SUMMARY OF LEGISLATIVE CHANGES RECOMMENDED BY LEGISLATIVE ANALYST IN 1983 AND 1984

JANUARY 1985

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INTRODUCTION

This report contains a summary of recommendations for new legislation made by the Legislative Analyst's Office in the following documents:

- Analysis of the 1983-84 Budget Bill
- Analysis of the 1984-85 Budget Bill
- Other reports of the Legislative Analyst submitted to the Legislature in 1983-84.

In each case, the considerations that led us to make the recommendation initially still prevail.

Each of the recommendations contained in the report is discussed in greater detail in the specific Analysis or report which is referenced. This report (1) summarizes our analysis of the issues involved, (2) outlines the contents of the legislation recommended, and (3) presents our estimate of the fiscal effect that such legislation would have if enacted.

Our recommendations fall generally into the following major categories:

- Legislative changes that would result in direct savings to the state and/or local governments;
- Changes to permit recovery of program costs--in whole or in part--through fees, assessments and fines;
- Changes, which could be implemented only through constitutional amendment, that would enhance the ability of state and local

entities to generate tax or other revenues for specific program requirements;

- Changes to correct inequities in state programs or practices or provide local cost-control incentives;
- Changes in the state's administrative structure which would eliminate programs of marginal value, result in improved efficiency or produce cost savings; and
- Changes which would not produce cost savings, but would improve administrative practices and procedures.

JUDICIAL

Increase County Control Over Process Serving Costs

Counties generally must use sheriff's and marshal's officers to serve civil process (such as a notification of a pending court action against a person). Private firms may also serve process, except in specified instances (they may not serve certain writs). State law limits the ability of counties to control costs for process serving by setting a maximum fee counties may charge for this service, and by restricting counties from contracting with private firms to serve process, in lieu of using more expensive county personnel.

Specifically, under Section 26721 of the Government Code, when a person decides to use a sheriff or marshal to serve process, the county may not charge the individual more than $14 for the service. The counties' actual costs for performing these duties often are significantly higher than the maximum allowable fee. Los Angeles County estimates that its costs for process serving exceed fee revenues by about $9 million annually.

In addition, when individuals request counties to serve process for them, or when specified types of process must be served, the Government Code (Sections 26608, 71264, 71265) requires sheriff's or marshal's officers themselves to serve the process. As a result, a county generally may not contract with a private firm to serve process on the county's behalf, even where it would be cost-effective to do so. Because sheriff's and marshal's officers are trained and compensated as peace officers, a county's cost to serve process may be significantly higher than that of a

private firm which does not use peace officer personnel for the task. San Diego County estimates that it could save $1 million annually by contracting with private firms for process serving.

Recommendation:

In order to increase county control over the costs of serving civil process, we recommend that legislation be enacted permitting counties to (1) assess fees to cover their actual costs of serving process and (2) contract with private firms to serve process.

Fiscal Impact:

Based on county estimates, modification of these statutes could result in unknown, but potentially major, savings and revenues to counties.

Reference:

The 1984-85 Budget: Perspectives and Issues, page 201.

JUDICIAL

Allow All Counties to Assess Fees to Cover the Costs of Court Reporters in Civil Trials

The costs of conducting trials account for a significant portion of county expenditures for the trial courts. These costs consist primarily of the salaries and benefits for the court reporters, bailiffs, and clerks who attend trials. Yet, in most counties, litigants involved in the trials pay only a small portion of these costs.

Counties currently have limited statutory authority to charge litigants for the costs of trials. According to the Judicial Council, litigants in municipal and justice courts generally pay the full costs of court reporters. However, Government Code Section 269 prohibits superior courts from assessing litigants to recoup the county's cost of retaining a court reporter during a trial. An exception to this provision has been made for superior courts in nine counties which may charge litigants requesting trials for the costs of court reporters.

By enacting legislation to give all 58 counties the flexibility to charge civil litigants for an increased share of trial costs, the Legislature could tie the costs borne by litigants more closely to the costs they impose on county governments.

Recommendation:

We recommend the enactment of legislation to authorize all counties to assess litigants for the costs of court reporters in civil trials.

Fiscal Impact:

Permitting all counties to charge fees to litigants for the costs of court reporters would result in an unknown, but potentially major, county revenue gain.

Reference:

The 1984-85 Budget: Perspectives and Issues, page 203.

JUDICIAL

Increase County Control Over Court Reporting Costs

Even though numerous studies have shown that electronic recording devices are as accurate as--and often significantly less costly than--shorthand reporters, state law generally prohibits trial courts from using these devices to transcribe court proceedings, or even from experimenting with them to determine their usefulness. The Code of Civil Procedure (Sections 269 and 274c) requires superior, municipal, and justice courts to use shorthand reporters for court proceedings. The only exception to this requirement is that municipal and justice courts may use electronic recording devices for certain proceedings, in accordance with Judicial Council rules, if no reporter is available. Municipal courts in several counties currently employ these devices successfully when no reporter is available.

The Los Angeles County Superior Court Executive Officer estimates that the use of electronic recording in the 5-10 percent of the proceedings where it would be most cost-effective (for example, in certain family law hearings) would save the county over $400,000 annually.

Recommendation:

In order to increase county control over the costs of operating trial courts, we recommend the enactment of legislation permitting counties to use electronic recording as an alternative to shorthand reporting when they determine that doing so would be appropriate and cost-effective.

Fiscal Impact:

Enactment of this legislation could result in unknown, but potentially major, savings to counties.

Reference:

The 1984-85 Budget: Perspectives and Issues, page 202.

