Summary of Recommended Legislation

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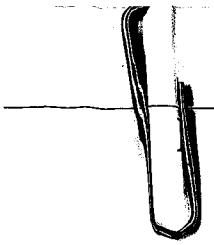

INTRODUCTION

This report summarizes the recommendations for new legislation contained in the *Analysis of the 1987-88 Budget Bill* and *The 1987-88 Budget: Perspectives and Issues* (P&I).

All of the recommendations included in this report are discussed in greater detail within the *Analysis* and the *P&I*. This report merely (1) summarizes our analysis of the issues at stake, (2) outlines the contents of the changes in existing law that we recommend, and (3) presents our estimate of the fiscal effect from the proposed legislation. These recommendations generally fall into one of three categories:

- Legislative changes that would result in direct savings to the state;
- Legislative changes in the state's administrative structure which would increase efficiency and result in cost savings; and
- Legislative changes which may not result in any cost savings, but would improve the delivery of mandated services to the citizens of California. ❖

Secretary of State
Uniform Commercial Code Program Automation Project

Recommendation

We recommend legislation to impose a temporary surcharge, above normal document processing fees, to cover the cost of automating the Secretary of State's Uniform Commercial Code program.

Fiscal Impact

Would increase General Fund revenues by approximately $2.5 million--a level sufficient to cover the cost of implementing the proposed automation system.

Reference

Analysis, page 86.

Analysis

The Secretary of State is required by law to accept, as a public record, various financing and tax documents which assure security interests in personal property. She performs this function through the Uniform Commercial Code (UCC) program which, for a fee, files, receives amendments to, and provides certifications and copies of such documents.

The budget proposes approximately $3 million to automate UCC program filings using an optical disk system which actually stores an image of each processed document. The Budget Bill includes language which requires the Secretary of State to impose a temporary surcharge, above normal document processing fees, to cover the cost of automating its UCC program. Our analysis indicates that it is appropriate for the cost of the proposed automation system to be paid by those who will benefit from its implementation. However, Legislative Counsel advises that fee increases of this type must be authorized in statute. ❖

Department of Consumer Affairs
Eliminate Board of Registration for Geologists and Geophysicists

Recommendation

We recommend legislation to eliminate the Board of Registration for Geologists and Geophysicists within the Department of Consumer Affairs because the board does not serve a viable purpose.

Fiscal Impact

Annual savings of approximately $218,000 to the Geology and Geophysics Fund and a potential General Fund transfer of about $340,000 from the reserve balance in the special fund.

Reference

Analysis, page 112.

Analysis

The board, which was created in 1969, regulates about 5,700 geologists, engineering geologists, and geophysicists. About 77 percent of the current licensees were grandfathered in and, therefore, were not required to take the board's examination. Thus, only a minority of the licensees have been tested for competency.

In 1985-86, the board received only 54 complaints of which 46, or 85 percent, were related to unlicensed activity. The board has revoked only one license for breach of contract in the past 18 years. A second revocation was dismissed by an administrative law judge. One case is currently pending suspension or revocation.

It appears that there would be minimal, if any, impact on public health, safety, and welfare if the board were eliminated. Most of the licensees are either directly employed or retained by large land developers, civil engineering firms, oil and mining firms, and governmental agencies having adequate capabilities to assess competency and seek redress through the courts and other channels. Only on occasion do small private property owners retain the services of geologists and geophysicists. They, too, can seek redress through the courts when necessary. ❖

Department of Consumer Affairs
Eliminate Board of Landscape Architects

Recommendation

We recommend legislation to eliminate the Board of Landscape Architects within the Department of Consumer Affairs because the board does not serve a viable purpose.

Fiscal Impact

Annual savings of approximately $329,000 and a potential General Fund transfer of up to $40,000 from the reserve in the Board of Landscape Architects Fund.

Reference

Analysis, page 113.

Analysis

The Board of Landscape Architects, which was created in 1954, regulates about 2,000 landscape architects. Although it appears that the board insures a minimum level of competency by administering exams to all of its licensees, it exempts a broad range of professionals such as architects, engineers, contractors, and landscape designers of irrigation and golf course projects.

In our report entitled *A Review of the Board of Landscape Architects and Examiners* dated March 1983, we concluded that the Landscape Architects Law has not resulted in effective consumer protection and is unnecessary. Licensed landscape architects deal primarily with business and public organizations having a high degree of expertise and sophistication to evaluate a prospective landscape architect on the basis of education, experience, reputation, and prior work.

The board generally receives only a small number of complaints each year--114 in 1984-85. Over 60 percent of these complaints are outside the board's jurisdiction and generally are referred to the Contractors' State License Board. Over half of the remaining complaints primarily involve unlicensed activities. Only minimal disciplinary actions--two suspensions and one revocation--have been taken over the last three years. No fines have been collected.

It appears that the board's regulatory program could be eliminated without undue harm to the public at large, the direct consumers of landscape services, or the profession of landscape architect-

ure. In the absence of state regulation, the profession could continue to examine and certify its members. Moreover, large businesses and government agencies could continue to provide public safety features within landscaped areas of large shopping centers, industrial projects, and public park and school projects. ❖

Department of Consumer Affairs
Eliminate Tax Preparers Program

Recommendation

We recommend legislation to eliminate the Tax Preparers Program within the Department of Consumer Affairs because the program does not serve a viable purpose.

