



contributions collected were promptly and completely deposited into the Commission's money market fund. OAG concluded that a lack of control over these areas by the Athletic Commission could result in some boxers receiving pensions for which they have not paid. The Commission also missed opportunities to detect an embezzlement of over \$14,000 in pension funds by an employee of the Department of Consumer Affairs. Finally, OAG noted that the database used for the pension contained many errors that could result in incorrect refunds of pension distributions or incorrect payments of pension benefits to boxers.

To remedy these problems, OAG recommends that the Athletic Commission establish a system to track the amounts of purses earned by boxers; ensure that the amounts of contributions collected after each show can be reconciled with the amounts of contributions deposited into the money market fund; monitor the amount of time it takes to deposit contributions into the money market fund to ensure that these contributions are promptly invested, and take action to correct unnecessary delays; ensure that accounting records reflect all assets, including those in the money market fund; ensure that the interest rate, risk, and liquidity of its investments are reviewed periodically to determine whether other investments would provide a better rate of return; ensure that information about boxers is accurate when entered into the database; and complete its identification and correction of errors in the database.

Other Reports. During the past few months, OAG has also issued the following reports: *A Review of the Management Practices and Financial Operations of the Riverside Community College District* (Report No. F-019, June 1991); *The Lake Elsinore Management Project* (Report No. P-042, August 1991); *A Review of the Division of Labor Standards Enforcement's Handling of the Crowe v. Simpson Attorney Fees Dispute* (Report No. P-033, August 1991); *A Review Concerning Allegations of Conflict of Interest by a Board Member of the Bay Area Rapid Transit District* (Report No. P-036, July 1991); *The Office of State Printing Needs to Strengthen Controls Over Its Electronic Data Processing Resources* (Report No. T-973, July 1991); *A Review of the Board of Equalization's Travel Claims* (Report No. P-026, August 1991); and *An Analysis of Sanctions in the General Relief/General Assistance Programs of Six Counties* (Report No. P-009, August 1991).

LEGISLATION:

SB 1132 (Maddy), as introduced March 8, would require the Auditor General to complete audits in accordance with the "Government Auditing Standards" issued by the Comptroller of the United States. This bill is still pending in the Senate Rules Committee.

LITIGATION:

On June 14, the California Supreme Court granted the legislature's motion for a stay in *Legislature v. Eu*, No. S019660, temporarily blocking a provision of Proposition 140 requiring the legislature to reduce its operating budget 38% by July 1. (See CRLR Vol. 11, No. 3 (Summer 1991) pp. 49-50 for background information.) Lawmakers argued that if the stay were not granted, they would be forced to shut down OAG and the Legislative Analyst's Office—a claim that was hotly disputed by the proponents of Proposition 140. Although the court's decision blocks implementation of the entire budget provision, legislative leaders generally agreed that the stay will be applied only to proposed cuts affecting OAG and LAO.

On September 12, the Supreme Court heard oral argument in the underlying matter, which concerns the constitutionality of Proposition 140. During the 90-minute session, attorneys for the legislature argued that the measure constitutes a revision (rather than a mere amendment) of the state constitution, which cannot be accomplished by initiative. In defense of Proposition 140, Deputy Attorney General Manuel Medeiros argued that because the measure did not affect the legislature's traditional powers, no constitutional rights are violated. A ruling from the court is expected by the end of the year.

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

Executive Director:
Jeannine L. English
Chairperson: Nathan Shapell
(916) 445-2125

The Little Hoover Commission was created by the legislature in 1961 and became operational in the spring of 1962. (Government Code sections 8501 *et seq.*) Although considered to be within the executive branch of state government for budgetary purposes, the law states that "the Commission shall not be

subject to the control or direction of any officer or employee of the executive branch except in connection with the appropriation of funds approved by the Legislature." (Government Code section 8502.)

Statute provides that no more than seven of the thirteen members of the Commission may be from the same political party. The Governor appoints five citizen members, and the legislature appoints four citizen members. The balance of the membership is comprised of two Senators and two Assemblymembers.

This unique formulation enables the Commission to be California's only truly independent watchdog agency. However, in spite of its statutory independence, the Commission remains a purely advisory entity only empowered to make recommendations.

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

The Commission seeks to achieve these ends by conducting studies and making recommendations as to the adoption of methods and procedures to reduce government expenditures, the elimination of functional and service duplication, the abolition of unnecessary services, programs and functions, the definition or redefinition of public officials' duties and responsibilities, and the reorganization and or restructuring of state entities and programs. The Commission holds hearings about once a month on topics that come to its attention from citizens, legislators, and other sources.

MAJOR PROJECTS:

Costs and Casualties of K-12 Education in California (June 1991), one of the Commission's periodic reports on the state's education system, focuses on where education dollars are being spent and how the state has failed to keep dropouts in school.

According to the report, a key culprit in the drain on educational resources is district-by-district collective bargaining.



INTERNAL GOVERNMENT REVIEW OF AGENCIES

The Commission states that California "has been placed in a straitjacket that limits its decisions in other areas while guaranteeing no better education for the state's children," resulting in high dropout levels and an illiterate and unprepared workforce.