JUDICIAL

Require Counties to Pay for Coordinated Proceedings

Chapter 1162, Statutes of 1972, established a procedure to eliminate unnecessary duplication in civil court proceedings that might otherwise result when suits on related matters are filed in different courts. Specifically, Chapter 1162 permits a litigant or the judge in a case to require the Judicial Council to appoint a judge to determine whether a given action should be coordinated with related actions. If this judge determines that such coordination is appropriate, the Judicial Council must then appoint a judge to hear and resolve the coordinated action. The statute requires the state to pay the council's administrative costs for supervising the coordination and to reimburse counties for all of their costs incurred under the measure.

The primary beneficiaries of the coordinated proceedings program are the counties. The program reduces the number of separate actions that must be handled by the courts, and thereby reduces county expenditures. Under Chapter 1162, however, the state incurs the full cost of the program. If the cost of the consolidated action was prorated between the courts involved, counties would still realize a net savings compared to the costs of processing separate actions. This would distribute the costs of the program among its primary beneficiaries.

Recommendation:

We recommend that legislation be enacted requiring the counties involved in a coordinated action to pay the costs of that action.

Fiscal Impact:

Based on Judicial Council estimates, adoption of this recommendation could result in annual General Fund savings of approximately $500,000.

Reference:

Analysis of the 1984-85 Budget Bill, page 17.

JUDICIAL

Make the Arbitration Program Optional, Rather than Mandatory

Chapter 743, Statutes of 1978 (as modified by subsequent statutes), established an arbitration program in order to provide a cost-effective and expedited method of resolving small civil suits, without a trial being necessary. The program generally requires superior courts with 10 or more judges to submit to arbitration all civil cases in which the amount in controversy is $15,000 or less.

The state funded the arbitration program as an experiment to determine if the arbitration program could reduce state and local court costs by reducing the number of cases requiring trials.

Our review of data collected by the Judicial Council finds that the program has not had an observable effect on the rate at which cases were settled prior to trial. The Department of Finance also reviewed court data, and similarly determined that the arbitration program had no statistically significant impact on the change in the settlement rate between participating and nonparticipating courts, or among participating courts before and after the program began. The department concluded that all available information indicates that the program has not reduced costs to the state or to the counties.

To the extent that benefits result from the program, they accrue largely to litigants or the courts themselves, in the form of improved calendar management. This is why some municipal courts and superior courts in less-populated counties have voluntarily adopted arbitration programs and have financed the full costs of those programs.

All of this suggests that while the program may be beneficial under certain circumstances, the benefits do not justify ongoing state costs of at least $4.2 million annually.

Recommendation:

We recommend that legislation be enacted to permit, rather than require, counties to conduct court arbitration programs.

Fiscal Impact:

Based on data from the State Controller's office, we estimate that adoption of this recommendation would result in annual General Fund savings of approximately $4.2 million.

Reference:

Analysis of the 1984-85 Budget Bill, page 18.

TRAFFIC ADJUDICATION BOARD (TAB)

Extend the TAB Concept Statewide

The legislation that established the Traffic Adjudication Board (TAB) required the board to retain an independent consultant to evaluate the costs and benefits of the project and its effect on the courts, law enforcement, the general public, and the Department of Motor Vehicles. The consultant's final report concluded that citation processing by the TAB is significantly less costly than court processing and provides motorists with faster and more convenient access to hearings than do the courts.

A major reason for these savings is that the TAB system results in significantly lower state and local law enforcement costs. For example, unlike many courts, TAB arranges its schedules so that hearings involving the same law enforcement officer are held sequentially, and without significant intervening delays.

Another portion of the savings from the TAB project accrues to the Department of Motor Vehicles (DMV) from a substantial reduction in costs for administrative procedures which are handled largely by TAB. Specifically, TAB automatically sends warning and suspension notices to drivers who receive an excessive number of citations within a given period of time, and matches traffic violation records received from the courts with DMV driver's license records. The report indicated that if the TAB program were extended statewide, these two features could save DMV up to $5.3 million annually.

TAB has proven to be more cost-effective than court processing, and faster and more convenient to users. It also provides more accurate, and timely updating of DMV records. Finally, the scheduling of cases allows law enforcement officers who appear as witnesses to return more quickly to their regular law enforcement duties.

Recommendation:

We recommend that legislation be enacted to extend the TAB concept statewide.

Fiscal Impact:

We estimate that adoption of the TAB concept statewide would result in major savings to the state and local governments.

Reference:

Analysis of the 1984-85 Budget Bill, page 521.

DEPARTMENT OF FINANCE

The Need for Better Budget Information

In order for the Legislature to manage the budget in an effective manner, it must have an accurate picture of the state's fiscal situation at all times.

In the 1984-85 Perspectives and Issues (pages 241-245), we identified a number of deficiencies in the current systems for providing fiscal information to the Legislature, and recommended the enactment of legislation which would remove these deficiencies. Specifically, our recommendations would have altered the timing and frequency of fiscal updates, provided more information on reasons why previous forecasts have changed and the degree of uncertainty surrounding current forecasts, made available to the Legislature information on how alternative economic assumptions would affect state revenue estimates, and required the development of long-term fiscal projections.

The Legislature enacted most of our recommendations as part of the 1984 Budget Act. The provisions of this act, however, will not apply beyond 1984-85.

Recommendation:

We recommend the enactment of legislation requiring the Department of Finance to:

1. Provide updated estimates of General Fund revenues, expenditures and surplus, and also of special fund revenue from major sources, five times each year (in January, March/April, May/June, August, and November).

2. Itemize all factors responsible for changing the fiscal forecasts at each update, including economic developments, enacted legislation, cash-flow factors, and court cases.

3. Indicate the degree of uncertainty surrounding fiscal estimates, due to both economic forecasting uncertainties and statistical estimating techniques.

4. Provide, along with its regular fiscal updates, fiscal forecasts using alternative economic scenarios which the economic forecasting community believes have a reasonable likelihood of occurring.