Fiscal Impact

Annual savings of approximately $334,000 and a potential General Fund transfer of about $300,000 from the reserve in the Tax Preparers Fund.

Reference

Analysis, page 113.

Analysis

The Tax Preparers Program, which was initially created in 1974, repealed in 1982, and reenacted with major changes in 1983, regulates about 27,600 tax preparers and tax interviewers. The program's registration requirements consist of posting a $2,000 bond, possessing a high school education, and having two years of experience or passage of a 60-hour training course. Applicants are not required to take an examination. According to the program, about 80 percent of the registrants have qualified on the basis of experience. The program exempts a number of individuals and their employees from registration, such as lawyers, certified public accountants, Internal Revenue Service agents, and employees of various financial institutions.

Formal complaints to the program are normally very low--335 in 1985-86. Typically, the complaints involved fee disputes, delayed returns, and no returns having been prepared after a fee had been paid. The program has not revoked or suspended any registrations.

Our analysis indicates that the Tax Preparers Program could be eliminated without undue harm to the public. State registration of tax preparers may be misleading to the public because it provides the appearance of legitimate expertise without requiring the passage of a state examination. Clearly, tax audits by the Internal Revenue Service and the Franchise Tax Board appear to provide more effective regulatory control over tax preparers by means of penalty assessments than does the program. Moreover, when contractual disputes arise between consumers and tax preparers, the court system appears to offer a better avenue for seeking redress. ❖

Department of Consumer Affairs
Merge Cemetery Board into Board of Funeral Directors and Embalmers

Recommendation

We recommend legislation to merge the Cemetery Board into the Board of Funeral Directors and Embalmers because the boards' functions are similar and the latter board is more effectively organized and has a more aggressive enforcement program.

Fiscal Impact

Annual special fund savings of about $65,000.

Reference

Analysis, page 114.

Analysis

The Cemetery Board, which was created in 1950, regulates about 2,333 salesmen, brokers, cemeteries, and crematories. About 90 percent of the board's licensees are salesmen and brokers.

Our analysis indicates that the board's enforcement program is weak, given that over the last three years it has not revoked or suspended a single license. This appears to be partially due to the board's lack of authority to pursue cases involving unprofessional conduct.

The Board of Funeral Directors and Embalmers regulates about 5,000 embalmers, funeral directors, and establishments. The board has revoked six licenses over the last three years.

In recent years, the trend has been for cemeteries to go into the funeral business and for funeral directors to go into the crematory business. Both boards perform audits on trusts and, in some cases, perform audits at the same business location when that business is licensed by both boards. This is evident in that about 20 percent of the complaints submitted to the Cemetery Board involve licensees of the Board of Funeral Directors and Embalmers.

Our analysis indicates that the Cemetery Board should be eliminated and its regulatory functions reassigned to the Board of Funeral Directors and Embalmers because the latter board is larger, more effectively organized and has a more aggressive enforcement program. In addition, merging both boards would allow consumers and licensees to deal with one board rather than two, thus eliminating overlapping regulatory jurisdiction. ❖

Department of Consumer Affairs
Eliminate Consumer Advisory Council

Recommendation

We recommend legislation to eliminate the Consumer Advisory Council within the Department of Consumer Affairs because the council does not serve a viable purpose.

Fiscal Impact

None--the Legislature defunded the council in the current year. The 1987-88 Governor's Budget contains no funds for the budget year.

Reference

Analysis, page 114.

Analysis

In the 1986 Budget Act, the Legislature defunded the council in the current year because (1) it was not meeting its statutory requirements to make recommendations to the department and the Governor to provide for improved consumer protection and (2) the Legislature questioned whether the appointees on the council represented recognized consumer groups, as required by law.

Our analysis indicates that the council should be statutorily abolished. The Department of Consumer Affair's Division of Consumer Services provides similar services, such as conducting studies of consumer issues, providing liaison services to consumer groups, and reviewing, developing and advocating legislation. ❖

Department of Consumer Affairs
Merge Board of Barber Examiners into Board of Cosmetology

Recommendation

We recommend legislation to merge the Board of Barber Examiners into the Board of Cosmetology in order to eliminate overlapping regulatory functions.

Fiscal Impact

Annual special fund savings of about $256,000.

Reference

Analysis, page 115.

Analysis

The Board of Barber Examiners, which was created in 1940, regulates about 30,000 barbers, shops, and schools. The board receives about 100 complaints annually and, over the last three years, has revoked three licenses and suspended 215 licenses. The average suspension is up to five days.

The Board of Cosmetology, which was created in 1940, regulates about 300,000 cosmetologists, electrologists, manicurists, shops, and schools. On the average, the board receives about 1,000 complaints annually. The board has revoked 23 licenses and suspended 43 licenses over the last three years. The average suspension is up to 20 days.

In recent years, the trend is for individual cosmetologists and barbers and associated shops to be dual-licensed. According to the Board of Barber Examiners, approximately 1,000 cosmetology shops also are licensed as barber shops. This results in overlapping regulatory inspections of dual-licensed shops.

