



of regulation on small businesses. The measure will exempt small businesses from filing reports required by state agency regulations unless such reporting is necessary for the public's health, safety, or welfare.

The bill, which only affects reporting requirements in regulations adopted on or after January 1, augments Government Code section 11346.53, which contains other requirements pertaining to the potentially adverse economic impact of regulation on small business.

"Small business" is variously defined under section 11342(e) of the Government Code as including those businesses independently owned and operated; businesses not dominant in their fields of operations; those agricultural, trade, service provider, construction, and transportation and warehousing operations not exceeding specified revenue ceilings; manufacturing enterprises not exceeding 250 employees; health care facilities not exceeding specified bed or revenue limits; and those businesses generating no more than 4.5 million kilowatt hours of electrical power annually.

## LITIGATION:

Two lawsuits challenging the validity of an OAL-approved regulation defining the scope of chiropractic practice, including one suit in which OAL is named as a defendant, have been consolidated in Sacramento Superior Court. *California Chapter of the American Physical Therapy Association (APTA) v. California, et al.* (discussed in CRLR Vol. 7, No. 4 (Fall 1987) at pp. 30 and 100) has been combined with a similar suit filed by the California Medical Association (CMA) (discussed in CRLR Vol. 7, No. 4 at p. 100). Together, the two suits identify a number of substantive and procedural issues concerning recently-approved section 302 of the regulations administered by the Board of Chiropractic Examiners, which is also named as a defendant.

In addition to APTA and the CMA, plaintiffs in the newly-consolidated lawsuit now include the Physical Therapy Examining Committee and Board of Medical Quality Assurance. A case conference was scheduled for January.

## OFFICE OF THE AUDITOR GENERAL

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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:

*Report No. P-756 (September 1987)* concerns staff turnover in the four departments which regulate much of California's financial industry, including the State Banking Department, the Department of Savings and Loan, the Department of Corporations, and the Department of Real Estate. Specifically, the report analyzes attrition rates among examiners, auditors, and appraisers in the four departments.

OAG's study found that during fiscal years 1985-86 and 1986-87, attrition among examiners of the State Banking

Department was higher than attrition among all state employees in similar positions. Analysis of the other three departments for the same time period showed that attrition slowed to a rate less than attrition among all state employees in similar jobs.

The OAG report also discusses findings of the Legislative Analyst concerning employee attrition. In the analysis of the Governor's Budget for fiscal year 1987-88, the Legislative Analyst noted a high level of employee turnover in the State Banking Department, the Department of Savings and Loan, and the Department of Corporations. High attrition was attributed to several factors, including better salary and benefits offers by private and other public employers, as well as the promotional and salary limitations within the state civil service system.

The Legislative Analyst made three recommendations to those departments and to the Department of Personnel Administration (DPA), including the following: (1) DPA should expand the job classification of examiner at the three departments to provide greater promotional opportunities; (2) DPA should conduct a salary and benefits survey of all state examiners, auditors, and appraisers, and compare them with the salary and benefits offered to similar employees in other states and the federal government; and (3) more authority should be delegated to the three departments for filling and reclassifying vacant examiner positions.

The OAG revealed that the first two recommendations have been implemented. The three departments already have authority to fill and reclassify vacant examiner and auditor positions at the entry, intermediate, and journey levels without review by DPA. The third recommendation pertains to vacant supervisory and specialist positions, referred to as "Examiner IVs." The DPA believes that because its review of the Examiner IV classification is complex, it should retain that authority.

Additionally, DPA implemented two other changes on its own initiative. DPA authorized a salary increase for entry-level auditors at the Department of Savings and Loan and the Department of Corporations, and for entry-level examiners at the State Banking Department. This step is designed to improve the ability of the three departments to fill vacant positions. During fiscal years 1985-86 and 1986-87, DPA authorized an increase in the number of Examiner IV positions at the Depart-

ment of Savings and Loan and the Department of Corporations. Thus, the promotional opportunities for journey-level examiners at these departments have been increased.

