible criminal penalties for knowingly violating the requirements.

The bill was scheduled for hearing on April 5 in the Assembly Environmental Safety and Toxic Materials Committee.

AB 1177 (Floyd), as introduced, would have abolished several of the state's "Super Agencies" which report directly to the Governor. The bill was amended in January to retain the agencies but cut back their responsibilities to their original coordinating functions. The amendment followed a bipartisan legislative committee report on the Super Agencies, which recommended their retention. (*See infra* agency report on SENATE OFFICE OF RESEARCH.) The bill would still shift all line responsibilities and memberships on commissions and boards formally within the Super Agencies to the respective departments under the agencies. (See CRLR Vol. 8, No. 1 (Winter 1988 p. 39 for background information.)

At this writing, the bill is awaiting hearing in the Senate Governmental Organization Committee.

AB 301 (Bader, Harris) would have increased the damages limit for small claims court cases from $1,500 to $2,500. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 33.) The authors have indicated that they will no longer pursue the bill. However, Assemblymember Harris has revitalized *AB 1913*, a similar bill introduced last session but not pursued. *AB 1913* would raise to $10,000 the monetary jurisdiction of small claims court 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 to $2,500. *AB 1913* is pending in the Senate Judiciary Committee.

The bills updated below were previously discussed in CRLR Vol. 7, No. 3 (Summer 1987) at pp. 51-52:

AB 124 (Peace) provides for the licensure of barter exchanges and is currently awaiting hearing in the Senate Business and Professions Committee.

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 was scheduled for hearing on April 6 in the Assembly Judiciary Committee.

SB 1653 (Seymour) would have made significant changes to procedures governing the conduct of state administrative hearings. This bill was dropped by its author after last session.

LITIGATION:

Omari v. National Security Financial Services. DCA's intervention in this suit challenging the business practices of automobile subleasing firms has proven successful. In January, the court granted the Department's motion for summary judgment against the most active defendant, E.T. Strickland. The court ruled that Strickland's business practices were unlawful, unfair, fraudulent, and in violation of Business and Professions Code section 17200 *et seq.*

On April 20, the court was scheduled to hear the Department's motions for summary judgment against the remaining four defendants. Additionally, the Department plans to seek a default judgment against another defendant who did not respond to the original charges, according to John Lamb, the DCA attorney assigned to the case.

With the success of the Department's motions, plaintiffs plan similar summary judgment motions against the defendants. (For more information on the lawsuit, see CRLR Vol. 7, No. 1 (Winter 1987) p. 30.)

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:

Will We Lose the War Against Asbestos in Buildings? (February 1988) examines the economic impact of asbestos removal programs, concluding that asbestos-laden buildings "are significantly more hazardous to our economy than they are to our health."

AOR reports that state government and other California building owners will spend at least $1 billion this year to eliminate asbestos from their properties. In the years to follow, expenditures could exceed $20 billion "despite the fact that medical research has yet to provide a strong link between occupational exposure conditions which have killed thousands of asbestos workers and the nonoccupational exposure risks inherent with [sic] living and working in a building [containing] asbestos materials."

The U.S. Environmental Protection Agency (EPA) believes that there is no safe level of exposure to asbestos. The AOR study concludes that EPA's "no threshold theory," coupled with new air monitoring capabilities that enable detection of minute levels of asbestos which previously would have escaped notice, have triggered "what many perceive as a highly emotional, almost panicked, thinking that permeates asbestos policy-making." Thus, not surprisingly, the study found that the driving force behind asbestos removal in the private sector is "liability fears and uncertainty over future abatement costs which serve to devaluate buildings as much as 25%." Lenders are refusing to finance the purchase of buildings with potential asbestos liabilities, forcing owners to remove the hazard in order to make the buildings marketable.

Citing health risks associated with the removal and storage of asbestos, the study concludes that because there are no reports of death caused by low-level