By merging both boards, it appears that regulation of the hair design industry could be streamlined through the issuance of one hair design license with certifications in specialized areas such as shaving, manicuring and pedicuring. Thus, separate licensing procedures and overlapping inspections and enforcement actions could be eliminated. ◆

Department of Consumer Affairs
Merge Board of Guide Dogs for the Blind into Department of Rehabilitation

Recommendation

We recommend legislation to merge the Board of Guide Dogs for the Blind into the Department of Rehabilitation because the department also provides (1) services to the blind and (2) staff support for the board.

Fiscal Impact

Potential, minor General Fund savings, to the extent that federal funds are received to provide services to the blind.

Reference

Analysis, page 115.

Analysis

The Board of Guide Dogs for the Blind, which was created in 1948, regulates about 44 instructors and schools. According to the board, its role is to regulate instructors and schools, provide a forum for schools and consumers, mediate complaints, provide public relations for ensuring guide-dog accessibility to public places, and publicize the "White Cane Law" which covers the rights of the blind and disabled. No licenses have been revoked over the last three years.

The Department of Rehabilitation (DOR), which was created in 1970, helps individuals with disabilities to reach social and economic independence. One of the department's primary objectives is to advocate the rights and opportunities of the disabled.

Our analysis indicates that the Board of Guide Dogs for the Blind could be transferred to the Department of Rehabilitation because the department also provides services to the blind and staff support for the board. Moreover, the activities of the board are currently directed by one individual who serves as (1) the department's program manager for the Services for the Blind program, (2) the board's executive secretary, and (3) a member of the board. This individual occupies a full-time position which is funded in the department's budget. In addition, the department currently subsidizes the board's operations by providing office space for the board. ❖

Department of General Services
Report on Purchases of Rugs/Carpets

Recommendation

We recommend legislation to delete the requirement, under Government Code Section 13332.08(a), that the Department of General Services report annually on rugs/carpets purchased for state facilities.

Fiscal Impact

Minor savings related to preparation, printing and distribution of report.

Reference

Analysis, page 159.

Analysis

Over 20 years ago, the Legislature placed restrictions on the purchase of rugs and carpeting and established the requirement that the Department of General Services report annually on such purchases to the Joint Legislative Budget Committee. Over the years, we have found no problems with the reported purchases and no concerns have been raised by other agencies. Accordingly, we recommend that Government Code Section 13332.08(a) be amended to delete the reporting requirement (leaving intact the restrictions on purchases and the controls over such purchases vested in the Director of General Services). ❖

State Personnel Board
Board Members' Compensation

Recommendation

We recommend legislation to pay board members a per diem rate rather than a set salary.

Fiscal Impact

Annual General Fund savings of approximately $140,000.

Reference

Analysis, page 177.

Analysis

Each of the five State Personnel Board members currently receives an annual salary of $24,153. Related staff benefits bring total state costs for the five board members to approximately $154,000 per year. In recent years, the board's responsibilities have decreased significantly. At present, the board usually meets only two times a month to hear employee appeals and other personnel matters.

Many other state boards and commissions pay their members a $100 per diem only, plus necessary expenses, in lieu of salary. There appears to be no significant distinction between the demands placed on members of the State Personnel Board and those placed on other part-time boards. Accordingly, we recommend that the Legislature enact legislation changing the members' compensation from salary to per diem payments. ❖

Public Employees' Retirement Fund
"Reserve for Deficiencies"

Recommendation

We recommend legislation eliminating the Public Employees' Retirement Fund's (PERF) "reserve for deficiencies."

Fiscal Impact

Annual reduction of about $6 million in General Fund retirement costs.

Reference

Perspectives and Issues, page 253.

Analysis

Current law requires that an amount equivalent to 1 percent of the PERF's assets be placed in a reserve for deficiencies, to be used for various one-time purposes. Currently, the reserve has a balance of about $300 million. The reserve funds, however, are *not* counted as assets for actuarial purposes. Consequently, the level of annual employer contributions is higher than it would be if the reserve funds were considered to be fund assets.

The PERF reserve for deficiencies does not serve the same function as most fund reserves. For instance, the General Fund's Special Reserve for Economic Uncertainties is used to cover actual expenditures when fiscal projections are in error. The PERF reserve, on the other hand, serves to cover actuarial losses which would otherwise be accommodated through the PERS' annual determination of long-run employer contribution rates.

Because the reserve is not necessary for meeting the PERF's funding obligations, our review indicates that the reserve should be eliminated. Accordingly, we recommend that the Legislature delete Government Code Section 20203 (which requires that a 1 percent reserve for deficiencies be maintained in the PERF), and that it make other conforming changes. ◆

Department of Housing and Community Development
Reporting of Information on Local Agency Enforcement of the Employee Housing Act

Recommendation

We recommend legislation requiring local agencies to provide additional information on their enforcement efforts.

Fiscal Impact

None.

Reference

Analysis, page 231.

Analysis

Chapter 1495, Statutes of 1986, requires the Legislative Analyst to report in the 1987-88 *Analysis*, and as needed thereafter, on the implementation of the Employee Housing Act (EHA). The act regulates employer-operated housing for employees (such as farm labor camps). The Department of Housing and Community Development (HCD) enforces the EHA in 44 of the state's 58 counties. In the remaining 14 counties, the department only monitors local government enforcement of the EHA, as these counties are exercising their option to assume responsibility for implementing the EHA in their jurisdiction.

