



would create more accountability on the part of firms and increase the potential for recovery on the part of abused consumers who may choose to seek redress through litigation. Third, the report advocates sanctions for failure on the part of employment firms to file the appropriate surety bond.

In addition to these statutory changes, DCA's report recommends increasing consumer education and outreach in order to prevent abuse by job listing firms and employment agencies. Specifically, the report suggests consumer publications targeted at communities impacted by such consumer fraud and abuse.

LEGISLATION:

Preprint SB 1 (Presley), as proposed April 2, would establish the Board of Legal Technicians in DCA. The bill would create seven initial categories of legal technicians to be regulated by a five-member board consisting entirely of public members. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 201 for background information on the bill.) The bill includes measures for the discipline of new licensees, notification to consumers of "non-attorney" status, and the creation of a fund to compensate consumers injured through licensee dishonesty. Senator Presley is expected to introduce the bill during the 1992 legislative year.

SB 771 (Beverly) and **AB 1827 (Bentley)** are DCA-sponsored clean-up bills to SB 2627 (Beverly) (Chapter 1305, Statutes of 1990), which enacted the new Small Claims Act at Code of Civil Procedure section 116.110 *et seq.* (See CRLR Vol. 11, No. 1 (Winter 1991) p. 44 for background information.)

SB 771, which was signed by the Governor on October 13 (Chapter 915, Statutes of 1991), revises the small claims court law with respect to various procedural and jurisdictional matters, including extensions of time, prejudgment attachment, retention of jurisdiction following judgment, limits on multiple claims, fees for service by mail, pretrial discovery, service on out-of-state motorists, postponements, venue, fictitious business names, appearance by representative, assistance for parties not fluent in English, the content, delivery, and recordation of judgments, motions to vacate a judgment, fees, costs, notices, and other procedural matters on appeal, enforcement of judgments, and entry of satisfaction of judgments.

AB 1827, which was signed by the Governor on July 22 (Chapter 133, Statutes of 1991), removes unlawful detainer actions from the jurisdiction

of small claims court; authorizes a small claims court to continue matters in order to permit the parties to attempt resolution by informal or alternative means; and specifies that upon appeal of a small claims court judgment to the superior court, no party has a right to a trial by jury.

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 3 (Summer 1991) at page 52:

AB 1555 (Filante), as amended May 30, would, among other things, require DCA to administer and enforce the provisions of the Filante Tanning Facility Act of 1988; make it unlawful for any and all tanning facilities to operate at a specific location without a license issued by DCA; and permit DCA to deny, suspend, or revoke a license. This two-year bill passed the Assembly on June 18 and is pending in the Senate Business and Professions Committee.

AB 168 (Eastin) would create the Board of Legal Technicians in DCA and require every person who practices as a legal technician to be licensed or registered by the Board, which would determine which areas require licensure and which require registration. This two-year bill is still pending in the Assembly Committee on Consumer Protection, Governmental Efficiency and Economic Development.

AB 1893 (Lancaster), as amended August 19, is DCA's omnibus bill which makes numerous changes to existing laws providing for the licensing and regulation of various businesses and professions pursuant to the provisions of the Business and Professions Code. This bill was signed by the Governor on October 7 (Chapter 654, Statutes of 1991).

AB 1382 (Lancaster), as amended July 18, no longer applies to DCA agency licensees in general and specifically concerns licensees of the Contractors State License Board (*see supra* agency report on CSLB for details).

SB 961 (Senate Business and Professions Committee), as amended April 30, provides that the DCA Director may initiate an investigation of any allegation of misconduct in the preparation, administration, or scoring of an examination which is administered by a DCA board, or in the review of qualifications which are a part of the licensing process of any DCA board. SB 961 also allows the DCA Director to intervene in any matter of any DCA board, where an investigation by DCA's Division of Investigation discloses probable criminal activity of a board, its member(s), or its employee(s). This bill was signed by the Governor on October 13 (Chapter 1013, Statutes of 1991).

OFFICE OF THE LEGISLATIVE ANALYST

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Created in 1941, the Legislative Analyst's Office (LAO) is responsible for providing analysis and nonpartisan advice on fiscal and policy issues to the California legislature. LAO meets this duty through four primary functions. First, the office prepares a detailed, written analysis of the Governor's budget each year. This analysis, which contains recommendations for program reductions, augmentations, legislative revisions, and organizational changes, serves as an agenda for legislative review of the budget.

Second, LAO produces a companion document to the annual budget analysis which paints the overall expenditure and revenue picture of the state for the coming year. This document also identifies and analyzes a number of emerging policy issues confronting the legislature, and suggests policy options for addressing those issues.

Third, the Office analyzes, for the Assembly Ways and Means Committee and the Senate Appropriations and Budget and Fiscal Review Committees, all proposed legislation that would affect state and local revenues or expenditures. The Office prepares approximately 3,700 bill analyses annually.

Finally, LAO provides information and conducts special studies in response to legislative requests.