5. Publish, at least twice each year (in January and May), fiscal forecasts for four years beyond the budget year.

Fiscal Impact:

While this recommendation would improve the ability of the Legislature to do its fiscal planning, there would be no significant direct fiscal effects in terms of state costs or revenues. The department should be able to remove the basic deficiencies in its fiscal forecasting process with no significant increase in its existing resources.

Reference:

1984-85 Perspectives and Issues, page 241.

DEPARTMENT OF FINANCE

Long-Term Borrowing

The state undertakes borrowing through the issuance of long-term tax-exempt bonds. Unlike short-term borrowing, which is a tool for cash management, long-term bonds have maturities of up to 50 years and are used to finance the acquisition of capital equipment and facilities, including highways, water systems, prisons, and office buildings.

In a report entitled The Use of Tax-Exempt Bonds in California: Policy Issues and Recommendations (January 1983) we identified a number of issues regarding the use of tax-exempt bonds by governments to finance capital outlays, including the following:

1. Which programs should tax-exempt bonds be used to finance?

2. How much tax-exempt debt should be issued and how should it be allocated among different programs?

3. What technical constraints should the state impose on tax-exempt bond issues?

4. What should be the role of the state government in local borrowing activities?

5. Should California continue to exempt from state taxation the interest earned on state and local government bonds?

Recommendation:

We recommend that, in order to strengthen the state's ability to fund capital facilities through borrowing, legislation along the lines set forth in our January report (and summarized in the 1983-84 "Perspectives and Issues" section of the Analysis) be enacted.

Among the topics that this legislation would address are the following:

1. Open-ended authorizations for revenue bond programs;

2. A state debt ceiling;

3. Selection of winning bidders for bond issues;

4. Revision of technical constraints on bond issues, such as interest rates ceilings, price discounts, methods of sale, and maximum maturity lengths;

5. The exemption from state income taxation of interest earned on state and local bonds;

6. The issuance of general obligation bonds by local governments to finance public facilities; and

7. The state's involvement in local government debt-related activities.

Fiscal Impact:

The fiscal impacts of these individual recommendations would vary from case to case. In many cases, there would be potential General Fund costs savings from the more efficient marketing of bonds.

Reference:

1983-84 Perspectives and Issues, page 159.

DEPARTMENT OF CONSUMER AFFAIRS

Repeal Landscape Architects Law

The Landscape Architects Law is administered by the State Board of Landscape Architects. The board is statutorily responsible for performing two principal functions: issuing new licenses to applicants who pass a landscape architect examination and renewing existing licenses, and investigating violations of the Landscape Architects Law and suspending or revoking licenses when necessary. The state board consists of six members appointed by the Governor for four-year terms--four public members and two landscape architects.

Our analysis indicates that the board generally has administered the licensing program in accordance with the provisions of law. Its enforcement and disciplinary activities, however, have been minimal. Furthermore, we believe the Landscape Architects Law does not provide extensive protection to the private residential consumer because it exempts many types of common landscape projects from regulation by the state. In addition, we find that the practice of landscape architecture does not involve activities affecting the health, safety, and welfare of the public to a degree that warrants a state regulatory program.

Thus, we conclude that this regulatory program is neither necessary nor desirable, and that elimination of the program could be accomplished without undue harm either to the consumers of landscaping services, or the profession of landscape architecture.

In the absence of state regulation, the profession could continue to examine and certify its members. In addition, governmental agencies and businesses could continue to hire either graduates of landscape architecture programs or landscape architects certified by the profession.

Recommendation:

We recommend that current provisions of law relating to the regulation of landscape architects be repealed.

Fiscal Impact:

Potential savings of up to $230,000 annually to the State Board of Landscape Architects' Fund.

Reference:

A Review of the Board of Landscape Architects, Report Number 83-5.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Make Enforcement of Employee Housing Program Self-Supporting

The Employee Housing Program is responsible for enforcing minimum sanitary and safety standards in employee housing units and labor camps in the state that are occupied by five or more employees. The program's inspection and investigation programs are supported both by the General Fund and by fees collected from operators of the camps. During 1984-85, the General Fund will support approximately 60 percent of this program's costs. Our analysis indicates that by authorizing the department to impose civil fines on violators, the program could be made entirely self-supporting, thus eliminating the need for ongoing General Fund support.

The department reports it relies on the General Fund principally because the department is not authorized to retain the fines assessed and collected (these are retained by the local agency that actually prosecutes violations), and because it's not practical to collect fees for the investigation of certain types of complaints.

Recommendation:

In order to make the department's enforcement self-supporting and less reliant on General Fund support, we recommend the enactment of legislation authorizing the department to issue civil citations directly to violators of state sanitary and safety standards. We further recommend that the department be empowered to use the collected fines to offset the program's reliance on General Fund support.

Fiscal Impact:

Potential annual General Fund savings up to $550,000.

Reference:

Analysis of the 1984-85 Budget Bill, page 348.

DEPARTMENT OF TRANSPORTATION

Modify Funding Projections for State Transportation Improvement Program

Chapter 1106, Statutes of 1977, requires the California Transportation Commission to adopt and submit to the Legislature and the Governor annually by July 1 a five-year State Transportation Improvement Program (STIP) for all state and federally funded transportation improvements in California. The department is responsible for estimating the state and federal funds to be available in the five-year period and for scheduling projects accordingly.

Currently, the department programs projects based on estimated federal apportionments to California, rather than on a basis of the state's estimated obligational authority. It is the latter, however, which determines the level of federal funds that the state can actually spend on projects. Normally, the state's obligational authority is less than the apportionment level. Consequently, there probably will not be sufficient money to fund all of the projects in the five-year period of the STIP. This results in an inherent "overprogramming" of highway capital projects.

One benefit of the current programming practice is that, as a result, the department is able to work on projects which require longer lead times and more engineering efforts, and create a "shelf" of projects which can be initiated if additional funding becomes available or construction opportunities arise. At the same time, however, it (1) generates unrealistic expectations, (2) may allow projects of lower priority to be funded before higher priority projects, and (3) tends to

inflate the size of any potential shortfall in state funds. To recognize the constraint imposed on the use of federal revenues by limits on obligational authority and to provide a more realistic capital program, the State Transportation Improvement Program should be modified to use a more realistic estimate of available revenues.