Our 1987-88 analysis of the implementation of the EHA has been hampered by the lack of readily available data from both the state and local agencies. In future years, more data will be available on the HCD's enforcement efforts, as the department is now developing a computerized database that will generate more program enforcement information. However, to ensure that more information is made available from local governments which have assumed EHA enforcement responsibility, we recommend that Section 17031.4 of the Health & Safety Code be amended to require all agencies to submit to the HCD, on an annual basis, specified information describing their implementation of the EHA. ❖

Department of Transportation
State-Funded-Only Program

Recommendation

We recommend legislation be enacted to establish a framework and general guidelines for the California Transportation Commission and the Department of Transportation to follow in determining (1) when state funds should be used to support fully highway projects and (2) the appropriate magnitude of the state-funded-only program.

Fiscal Impact

No direct state fiscal impact. Enactment of such legislation would indicate the Legislature's priority in use of State Highway Account revenues to fund fully certain highway capital outlay projects.

Reference

Analysis, page 265.

Analysis

Until recently, State Highway Account (SHA) funds have been used primarily to match federal funds. In the current year, however, the department will use $100 million of state funds to fund fully certain noninterstate capital outlay projects, which would otherwise be delayed due to an unanticipated reduction in the level of federal funding. For 1987-88, the Governor's Budget requests a total of $250 million for the same purpose.

The issue of whether the state should fund a portion of its highways program exclusively with state money is a policy issue which the Legislature should decide. The Legislature needs to determine whether a state-funded-only program should be an ongoing, integral part of the highway capital outlay program--or whether state funds should be used only to backfill loss of federal funds--and what the level of funding should be. It also should consider the impact of such a program on state expenditures. ❖

Department of Transportation
Contracting Authority

Recommendation

We recommend that, if the Legislature determines that the Department of Transportation should contract for engineering services, legislation be enacted to provide the department with clear authority and guidelines to contract for these services directly. We further recommend that the legislation require the department to justify the amount of work it proposes to contract on an annual basis through the budget.

Fiscal Impact

No direct state fiscal impact.

Reference

Analysis, page 269.

Analysis

The Department of Transportation plans to contract out for an equivalent of 270 personnel-years of engineering services in the current year. For 1987-88, it proposes to contract for an equivalent of 425 personnel-years of services. These services would supplement the department's staff to perform design and engineering work on highway capital outlay projects. However, the department's authority to contract for engineering work, which is similar in nature to work currently performed by department staff, is being challenged in court. Because of legal issues regarding the department's authority to contract directly, the department currently contracts through cooperative agreements with local agencies. Under these agreements, a city or county provides engineering services with its staff or may hire a consultant to perform the work.

Our review indicates that contracting indirectly through cooperative agreements (1) is limited by the expertise and staff available in local agencies and (2) is more costly because the overhead of local agencies is included in the contract costs. Contracting directly is more efficient than the current method. Consequently, if the Legislature determines that departmental staff should be augmented with contract services, legislation should be enacted to provide the department with authority to contract directly for that purpose. Although such legislation would not necessarily reduce legal challenges, it would allow the department to more actively seek to contract portions of its work. ❖

Department of Transportation
Los Angeles Metro Rail Project

Recommendation

We recommend that current law be amended to allow local agencies to reserve funds for construction of the San Fernando Valley segment of the Los Angeles Metro Rail project in lieu of the current requirement to begin such construction by September 1987.

Fiscal Impact

Eliminates risk that $70 million in state-mandated public facilities could prove unusable if it is impossible to join those facilities with the downtown Metro Rail segment. Under such circumstances, the state could be required, under current law, to reimburse local agencies for the cost of the mandated facilities.

Reference

Analysis, page 278.

Analysis

The Los Angeles Metro Rail project is planned as a transit guideway project of approximately 18 miles running from Union Station in downtown Los Angeles to a North Hollywood station in San Fernando Valley. Construction on the first 4.4-mile downtown segment of the project began in September 1986.

Chapter 617, Statutes of 1984, requires construction to begin on the San Fernando Valley segment of the project one year after construction begins on the downtown segment of the project--by September 1987. In addition, the amount spent on constructing the San Fernando Valley segment in any year must not be less than 15 percent of the nonfederal funds spent in the previous year to construct the other segments of the project. Consequently, during the period of downtown construction, about $70 million would be required to be spent on the San Fernando Valley segment.

Chapter 617 was intended to provide assurance that the San Fernando Valley segments of the project would be completed in the manner originally conceived. However, at this time, a route alignment for the entire rail project has *not* been adopted, and commitment of federal funds is not certain. Thus, proceeding with the construction of stations and tunnels in the San Fernando Valley in September 1987 would run the risk that these facilities (1) may not be of use to the public for many years and (2) may require major increases in state and local funding of the project. ❖

Department of the California Highway Patrol
Helicopter Expenditures

Recommendation

We recommend enactment of legislation requiring allied agencies and other governmental entities utilizing the California Highway Patrol's (CHP) helicopter services to reimburse the patrol for its costs.

Fiscal Impact

Potential savings up to $3.6 million annually to the Motor Vehicle Account (MVA) resulting from increased reimbursements to CHP from local government entities that utilize the department's helicopter services.

Reference

Analysis, page 293.

Analysis

For 1987-88, the patrol is requesting $5.4 million to support its five helicopters which are used for the following purposes: (1) CHP law enforcement and traffic management, (2) assistance provided to allied agencies, (3) emergency medical services, and (4) search and rescue missions. Currently, all helicopter program activities are supported by the MVA.