In its report, the Commission made five major findings. First, it stated that current school funding methods prevent school districts from shifting priorities and allocating more money for instruction. Much of California's education money has been restricted by state or federal law for specifically defined purposes, such as food services and child development centers. The report recommends that, in order to allow more flexibility in the decisionmaking of the districts and to further coordinate funding for special programs, the Governor and the legislature should allow additional block grant funding to local school districts. The Commission warns that such a program would need to include sufficient safeguards to ensure that the funds ultimately accomplish the objective of programs identified as being necessary in state statute.

Second, the report found that the collective bargaining process improperly controls how school districts spend the majority of general fund monies; these collective bargaining processes not only regulate school employees' salaries and benefits, but also affect a variety of costs in categories other than instruction. The report recommends that a study be conducted to examine the feasibility of the establishment of a statewide council of recognized exclusive bargaining representatives to carry out the collective bargaining process with a joint council of school districts. In addition, the report recommends a review of the current parameters of what may be included in the collective bargaining process so as to identify areas that might be better removed from the realm of negotiations, as well as a limit on the amount that districts may be reimbursed for mandated cost claims related to collective bargaining costs.

Third, the Commission found that California's K-12 education system continues to operate without adequate controls and with no accountability at the top. According to the report, the current assignment of local authority and responsibility for fiscal decisionmaking, coupled with a primarily state-funded education system, does not ensure the financial stability of the districts. "It appears that many local decisions defy sound fiscal practices, without the state able to exert control early enough to prevent fiscal adversity." Consequently,

many districts are at risk of financial failure which will result in the costly process of the state bailing out the districts. The report recommends that the state's Superintendent of Public Instruction or the State Board of Education be given additional fiscal authority and responsibility when it appears that a district may fail to meet its financial obligations. In addition, the report recommends that penalties be assessed against any school board member who knowingly votes to approve a budget or expenditure which violates current statutory standards and criteria approved by the Board of Education.

Fourth, the report notes that the state's dropout rate now exceeds 20% and that Department of Education statistics are incomplete. Although state law allows the collection of dropout statistics on students leaving school as early as seventh grade, the Department counts dropouts from only the tenth grade forward. The report recommends the implementation of a statewide, student-level database that will incorporate the use of standard student identification numbers in order to track dropouts who later return to school, as well as periodic review of the dropout data sent to the Department by school districts.

Fifth, the report states that if California fails to reduce its dropout rate, the state's economy will be severely affected. Although the figures are imprecise, California's dropout rate indicates that large numbers of students annually leave school without graduating. As a result, California's economy could eventually suffer the consequences. The report recommends that the Governor and the legislature support current successful efforts at dropout prevention and recovery; the Department continue its efforts to develop and implement initiatives that will substantially contribute to the alleviation of the dropout problem; and the Department place special emphasis on the unique problem of Hispanic dropouts.

Conflict of Interest Code Amendments. In July, the Commission announced that, pursuant to Government Code section 87306, it intends to amend its conflict of interest code in Division 8, Title 2 of the California Code of Regulations. Pursuant to Government Code section 87302, the code will designate Commission employees who must disclose certain investments, income, interests in real property, and business positions, and who must disqualify themselves from making or participating in the making of governmental decisions affecting those interests. The written comment period on these

proposed regulatory changes ended on September 9.

Recent Hearings. On August 22, the Commission held a public hearing regarding California's transportation system and needs. The Commission hopes to release a report in January.

DEPARTMENT OF CONSUMER AFFAIRS

Director: Jim Conran

(916) 445-4465

Consumer Infoline: (800) 344-9940

Infoline for the Speech/Hearing Impaired: (916) 322-1700

In addition to its functions relating to its 38 boards, bureaus, and commissions, the Department of Consumer Affairs (DCA) is charged with carrying out the Consumer Affairs Act of 1970. The Department educates consumers, assists them in complaint mediation, advocates their interests before the legislature, and represents them before the state's administrative agencies and courts.

MAJOR PROJECTS:

DCA Issues Final Report on Demise of Bureau of Personnel Services. DCA recently issued its final report to the legislature on the abolition of the Bureau of Personnel Services (BPS). AB 2113 (Johnson) (Chapter 704, Statutes of 1989), the bill which abolished BPS, required DCA to issue a report summarizing the legislation's impact on California consumers. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 74 for background information.) DCA's report indicates that abuse of consumers by employment agencies, while still problematic, has not increased substantially with the abolition of the Bureau. Overall, DCA found minimal evidence of consumer abuse by employment agencies, but found that job listing services, which had accounted for substantial consumer abuse while BPS was operating, continue to warrant special attention.

To that end, the report recommends three statutory changes to protect consumers. First, DCA suggests that the criminal penalty for abuses by job search firms increase from a misdemeanor to a "wobbler," which would be treated, in the discretion of the district attorney and judge, as either a misdemeanor or a felony. Second, the report recommends that all contracts between an employment firm and a consumer be required to disclose the firm's agent for service of process; DCA anticipates that this