Recommendation:

We recommend that legislation be enacted directing the California Transportation Commission to adopt a State Transportation Improvement Program which recognizes the level of federal funding which the state will be able to obligate during the five-year period of the State Transportation Improvement Program.

Fiscal Impact

None.

Reference:

Analysis of the 1984-85 Budget Bill, page 404.

DEPARTMENT OF TRANSPORTATION

Establish Guidelines for Leasing Department Property

Current law allows the Department of Transportation to lease to public and private entities the use of areas above or below highways, and any land not currently needed for highway purposes. The department recently considered leasing certain property it owns in Los Angeles to a private developer on a long-term basis, in order to permit the development of a large commercial office building, with certain space dedicated to parking for department personnel. During the lease period, rental payments would be deposited in the State Highway Account. Upon expiration of the lease, the improved property would revert to state ownership.

It is not clear whether current law regarding property leases applies to commercial developments of the type contemplated by the department. Moreover, our review indicates that in considering leases for commercial development of its properties, the department may fail to consider alternative uses of these properties that would satisfy other state needs.

Recommendation:

We recommend that the Legislature consider the overall policy issue of department involvement in leasing nonhighway properties for commercial development purposes and enact legislation to clarify existing law and provide clear guidelines for the department and the California Transportation Commission to follow in making decisions regarding specific properties.

Fiscal Impact:

Unknown fiscal impact to the State Highway Account, depending on the policy guidelines.

Reference:

Analysis of the 1984-85 Budget Bill, page 414.

DEPARTMENT OF MOTOR VEHICLES

Transfer Implied Consent Hearings to Courts

The Department of Motor Vehicles (DMV) currently conducts administrative hearings for persons who have their driver's license suspended due to a violation of the Implied Consent law, and who wish to protest the suspension. A violation of the Implied Consent law occurs when a motorist, who is suspected of driving under the influence (DUI) of alcohol or drugs, refuses to submit to one of the three blood-alcohol tests specified by law. The DMV estimates that 10,000 persons request a hearing annually, at a cost of approximately $2 million to the department.

Our analysis indicates that the Implied Consent hearing process could be transferred to the courts and that related protests could be adjudicated at the same time the DUI offense is heard. According to the DMV, administrative hearings conducted by the department essentially duplicate the judicial processes related to adjudication of DUI offenses and, as a result, (1) the courts would incur little, if any, additional costs and (2) the department would realize substantial savings.

Recommendation:

We recommend the enactment of legislation which would transfer the Implied Consent hearing function from the DMV to the courts and require that violations of the Implied Consent law be adjudicated concurrently with associated DUI offenses.

Fiscal Impact:

Potential savings of $2 million annually to the Motor Vehicle Account, State Transportation Fund.

Reference:

Analysis of the 1984-85 Budget Bill, page 504.

DEPARTMENT OF MOTOR VEHICLES

Require Refundable Deposit for Hearing Costs

The Office of Administrative Hearings (OAH) in the Department of General Services provides adjudicative services for numerous agencies within state government. The Department of Motor Vehicles (DMV) utilizes OAH services in cases where an occupational licensee or an applicant for occupational license of DMV appeals an adverse licensing decision issued by the department. The DMV supports the entire cost of OAH services from the Motor Vehicle Account, State Transportation Fund.

Our analysis reveals that an extremely high percentage of DMV occupational licensing decisions are upheld by the Office of Administrative Hearings. In 1981-82, adverse actions taken by DMV were upheld in 96 percent of the cases involving licensees and 100 percent of the cases relating to applicants. Thus, the department is incurring a substantial cost (expenditures which exceed $200,000 annually) to have almost all of its adverse actions upheld by the OAH. In instances where DMV's actions are sustained by OAH, we believe the cost of the hearing should be paid by the licensee or applicant, not the public at large. This type of assessment currently is imposed on civil litigants in superior and municipal courts.

In order to avoid collection problems, DMV should be permitted to require a deposit (equal to its average cost per hearing) on all cases appealed to the OAH. The DMV could return deposits to persons receiving a favorable ruling from OAH and retain the deposits of unsuccessful

applicants to cover the cost of hearings. In addition, the department should be permitted to waive the deposits in cases of financial hardship.

Recommendation:

We recommend the enactment of legislation authorizing the Department of Motor Vehicles to (1) require occupational licensees and applicants requesting adjudication by the Office of Administrative Hearings to post a deposit prior to the hearing, (2) waive the deposit in cases of financial hardship, and (3) retain the deposit in cases where the department's administrative decision is upheld.

Fiscal Impact:

Potential savings of over $200,000 annually to the Motor Vehicle Account, State Transportation Fund.

Reference:

Analysis of the 1983-84 Budget Bill, page 453.

K-12 EDUCATION

Department of Education--School Construction--Constitutional Amendment

Proposition 13 effectively eliminated the ability of local school districts to levy additional special property tax rates to pay off new bonds or loans, and therefore severely limited the districts' access to funds needed for school building construction. Consequently, school districts now rely upon the State School Building Lease-Purchase program to finance virtually all of their capital outlay needs.

School districts frequently complain about various aspects of the Lease-Purchase program, including the amount of paperwork involved in filing an application and the restrictiveness of the program. More importantly, however, the current method of financing school construction (1) does not generate sufficient funding to meet district needs and (2) does not distribute the burden of paying for new school facilities in an equitable manner.

Recommendation:

We recommend that the Legislature place a constitutional amendment on the June 1986 ballot authorizing school districts, subject to local voter approval, to assess special property tax rates to fund debt service for local school construction bonds.