Our analysis indicates that, of the $5.4 million requested, almost $3.6 million ($2.3 million for direct charges and $1.3 million for indirect operational costs), or 66 percent, is for allied agency assistance. Thus, on a cost basis, the CHP helicopter program primarily serves local law enforcement agencies.

The use of funds from MVA to support all of the costs of the helicopter program, without any reimbursements from local agencies, does not appear to be justified. Thus, we recommend the enactment of legislation requiring allied agencies and other local entities to reimburse the department for helicopter services. ❖

Department of the California Highway Patrol
Vehicle Towing and Storage Costs

Recommendation

We recommend enactment of legislation to clarify whether costs for towing and storing of vehicles seized as evidence for court cases are the responsibility of the California Highway Patrol (CHP) or local courts.

Fiscal Impact

Potential savings of at least $800,000 annually to the Motor Vehicle Account (MVA) if legislation establishes that such costs are the responsibility of local courts, rather than the state.

Reference

Analysis, page 293-294.

Analysis

Traditionally, costs incurred by the CHP to tow and store vehicles seized as evidence for the investigation and prosecution of crimes have been borne by the court in which the criminal case was prosecuted. In March 1986, the Attorney General issued Opinion No. 85-804, however, which (1) directed CHP to pay vehicle towing and storing charges incurred prior to the time the court begins criminal proceedings and (2) directed the courts to pay for all towing and storage costs incurred from the time prosecution begins until it ends.

Our analysis indicates that the state payment of towing and storage charges (proposed to be $800,000 in 1987-88) for vehicles seized as court evidence represents a significant departure from current policy. More importantly, implementation of the Attorney General's opinion requires significant new expenditures from the MVA. Such expenditures may conflict with other legislative priorities.

Given these new funding demands, we recommend the enactment of legislation to clarify the Legislature's intent as to whether vehicle towing and storage charges related to court prosecution activities are the responsibility of the state or local courts. ❖

State Water Resources Control Board
Underground Tank Cleanup Oversight

Recommendation

We recommend legislation to authorize fees and cost recoveries from the owners of leaking underground tanks in order to provide the State Water Resources Control Board and Regional Water Quality Control Boards with sufficient resources to oversee the cleanup of all sites where underground tanks are leaking. We further recommend that this legislation authorize the board to (a) borrow up to $8 million from the General Fund in 1987-88 in anticipation of future fee revenues and cost recoveries in order to avoid delays in cleaning up leak sites and (b) contract with local governments to oversee site cleanups for which they have the technical expertise.

Fiscal Impact

Would generate approximately $8 million annually in fees from the owners of leaking underground tanks, and would allow the board to borrow up to $8 million from the General Fund in 1987-88, which would be repaid with future fee revenues.

Reference

Analysis, page 491.

Analysis

The state board estimates that a total of 1,900 sites with tank leaks have been reported to the regional boards and are awaiting cleanup. The state board also indicates that, with current staffing levels, it and the regional boards are able to oversee a caseload of approximately 750 site cleanups. Thus, there are about 1,150 reported cases of leaking underground tanks that the state and regional boards currently are unable to address. Moreover, the backlog is growing because about seven times more new cases are being reported to the regional boards than the expected number of completed cleanups for this year. If reports of additional leak sites continue at the same rate as during the last half of 1986, the unaddressed backlog could grow to more than 2,000 sites by July 1987.

We estimate that the board will need an augmentation of $8 million and 143 personnel-years of staff to oversee the cleanup of

leaking underground tanks in 1987-88. In previous years, we have recommended General Fund augmentations to finance the oversight of underground tank cleanups. As an alternative, we now recommend legislation which allows the board to charge fees and to recover costs from the owners of leaking underground tanks. The fee revenues would provide the state and regional boards with sufficient resources to oversee the cleanup of all sites with leaking underground tanks. ❖

Employment Development Department
Payment of Local Entity Unemployment Insurance Costs

Recommendation

We recommend the enactment of urgency legislation reverting $69 million appropriated from the General Fund to reimburse local entity Unemployment Insurance (UI) costs.

Fiscal Impact

Would provide the Legislature with $69 million to support its fiscal priorities.

Reference

Analysis, page 693.

Analysis

In response to a 1984 court decision which held that the cost of providing UI coverage to employees of local entities was a state-mandated cost, the Legislature enacted Ch 1217/85 appropriating $44 million from the General Fund to pay these costs in 1984-85 and 1985-86. The Legislature appropriated an additional $25 million from the General Fund in the 1986 Budget Act to pay local entity UI costs in 1986-87. To date, none of these funds has been disbursed.

The 1987 Budget Bill (Item 8885-495) proposes to revert the undisbursed balance of the $44 million as of June 30, 1987. The undisbursed balance of the remaining $25 million also will revert to the General Fund as of June 30, 1987. This proposal raises the following issue.

Should the Legislature revert these funds? Legislative Counsel advises that, as a result of a recent state Supreme Court decision *(County of Los Angeles v. State of California)*, the state is *not* required to pay the costs of providing UI benefits to employees of local entities. Consequently, we recommend urgency legislation that reverts the $69 million to the General Fund. We make this recommendation because, in the absence of further legislative direction, the Controller still has an obligation to disburse these funds. ❖

Department of Corrections
Extend Work/Training Program to Technical Parole Violators

Recommendation

We recommend legislation allowing parole violators to earn work credits to reduce their parole revocation sentences in the same way that inmates earn work credits to reduce their sentences under the existing work/training incentive program.