The OAG audit also looked at whether the four departments use audit work performed by financial institutions' internal auditors or independent auditors when conducting examinations. The study revealed that none of the four departments relies on reports prepared by internal auditors, instead using work performed by independent auditors.

The audit also analyzed duplication of effort between state and federal agencies in situations where both levels of government must examine the same financial institution. The study found that to avoid duplication, state examiners regularly meet with their federal counterparts to coordinate audits and examinations.

*Report No. P-747 (October 1987)* reviews the Department of Fish and Game's (DFG) program for issuing deer hunting tags in the mid-eastern part of Lassen County. The audit found that from 1984 through 1987, the number of applications for tags exceeded the tag quota by approximately 13 to 1. For the year 1985, the audit revealed that DFG issued 17 more deer hunting tags than were authorized and issued at the required public drawing.

As a result of the audit, DFG initiated a departmental investigation to determine whether illegal activities caused the above-quota issuances. The preliminary investigation revealed irregularities in DFG's distribution of 10 of the 17 tags in question. The OAG report recommends that DFG request the Attorney General or some other appropriate agency to conduct a criminal investigation of the individual(s) involved in the questionable distributions.

The audit also revealed that beginning in 1986, DFG implemented formal procedures for controlling the number of tags issued after the public drawing.

*Report No. P-709 (December 1987)* concerns the Department of Developmental Services' implementation of the Community Placement Plan (CPP). The CPP was established to develop community facilities to care for developmentally disabled persons who do not meet the admission requirements for state facilities. In 1984 (the year the CPP was implemented), approximately 3,700 persons already residing in state developmental centers did not meet admission requirements and were in need of care through community facilities.

From fiscal year 1984-85 through fiscal year 1986-87, the Department of Developmental Services' goals called for placing 2,157 of these persons in community facilities. In that three-year period, the Department reached 79% of its goals. The audit determined that the placement goals were not met because of a lack of appropriate community facilities and difficulties in developing new facilities. Establishing a new facility in some areas of the state was found to be cost-prohibitive. Auditors discovered that another major hurdle causing providers to shy away from developing new facilities is the length of time it takes to obtain licensure from the state. The audit found that the licensing process can take from four to eighteen months.

To improve planning for the CPP, the OAG audit report recommends that the Department reevaluate its long-term plan and goals for reducing the number of developmentally disabled persons residing in state centers, taking into consideration "a more realistic view of the number of community placements possible."

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

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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 real, independent watchdog agency. However,

in spite of its statutory independence, the Commission remains a purely advisory entity only empowered to make recommendations.

The purpose and duties of the Commission are set forth in Government Code section 8521. The Code states: "It is the purpose of the Legislature in creating the Commission, to secure assistance for the Governor and itself in promoting economy, efficiency and improved service in the transaction of the public business in the various departments, agencies, and instrumentalities of the executive branch of the state government, and in making the operation of all state departments, agencies, and instrumentalities and all expenditures of public funds, more directly responsive to the wishes of the people as expressed by their elected representatives...."

The Commission seeks to achieve these ends by conducting studies and making recommendations as to the adoption of methods and procedures to reduce government expenditures, the elimination of functional and service duplication, the abolition of unnecessary services, programs and functions, the definition or redefinition of public officials' duties and responsibilities, and the reorganization and or restructuring of state entities and programs.

### MAJOR PROJECTS:

*The Children's Services Delivery System in California: Final Report (October 1987)* concludes the Commission's 17-month study of the state's delivery of services to children. The report states that critical problems exist within the system, despite the establishment of numerous programs and the commitment of significant resources by the state to serve and protect children.

The Commission found that due to an increased number of children in the state, an increased number of children in need of services, and the number of children with multiple problems, the children's services delivery system "is being strained to its limits." Consequently, many needy children are not being served and "less costly alternatives are not being fully utilized."

Focusing on the problems of children in need of child care services, runaway/homeless youths, and abused and neglected children, the final report details the Commission's 23 findings and 36 recommendations for improving the overall performance of the delivery system. The Commission's major findings include the following:

- The delivery system is fragmented because of the absence of a uniform