DEPARTMENT OF SOCIAL SERVICES

Community Care Licensing--Annual Inspections

Chapter 3, Statutes of 1973, the Community Care Facilities Act, requires the Department of Social Services (DSS) to inspect most community care facilities annually. The department allocates more of the community care licensing budget to these annual inspections than to any other function of the licensing program.

Our analysis indicates that the current policy of annual inspections may not result in the most effective use of licensing resources because the annual visit seems to result in the identification of relatively few serious violations of licensing standards, as compared with complaint visits. In our Analysis of the 1983-84 Budget Bill, we recommended a demonstration program to test the feasibility of eliminating or modifying the current requirement for annual visits. The implementation of the recommended demonstration project would require exempting a small group of facilities from the annual inspection policy for the duration of the project.

Recommendation:

We recommend enactment of legislation to suspend the current statutory requirement for annual visits with respect to those facilities chosen to be included in the recommended demonstration project.

Fiscal Impact:

Suspension of the annual visit policy with respect to facilities in the experimental group would have no fiscal effect because the resources

freed up by such a suspension would be redirected. The demonstration project itself, however, could result in substantial General Fund savings, to the extent that it leads to the elimination or modification of the current annual inspection policy.

Reference:

Analysis of the 1983-84 Budget Bill, page 1063.

DEPARTMENT OF SOCIAL SERVICES

Licensed Maternity Home Care Program

Chapter 1190, Statutes of 1977, the Pregnancy Freedom of Choice Act, established a Licensed Maternity Home Care program under the Department of Social Services in order to provide counseling and residential treatment services to unmarried, pregnant women under the age of 21. The state pays for support of the young women residing in the homes, and prohibits the homes from seeking parental contributions toward the support of residents. The purpose of prohibiting parental support of program participants is to ensure that young, pregnant, unmarried women are not discouraged from seeking care. This prohibition, however, means that no information on the economic status of participants is available to the Legislature.

Additional information concerning the family income and resources of women applying for maternity home care would be useful to the Legislature in assessing the extent to which the General Fund should support the Licensed Maternity Home Care program. In order both to protect the young woman's right to choose care and to meet the Legislature's need for more information, we recommend that information concerning parental income be collected after the young woman has become a resident of a licensed maternity home.

Recommendation:

We recommend enactment of legislation requiring the Department of Social Services to adopt regulations requiring the collection of financial data on maternity home residents after they are accepted into the home.

Fiscal Impact:

None.

Reference:

Analysis of the 1983-84 Budget Bill, page 1178.

DEPARTMENT OF SOCIAL SERVICES

County Share of Social Services Costs

The Other County Social Services (OCSS) program consists of child welfare services, information and referral services, adult protective services, and a variety of optional services. In addition, the OCSS program provides funds for the administration of the In-Home Supportive Services (IHSS) program. Chapter 978, Statutes of 1983 (SB 14), limited each county's share of the costs of the OCSS program to a specified dollar amount. Under prior law, counties were required to pay 25 percent of the costs of this program.

Our analysis indicates that the dollar limit on the county share of this program's costs:

1. Does Not Promote Sound Management of the OCSS Program. Since their cost exposure is limited to a fixed amount, counties have no fiscal stake in controlling program costs. This is because any cost increases (other than cost-of-living increases) are borne entirely by the state and federal government. Thus, the dollar limit on the county share removes the primary incentive for efficient operations from that level of government with the greatest ability to control costs.

2. Creates Inequities in the Distribution of State and Federal Funds Among Counties. During 1983-84, 11 counties received state and federal funds sufficient to pay for 75 percent of their OCSS program costs. The remaining counties, however, received state and federal funds amounting to 78 percent of their costs (80 percent in several cases).

Recommendation:

We recommend enactment of legislation restoring the requirement that all counties pay an amount equal to 25 percent of their OCSS program costs.

Fiscal Impact:

We estimate that this change would reduce the state General Fund cost of this program by $13.8 million annually, and would increase the county costs by a like amount. This recommendation would not affect the total amount of funding for the OCSS program.

Reference:

Analysis of the 1984-85 Budget Bill, page 1281.

DEPARTMENT OF SOCIAL SERVICES

Fees for Community Care Licensing

The 1983 Budget Act required the Department of Social Services to submit a report to the Legislature on fees for community care licensing. The following fee structures were reviewed in the department's report, which was submitted in December 1983:

1. Fee System Recommended by the Legislative Analyst in the Analysis of the 1983 Budget Bill. Under this fee system, community care facilities would be charged an annual license fee based on (a) the total cost of licensing each facility and (b) the proportion of each facility's clients whose care is paid from nongovernmental sources. The department's report estimates that the cost of licensing an average large residential facility for adults is $800 per year. Under the Analyst's proposal, such a facility would pay a fee of $80 per year if 10 percent of its clients were "private pay."

2. Sliding Scale Fee System Recommended by the Department. Under this proposal, the amount of the license fee would depend on the capacity of the facility and would cover only specified costs of licensing. Under the department's proposal, a large residential facility for adults would pay a fee of $275 per year, regardless of whether its clientele were entirely governmentally supported or entirely "private pay."

3. Flat Fee System. Under this system, all community care facilities would pay a license fee of $100, regardless of their size, type, or clientele.

Our review indicates that the fee system we recommended in our Analysis of the 1983 Budget Bill is preferable to the sliding scale fee and the flat fee, for the following reasons:

- The fee system proposed by the department would result in private-pay clients subsidizing some of the licensing costs attributable to publicly supported clients. This subsidization would not occur under our fee system.
- Some of the costs of the fee proposed by the department could be passed through to state, federal, and local governments in the form of increased rates for care provided to governmentally supported clients. This would not occur under the fee system we propose.
- To the extent that facility operators are not able to offset the costs of the fee proposed by the department by raising the rates they charge the government, they would have to absorb the costs of the fee or reduce services. Under our proposal, operators could charge a portion of the fee costs to their private-pay clients.