Fiscal Impact

General Fund savings of approximately $89 million in prison operating costs in 1987-88 and annually thereafter. This is based on the assumptions that (1) the legislation would take effect on July 1, 1987 and (2) the provisions would affect all technical parole violators who are incarcerated on the measure's operative date.

Reference

Analysis, page 815.

Analysis

The inmate work/training incentive program, which was established by Ch 1234/82, was designed to reduce unproductive idleness of inmates and provide them with valuable work and training experience. Current law specifies that "every prisoner shall have a reasonable opportunity to participate in a full-time credit-qualifying assignment in a manner consistent with institutional security and available resources."

The work/training incentive program reduces incarceration costs by reducing the time many inmates serve in prison. This is because the program allows inmates who work or participate in a *full-time* educational or vocational program to earn work credits that reduce their sentence by one month for each month of such participation. Other inmates, such as those who participate less than full time, earn one month of credit for every three months of eligibility or participation.

In spite of the legislative policy that all inmates shall receive work credits if they participate in a work or education program, or if they wish to participate but are unassigned through no fault of their own, *parole violators who are returned to custody for technical violations of the conditions of their parole currently may not*

earn work credits. Although these violators are housed in state prison and treated like other inmates in other respects, they technically are in prison under the authority of the Board of Prison Terms (BPT). Board policy does not allow these individuals to earn work credits.

The Legislature has statutorily adopted the policy that every prisoner shall have a reasonable opportunity to participate in a full-time credit-qualifying assignment. Although the BPT could change its policy administratively to allow technical parole violators to earn work credits, it has not done so. Accordingly, we recommend that legislation be enacted to clarify the law to specifically extend this policy to technical parole violators.

Because of the established legislative policy regarding the inmate work program and the potential for major General Fund savings in 1987-88, we recommend that the legislative changes be adopted either in urgency legislation or in companion legislation to the Budget Bill. ❖

Youthful Offender Parole Board
Legislative Review Of Board Regulatory Proposals

Recommendation

We recommend legislation to provide for legislative review and approval of Youthful Offender Parole Board (YOPB) proposals which modify parole consideration date regulations in such a way as to affect state costs.

Fiscal Impact

Would enable the Legislature to participate in decisions which have a major impact on the amount of state funds needed to finance the support and capital outlay needs of the Department of the Youth Authority.

Reference

Analysis, page 863.

Analysis

The YOPB's parole release decision-making system is based on "parole consideration dates" (PCD), which represent the period the board believes the ward should remain in a Youth Authority institution. In November 1985, the board approved major revisions in the parole consideration date structure, which included substantial increases in PCDs for a variety of commitment offenses. The board estimated that these changes would increase the population of the Youth Authority by 531 wards annually by 1990-91.

During budget hearings last year, the Legislature expressed concern about the fiscal and programmatic effects of the board's proposed PCD changes. Of particular concern was the fact that the Youth Authority had no plan to address the housing needs and the increased costs that would be generated by the PCD revisions. Accordingly, the Legislature adopted language in the 1986 Budget Act to postpone the implementation of the new regulations, pending receipt of the Youth Authority's long-range population management plan, and a 30-day legislative review period.

The Governor vetoed this Budget Act language, and the new regulations were adopted without legislative review. The Youth Authority's most recent estimates indicate that these regulations

will result in the need to construct a new 600-bed facility at a capital outlay cost of approximately $62 million, with ongoing operational costs of $18 million annually.

In order to provide the Legislature with some measure of control over these costs, we recommend legislation to provide for legislative review and approval of YOPB proposals to modify parole consideration date regulations. ❖

Department of Education
Continuation High School Funding

Recommendation

We recommend legislation which establishes a separate revenue limit for continuation high schools.

Fiscal Impact

Additional General Fund costs of approximately $500,000 annually to establish and provide cost-of-living adjustments for continuation high school revenue limits. The fiscal impact of workload adjustments to these revenue limits is unknown.

Reference

Analysis, page 931.

Analysis

Current law requires unified and high school districts to maintain one or more continuation high schools (or classes) for students, age 16 and over, as an alternative to the regular instructional program. Funding for continuation schools is provided through two separate mechanisms: the revenue limit, and a small-school funding formula. Only districts with schools established after 1978-79 may receive the small-school funds.

Our analysis indicates that the use of two separate funding mechanisms has resulted in (1) some districts (those with schools established after 1978-79) receiving significantly more funds per pupil than other districts and (2) inconsistencies in the manner in which funds are adjusted for inflation and workload changes.

Since there are no inherent differences between the funding needs of different schools, we believe it would be better to use one uniform funding formula for all schools. Specifically, we recommend that the Legislature create a special revenue limit for continuation high schools, based on the amount of funding per student, including small-school funding, currently received for these schools by each district. If the Legislature also desires to equalize funding rates, it could choose to "level-up" revenue limits to the prior-year statewide average, or to equalize revenue limits in some other manner. ❖

Department of Education
Increase Funding Authority of State Allocation Board for Emergency Classrooms

Recommendation

We recommend urgency legislation to increase from $15 million to $35 million the State Allocation Board's maximum authority to allocate funding resources for this program.

Fiscal Impact

No direct state fiscal impact, but would result in an unknown potential reallocation of state school facilities aid among eligible districts.

Reference

Analysis, page 1006.

Analysis

Through the Emergency Classroom program, the State Allocation Board (SAB) allocates funds for the acquisition and installation of relocatable classroom facilities. The income received from districts that rent these portable classrooms is used by SAB for the construction and installation of additional emergency classrooms. In addition to the rental income, SAB is authorized to allocate up to $15 million from other available resources for the purchase of portable classrooms.

In accordance with this authority, the budget proposes that $15 million be transferred from the State School Building Lease-Purchase Fund to the Emergency Classroom program in 1987-88. Our analysis indicates that the proposed funding in 1987-88 (including rental income) will have been fully exhausted by *current-year* requests made through the end of January 1987, leaving districts which submit applications after this date to wait, at the earliest, until the 1988-89 school year for delivery of these facilities.

If the Legislature were to raise SAB's maximum annual funding authority (from nonrental sources) from $15 million to a new level of $35 million, it would provide the board with (1) the flexibility to allocate an appropriate level of funding for this program and (2) the ability to provide these classrooms at the beginning of the school year, when they have been requested by school districts. Accordingly, we recommend urgency legislation authorizing the board to allocate, from any school facilities aid funds available, up to $35 million annually for the purchase of emergency classrooms. ❖

Department of Education
Program Evaluation

Recommendation

We recommend legislation (1) requiring evaluations of education program effectiveness to be conducted by outside evaluators under contract to the Department of Education or other appropriate state agency; (2) directing the department, when contracting for such evaluations, to implement a competitive bid process that involves appropriate legislative and executive department staff in developing Requests for Proposals and reviewing proposals; and (3) requiring the evaluations to contain specified information.

Fiscal Impact

None.

Reference

Analysis, page 1040.

Analysis

Most evaluations of statewide K-12 education programs in California are performed by the State Department of Education (SDE), or by public- or private-sector contractors under contract to the SDE, the Legislative Analyst's Office, or other state agency, such as the California Postsecondary Education Commission. In our review of the evaluation reports which have been prepared by SDE, we have become concerned with a frequent lack of quality and relevance of those reports to legislative needs.

Specifically, SDE evaluations often either (1) lack the methodological rigor that is necessary to draw confident conclusions from the results or (2) fail to address important policy issues regarding the impact of the program being evaluated.

We have identified four possible explanations for these problems:

- ***Evaluators misunderstand the desired product of evaluation.*** Some evaluations, for example, focus on how a program has been implemented, and ignore questions related to program effectiveness.
- ***Evaluators are "too close" to a program.*** Evaluations are sometimes conducted by program directors or managers,

who find it difficult to assume the level of independence that is necessary to perform an objective review.

- ***Sufficient departmental resources are not provided for a high-quality evaluation.*** Evaluations that are deemed by the department to be of low priority may get "last take" of available resources, resulting in an underinvestment in those projects.
- ***Evaluators are not properly trained.*** Especially when the evaluation is being directed or conducted by a program director, the evaluator is less likely to be thoroughly trained in evaluation design, statistical analysis, or other facets of evaluation. ❖

Higher Education
Capital Outlay Planning Process

Recommendation

We recommend legislation to (1) set forth legislative planning policies and (2) require the University of California, the California State University and the California Community Colleges to prepare long-range enrollment plans and capital outlay plans consistent with the legislative policies.

Fiscal Impact

Would give the Legislature the information it needs to make informed decisions on the state's capital outlay budget for higher education.

Reference

Perspectives and Issues, page 208.

Analysis

Demographic data indicate that California will experience a sharp increase in enrollment in higher education toward the end of the next decade. California's higher education segments need to begin the process of planning for this increase. These plans should be guided by a set of policies and priorities established by the Legislature. In turn, the planning process will give the Legislature the information it needs to anticipate and respond to funding needs. ❖

California Auctioneer Commission
Eliminate Commission

Recommendation

We recommend legislation to eliminate the California Auctioneer Commission because it does not serve a viable purpose. We further recommend that the legislation require auctioneers to post bonds sufficient to cover the estimated proceeds of auctions in order to ensure that consignors will be paid for properties sold.

Fiscal Impact

Annual special fund savings of $181,000. Moreover, a fund reserve of up to $90,000 could be transferred to the General Fund upon termination of the commission.

Reference

Analysis, page 1329.

Analysis

The commission, which was created in 1983, regulates about 1,000 auctioneers and auction companies. The commission's licensing program requires applicants to pass an examination, post a $10,000 surety bond, be fingerprinted, and pay initial fees totaling about $300. The law exempts various types of auction sales from licensure.

In 1985-86, the commission received 178 complaints. About 40 percent of these complaints were from consumers--auction consignors and buyers. Consumer complaints usually fall into one of two categories: (1) consignors not being paid by auctioneers for property sold or (2) concerns over the manner in which the auction was conducted. The commission has revoked nine licenses and suspended one license over the last two and one-half years. The suspension and revocations were in conjunction with claims being filed by consignors against the licensees' bonds. A majority of the bond hearings have resulted from the auctioneer or auction company being insolvent or filing for bankruptcy. The commission has recovered about $30,000 annually over the last two years. However, the amount recovered represents only 20 percent and 30 percent of the total amount claimed for 1985-86 and the first half of 1986-87, respectively.