Recommendation:

We recommend enactment of legislation requiring that community care facilities be charged a license fee based on (1) the total cost of licensing each facility type and (2) the proportion of each facility's clients whose care is paid from nongovernmental sources.

Fiscal Impact:

Based on information provided by the department, we estimate that our fee proposal would reduce the General Fund costs of the Community Care

Licensing program by approximately $9.0 million. This represents approximately 34 percent of the total cost of this program.

Reference:

Analysis of the 1984-85 Budget Bill, page 1190.

DEPARTMENT OF PARKS AND RECREATION

Increase Threshold for Review of Park Concession Contracts

Public Resources Section 5080.20 requires legislative review and approval of state park concession contracts involving a total investment or estimated annual gross sales in excess of $100,000. During 1982-83, the 17 largest concessions, with individual gross sales in excess of $250,000, accounted for $23.3 million, or 84 percent, of total concession sales in park units managed by the department. The remaining 150 contracts accounted for only $4.6 million, or 16 percent, of the total.

The threshold for legislative review should be raised from $100,000 to $250,000, so that the Legislature can concentrate its attention on those contracts of greater fiscal significance.

In addition, the department's annual concessions statement is of limited usefulness to the Legislature, because it does not list concessions located on state park system lands that are managed by local agencies. The Legislature should have this information in order to oversee the management of all state park lands.

Recommendation:

We recommend enactment of legislation to (1) increase the threshold for legislative review of concessions contracts from $100,000 to $250,000 of annual gross sales and (2) strengthen the reporting requirements for the department's annual concessions statement.

Fiscal Impact:

No direct fiscal impact.

Reference:

Analysis of the 1984-85 Budget Bill, page 719.

DEPARTMENT OF PARKS AND RECREATION

Abolish the Bagley Conservation Fund

Section 18.30 of the 1984 Budget Act transfers the unencumbered balance (estimated at $279,000) of the Bagley Conservation Fund (BCF) to the State Parks and Recreation Fund.

The BCF was created in 1971 to fund beach, park, and coastal recreational facilities. Since 1971, the principal source of funds for the BCF has been occasional transfers from the General Fund, as authorized by the Legislature.

Chapter 1065, Statutes of 1979, abolished several park-related funds and accounts and consolidated the balances in the State Parks and Recreation Fund (SPRF). In addition, Chapter 1065 transferred to the SPRF all funds which had been appropriated to the Department of Parks and Recreation from the BCF. The legislation did not transfer to the SPRF any appropriations to other agencies.

Section 18.30 will further consolidate park-related funds into the SPRF, which will simplify budgeting. In order to consolidate such funds fully, however, all balances in the BCF should be transferred and the fund should be abolished. This action will not reduce or eliminate any funds for any projects authorized now or in the future.

Recommendation:

We recommend the enactment of legislation to simplify funding for parks projects by (1) transferring any encumbered balances and funds that may exist, as well as any corresponding expenditure authority for these

funds, from the Bagley Conservation Fund to the State Parks and Recreation Fund and (2) abolishing the Bagley Conservation Fund.

Fiscal Impact:

No direct fiscal effect.

Reference:

Analysis of the 1984-85 Budget Bill, page 2194.

STATE WATER RESOURCES CONTROL BOARD

Increase Water Rights Fees

Historically, the cost to the State Water Resources Control Board to review and act on water rights applications has been shared between the General Fund and those receiving the direct benefit from the process--the water rights applicant. Existing law requires a minimum fee of $10 to file an application and establishes a variable rate schedule based on the amount of water to be diverted. The minimum fee and fee schedule were last increased in 1969. While fees have remained constant, board costs for processing water rights applications have more than tripled, from $800,000 in 1969-70 to approximately $3.0 million in 1984-85. The $2.2 million increase has been absorbed by the General Fund.

Water rights applicants should pay a portion of the increased costs incurred by the board in processing their applications.

(Note: Assembly Bill 3457 (Isenberg) of the 1983-84 session would have increased fee revenue by $547,000 annually, by increasing application fees and establishing new periodic fees for holders of water rights. The Governor vetoed the bill on the basis that the fee increases were too large.)

Recommendation:

We recommend that legislation be enacted to increase water rights application and permit fees to partially offset increased processing costs.

Fiscal Impact:

If existing fees were tripled, the General Fund would experience an annual savings of approximately $74,000. Alternatively, if the program were made completely self-supporting, then the savings to the General Fund would be approximately $3 million annually.

Reference:

Analysis of the 1984-85 Budget Bill, page 782.

CALIFORNIA COASTAL COMMISSION

Revise the Coastal Act

The Coastal Act of 1976 requires cities and counties along the California coast to prepare local coastal programs (LCPs) for their respective portions of the coastal zone. The purpose of the LCPs is to conform local land use plans and implementing ordinances with the policies of the Coastal Act. Until an LCP has been certified by the Coastal Commission, virtually all development within the coastal zone requires a coastal permit from the commission, as well as local approval.

The Coastal Act originally established January 1, 1980, as the deadline for local government submission of LCPs to the commission. This deadline proved unrealistic, however, and has been extended twice by statute. The most recent statutory deadline for submission of LCPs to the commission was January 1, 1984. As of December 1984, however, only 39 of the total of 123 LCPs needed to cover the entire coast had been certified by the commission, and the commission was reviewing another 4 LCPs.

Although the statutory deadline for LCP preparation has passed, there is a continuing state obligation to reimburse local jurisdictions for their costs of preparing LCPs, since these costs are mandated by the state. There is no cutoff date for the availability of these local reimbursement funds, nor are there meaningful sanctions for failure to comply with LCP deadlines.