Our analysis indicates that the commission could be eliminated without adversely affecting the public. The commission's licensing

and bonding programs do not appear to protect the public adequately against fraudulent practices, insolvencies or bankruptcies. This is because the $10,000 bond is too low to protect many consignors who have sale property valued in excess of that amount. As a consequence, the court system appears to offer a better avenue for the public to seek redress against auctioneers. Moreover, state licensing of auctioneers may be misleading to the public because it provides the appearance of state protection despite the insufficiency of the bond requirement. ❖

California Public Utilities Commission
Trucking Deregulation

Recommendation

We recommend legislation to terminate the Public Utility Commission's (PUC) economic regulation of the trucking industry.

Fiscal Impact

Annual reduction of about $17.5 million in industry payments to the Public Utilities Commission Transportation Rate Fund.

Reference

Perspectives and Issues, page 221.

Analysis

In April 1986, the PUC issued a decision that increased the overall level of rate regulation for trucks. This decision was intended to address concerns regarding profitability, safety and service.

Our review of the information available on the impact of trucking regulation indicates that (1) the industry does not fit the criteria for an industry in need of regulation, (2) states that have deregulated have not experienced the problems alleged to occur under deregulation, and (3) the link between economic regulation and safety is weak. Accordingly, we recommend that the Legislature enact legislation terminating the PUC's economic regulation of the trucking industry.

At the same time, we conclude that the industry is in need of continued safety regulation. Our analysis indicates, however, that safety can best be achieved through *direct* enforcement activity by the California Highway Patrol. ❖

State Appropriations Limit

Recommendation

We recommend legislation to modify the formula which determines what portion of the state's aid to school districts is counted against their appropriations limits. In addition, we recommend that the Legislature clarify its intent that state payments to the State Teachers' Retirement System are made for purposes of reducing that system's unfunded liability.

Fiscal Impact

Would allow the state to avoid a potential disruption in its expenditure program for the current and budget years.

Reference

Perspectives and Issues, page 111.

Analysis

The state's appropriations limit required by Article XIII B of the Constitution has become a major budget issue. It is likely that the state will *exceed* its limit in both 1986-87 and 1987-88 in the absence of action by the Legislature.

Our analysis has identified two statutory changes which could bring the state into compliance with the appropriations limit.

First, when the Legislature implemented Article XIII B in 1980 (SB 1352), it provided that about 60 percent of *state aid* to K-12 school districts would be counted against the state's appropriations limit, while the other 40 percent would be counted against the local (K-12 school districts) appropriations limits. This division of state funds was intended to maximize the growth of the state's appropriations limit, and to minimize the amount of any unused appropriations capacity at the local level. Because of unforeseen circumstances, however, it now appears that *local* school districts (rather than the state) have a sizeable amount (possibly in excess of $500 million) of unused appropriations authority. The state could take advantage of this unused local authority by changing the division of state aid between the state and local limits. In effect, this change would result in more state aid being counted against the local limits, and less aid being counted against the state's limit. As a result, the total amount of appropriations subject to the state's limit would decline, thereby "freeing-up" appropriations authority for other

state purposes. This change would have no effect on the amount of funds provided by the state to K-12 school districts.

The second change which would improve the state's position relative to the limit involves the definition of "indebtedness." The Legislature could clarify its intent that the state's payments to the State Teachers' Retirement System, made pursuant to Ch 282/79 (AB 8), are made for purposes of reducing that system's "indebtedness existing or legally authorized as of January 1, 1979." Our analysis indicates that these payments were indeed authorized for this purpose, but were not treated as debt in the determination of the state's 1978-79 appropriations limit. Because the state's appropriation for this purpose has grown faster than the appropriations limit, it would be to the state's advantage to change the treatment of this appropriation. By making this change, these appropriations could be treated as exempt from the limit. ❖

State Bonds After Federal Tax Reform

Recommendation

We recommend legislation establishing specific statutory criteria for making bond allocation decisions. We further recommend that the Legislature ensure its views are represented during the allocation proceedings by enacting legislation which allows its members to participate on an ex-officio basis.

Fiscal Impact

No direct fiscal impact on state or local governments.

Reference

Perspectives and Issues, page 127.

Analysis

New federal law significantly limits the volume of tax-exempt bonds which California's governments will be able to issue in the future for "private activities," such as housing and industrial development. An average of about $8 billion annually of such bonds have been sold over the past three years, whereas these sales must be limited to $2 billion in 1987 and $1.3 billion in 1988. As a result, California's state and local governments will be required to reduce dramatically their future use of tax-exempt bonds for private activity purposes, in order to comply with the new volume limit.

The reductions will require decisions on how to allocate bonding authority between state and local governments and among specific programs and projects. At present, however, the Legislature has no direct involvement in the bond allocation process. Instead, the process is handled by the California Debt Limit Allocation Committee (CDLAC), which consists of the State Treasurer, State Controller, and the Governor (or in his absence the Director of Finance). We believe that legislative involvement is warranted because: (1) the Legislature has general responsibility for establishing and reviewing bond programs; (2) bond financing plays an important role in many program areas; and (3) the ability of the state to market debt can be affected by the total volume of local tax-exempt debt offered to investors. ◆