Recommendation:

We recommend the enactment of legislation to:

1. Establish new LCP deadlines, based on a realistic schedule of LCP completion dates for each segment of the coastal zone;

2. Direct the commission to complete and implement LCPs for all segments of the coastal zone that do not have certified LCPs by the new deadline;

3. Remove the existing mandate for LCP preparation by local governments after the new deadline;

4. Prohibit the expenditure of State Coastal Conservancy funds after the new deadline in any segment of the coastal zone for which the commission has not certified an LCP; and

5. Allow local governments to take over LCP implementation at any time, subject to commission approval.

Fiscal Impact:

This legislation would result in unknown future General Fund savings because LCP preparation costs would not continue indefinitely. The 1984 Budget Act included $400,000 for local mandate claims and $180,000 for direct assistance to local agencies for development of LCPs.

Reference:

Analysis of the 1984-85 Budget Bill, page 678.

STATE LANDS COMMISSION

Grant Permitting Authority Over Offshore Leases

The State Lands Commission manages sovereign and statutory lands, including tide and submerged lands within three miles of the ocean shoreline.

In December 1982, the commission approved a bid package to lease 40,000 acres of tide and submerged lands between Point Conception and Point Arguello off the Santa Barbara County coast. The commission also announced plans to lease the northernmost 70,000 acres off the Santa Barbara County coast, as well as other parcels. The commission, however, has suspended indefinitely all offshore leasing, partly because of a jurisdictional dispute with the Coastal Commission over whether leasing decisions by the State Lands Commission require a coastal permit.

There is no dispute that the Coastal Commission has the authority to deny or condition exploration or development permits for leases issued by the State Lands Commission. Consequently, Coastal Commission policies and actions will be very important to prospective lessees, regardless of whether the leasing decisions by the State Lands Commission are subject to the Coastal Commission's jurisdiction. We believe it is appropriate, therefore, to provide the Coastal Commission with explicit permitting authority over offshore activity at the earliest point at which the offshore activity is proposed--namely, during the leasing process.

Recommendation:

We recommend that legislation be enacted to clarify the Coastal Act by explicitly granting to the Coastal Commission permitting authority over offshore leases proposed by the State Lands Commission.

Fiscal Impact:

The current jurisdictional dispute has halted leasing activity. If leases were executed without the approval of the Coastal Commission, uncertainty about future commission action with respect to the leases would increase the financial risk to the lessees. As a consequence, their bids on the leases might be significantly lower than they would be if the leases were sanctioned by the commission. On this basis, we conclude that requiring a coastal permit at the outset of leasing activities probably would increase state revenue from future offshore leases. The amount of the increase is unknown and would depend on many factors.

Reference:

Analysis of the 1984-85 Budget Bill, page 623.

CALIFORNIA EXPOSITION AND STATE FAIR

Create an Enterprise Fund

Chapter 1148, Statutes of 1980, created the current Cal Expo organizational structure. In doing so, the Legislature expressed its intent that Cal Expo "shall work towards a goal of fiscal independence from state General Fund support."

Cal Expo has moved towards this goal. In 1980-81, the General Fund provided an operating subsidy for Cal Expo of $2,280,000, whereas Cal Expo ended 1983-84 with a $159,000 operating surplus.

Currently, Cal Expo's operating funds come from a General Fund support appropriation in the annual Budget Act. Because this General Fund appropriation has been limited to estimated revenue, Cal Expo has had an incentive to overestimate its revenue, since the difference between actual revenues and the appropriated amount was retained by the General Fund. Unrealistic revenue estimates have tended to become the basis for unrealistic expenditure plans and this has resulted in deficits at Cal Expo.

If Cal Expo were allowed to carry over excess revenues into subsequent years, it would not have an incentive to overestimate revenues. Furthermore, separating Cal Expo's operating budget from the General Fund would require it to respond prudently and rapidly to changes in its financial condition.

The 1984 Budget Act partially addressed this problem by allowing the Department of Finance, after notifying the Legislature, to increase the

expenditure authority of Cal Expo in 1984-85 by up to the amount of any revenues in excess of the amount appropriated.

Recommendation:

We recommend the enactment of legislation creating a Cal Expo Enterprise Fund, into which all Cal Expo revenue would be deposited, and from which funds would be appropriated to Cal Expo on a continuous basis.

Reference:

Analysis of the 1984-85 Budget Bill, page 2050.

DEPARTMENT OF INDUSTRIAL RELATIONS

Adopt Funding Reforms for Subsequent Injury Program

Death-Without-Dependency Revenues. Chapter 1334, Statutes of 1972, and Chapter 12, Statutes of 1973, which implemented a constitutional amendment approved by the voters in 1972, require employers or their insurance carriers to pay to the state a workers' compensation death benefit in cases where a worker who dies as the result of an industrial injury leaves no surviving heirs. In such cases, the state receives, in a lump sum, the amount of the benefit that is usually paid to one total dependent (for example, a dependent spouse or child). At the current time, this benefit is $70,000. The revenue from these payments, which is called death-without-dependency revenue, is placed in the General Fund and used to offset the costs of the subsequent injury program--a program designed to encourage the hiring of persons who have sustained prior work-related injuries.

In cases where the deceased worker has no totally dependent spouse or children, a partial dependent death benefit may be paid. Such benefits usually go to dependents such as parents, uncles, or aunts. The partial dependency death benefit is paid at the rate of four times the amount of the annual contribution provided by the deceased worker. However, it may not exceed $70,000, regardless of the number of partial dependents.

Prior to June 14, 1979, the state received the death benefit only when no partial dependency benefits were paid. On that date, however, a California Court of Appeal ruled that, in industrial death cases where

there are partial dependents, the state is entitled to the difference between the partial dependent death benefit and the benefit that the state would have received had there been no dependent. This ruling was issued in the case of The Department of Industrial Relations v. the Workers' Compensation Appeals Board and Jeremy Shannon Tessler, commonly referred to as the Tessler case.

On May 22, 1982, the California Supreme Court overturned the Tessler ruling. As a result, the state once again is unable to collect death benefits in industrial death cases where partial dependent benefits are paid.

We can find no basis for allowing some employers (or their insurance carriers) to avoid making payments to the state required of other employers under essentially the same circumstances merely because a partial death benefit payment is made. Furthermore, current law as interpreted by the Supreme Court tends to encourage employers and insurance companies to seek out partial dependents, even when none is claimed, as a means of avoiding the required payment to the state. The end result is that employers and insurance companies often receive a windfall savings, while the state's taxpayers must contribute more to support the subsequent injury program.

Program Should Be Self-Supporting. Funding for the subsequent injury program in 1984-85 consists of a General Fund appropriation of $4,135,000 and an anticipated $2,081,000 in industrial death benefits payable when there are no surviving heirs.

The 1972 National Commission on State Workmen's Compensation Laws recommended that all states make their subsequent injury programs self-supporting. At least 28 states--including Arizona, Connecticut, Florida, New York, Pennsylvania, Ohio, Oregon, and Wisconsin--now operate their subsequent injury programs in this manner.

We believe that it would be appropriate for California to make its subsequent injury program self-supporting in the same manner. A self-supporting program would have the advantages of (1) ensuring that adequate resources are available for funding subsequent injury benefits and (2) spreading liability for hiring handicapped workers among all employers.

Recommendation:

We recommend that a constitutional amendment and implementing legislation be enacted to:

1. Require employers or their insurance carriers to pay to the state the difference between any partial dependent benefit and any total workers' compensation benefit in death-without-dependency cases.

2. Make the subsequent injury program self-supporting.

Fiscal Impact:

Adoption of this legislation would avoid the need for a General Fund appropriation to support the program. The annual savings would be in excess of $4 million.

Reference:

Analysis of the 1983-84 Budget Bill, page 1845.

DEPARTMENT OF INDUSTRIAL RELATIONS

Make Licensing Function Self-Supporting

Under current law, the Division of Labor Standards Enforcement regulates the following special employment relationships: (1) agents who counsel, direct, or arrange engagements for artists and entertainers, (2) farm labor contractors, (3) garment and apparel manufacturers, (4) firms with employees who perform work in their homes, (5) employees who are paid for performing work in their homes, (6) agents who recruit athletes for a fee to sign with professional athletic teams, (7) persons who are paid to load and unload agricultural products, (8) sheltered workshops paying less than minimum wages to severely handicapped workers, and (9) minors who are employed in various theatrical productions.

The division also grants exceptions to minimum wage and other requirements of the Industrial Welfare Commission (IWC) orders. Most of the minimum wage exemptions are granted to sheltered workshops.

The division is authorized to charge fees for issuing licenses and permits in all of these programs except sheltered workshops, theatrical permits for minors, and special exemptions from the minimum wage and other provisions of the IWC orders. Only the athletic agent and garment manufacturing programs, however, are required to be self-supporting. The statutes require the agricultural produce unloader program to be self-supporting in the San Francisco Bay area, but not in other parts of the state. The remaining licensing, registration, and special exemption programs require substantial General Fund subsidies.

Our analysis indicates that there is no basis for requiring some of the special licensing programs to be self-supporting and permitting others to receive a General Fund subsidy.

Recommendation:

We recommend that legislation be enacted to make the various functions in the licensing and registration program of the Division of Labor Standards Enforcement self-supporting.

Fiscal Impact:

Enactment of the recommended legislation would result in significant annual General Fund savings.

Reference:

Analysis of the 1983-84 Budget Bill, page 1823.

PUBLIC UTILITIES COMMISSION

Authorize Electronic Recording of Hearings

In the process of regulating public utilities, the Public Utilities Commission (PUC) conducts public hearings in order to provide a forum for the presentation of evidence by PUC staff, the affected parties, and any other persons. Existing law requires the PUC to use certified hearing reporters to record the actions contained in commission hearings. The commission's staff of hearing transcribers prepares written transcripts on a same-day basis for sale to any interested parties, but these reports are used primarily by representatives of the regulated utilities, who apparently require the transcripts in order to prepare testimony and cross-examination materials for the following day's hearing.

A number of studies have found that the use of electronic devices to record hearings is much less expensive and no less effective than using hearing reporters. Given these studies and the experience of other state agencies in using electronic recording devices, we conclude that the commission should be authorized to use electronic recording devices at commission hearings where it finds such devices to be cost-effective.

Recommendation:

We recommend that legislation be enacted deleting the requirement that certified hearing reporters be used in PUC proceedings. This legislation would not require the PUC to record hearings electronically. It would simply allow the commission to select the most cost-effective and appropriate method of preserving the record of its hearings.

Fiscal Impact:

Unknown, but potentially significant, annual savings (various special funds) from reduced personnel and operating expenses relating to the use of hearing reporters. The PUC would incur one-time, probably moderate, costs to purchase electronic recording devices.

Reference:

Analysis of the 1984-85 Budget Bill, page 2080.

AUGMENTATION FOR EMPLOYEE COMPENSATION

Repeal Statutory Health Benefit Formula

Under a formula specified in Government Code Section 22825.1, the state pays an average of 100 percent of health insurance costs for active employees and annuitants and 90 percent of health insurance costs for their dependents. The law also allows this provision to be superseded by the provisions of memoranda of understanding resulting from the collective bargaining process. Our analysis indicates that the statutory formula (1) constrains collective bargaining negotiations over health benefit coverage and (2) hinders the Legislature's ability to implement certain health care cost containment features.

Recommendation:

We recommend that the Government Code Section 22825.1 be amended to remove references to a formula for determining state contributions toward health insurance premiums.

Fiscal Impact:

Indeterminable fiscal effect on various state funds, depending on collective bargaining negotiations and legislative approval of employee compensation provisions.

Reference:

Analysis of the 1984-85 Budget Bill, page 2166.