LAO staff consists of approximately 75 analysts and 24 support staff. The staff is divided into nine operating areas: business and transportation, capital outlay, criminal justice, education, health, natural resources, social services, taxation and economy, and labor, housing and energy.

MAJOR PROJECTS:

Governor Signs Budget. Shortly before midnight on July 16, Governor Wilson signed a \$55.7 billion 1991-92 state budget package consisting of over fifteen separate measures which cut expenditures and raise revenues. The bills were the final result of negotiations between Wilson and the legislature to close a record \$14.3 billion projected budget deficit. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 52 and Vol. 11, No. 2 (Spring 1991) p. 49 for background information.)

The new budget resulted in the following changes:

-A \$0.0125 increase in the sales tax effective July 15. In addition, the sales tax was extended to newspapers,



magazines, bottled water, snacks, candy, and fuel for ships and aircraft. The increase in sales tax is projected to raise \$4 billion for state and local governments; \$0.005 of the sales tax increase is temporary and will be repealed automatically in 1992 or 1993, depending on the condition of the state budget.

-An increase in the income tax rate from 9.3% to 10% for single filers who earn more than \$100,000 and joint filers who earn \$200,000. The rate will go to 11% for single filers who earn \$200,000 and joint filers who earn \$400,000. The new rates will be in effect only through the 1995 tax year.

-The tax on beer was raised \$0.16 per gallon; the tax was raised \$0.01 per gallon on wine with 14% or less alcohol content and \$0.02 per gallon on wine with more than 14% alcohol; the tax on distilled spirits of 100 proof or less was raised \$1.30 per gallon, and the tax on distilled spirits of more than 100 proof was increased by \$2.60 per gallon. These tax increases are estimated to provide \$230 million for the general fund.

-Effective August 1, vehicle license fees were increased from \$20-\$60 per vehicle depending upon value and age; this increase is anticipated to raise \$769 million for counties.

-\$1.6 billion in Public Employee Retirement System (PERS) earnings will be transferred to the general fund. The money will be taken from two supplemental benefit programs designed to protect retirees' incomes from inflation. (See *infra* LITIGATION for related discussion.)

-Under realignment, counties will assume more responsibility to administer and pay for public health, mental health, and indigent welfare programs; part of the state's new tax revenues will be given to the counties to help pay for these programs.

-Aid to Families with Dependent Children (AFDC) grants will be reduced by 4.4%, the first such reduction in state history. All automatic cost-of-living adjustments (COLA) for welfare families, including the aged, blind, and disabled, will be suspended for five years. The benefits reduction is estimated to save \$478 million. The suspension in COLA increases is expected to save about \$5 billion over the next five years.

-Workers will be prohibited from filing workers' compensation stress claims within the first six months on the job. The Governor had originally sought a provision requiring that stress claims be at least 50% attributable to the workplace and that good faith personnel actions, such as discipline, lay-

offs, or terminations, be immune from stress compensation.

-A provision in current law that allows individuals and businesses to write off losses against future tax bills will be extended through 1996.

-Fees for students in the University of California (UC) and California State University systems were increased by 20%. The nine-campus UC system will receive \$2.2 billion, about the same as in 1990-91. The twenty-campus CSU system will receive \$1.66 billion, about \$4 million less than the current year and \$402.5 million less than requested.

-Public schools will net about \$17.2 billion after repaying the state a \$1.2 billion Proposition 98 "overpayment" from last year; the overpayment was the result of inflated revenue projections for the 1990-91 fiscal year.

In sum, higher taxes are projected to bring in \$7.3 billion in additional revenues during fiscal year 1991-92. The budget also requires a \$5.1 billion reduction in state services and the saving of another \$2 billion through accounting changes and various bookkeeping transfers. Overall, spending is anticipated to grow in the new budget year by approximately 5%.

As a result of the new budget, as many as 20,000 positions could be eliminated in the public sector. The Governor has requested that all state employees take a 5% pay cut and pick up the increases in the costs of their health insurance; the salaries of political appointees and top administrators have already been cut by 5% (see *infra* LITIGATION). The legislature refused to enact legislation which would have allowed the Governor to short-circuit collective bargaining talks by imposing layoffs, pay cuts, and furloughs.

State Spending Plan for 1991-92. In September, LAO released its report summarizing the fiscal effect of AB 222 (Vasconcellos), the 1991 Budget Act (Chapter 118, Statutes of 1991), including the effects of important measures accompanying AB 222 which were enacted as part of the overall state spending plan for fiscal year 1991-92. The report recounts the history of this year's budget crisis; summarizes how the crisis was resolved; highlights the funding levels that were ultimately approved for the state's major program areas; provides detailed descriptions of the major structural components of the budget plan; and discusses projected state revenues for 1991-92, including the effects of revenue legislation accompanying the budget bill and the key assumptions upon which the revenue estimates are based.

Sources and Uses of K-12 Education Funding Growth. On August 21, LAO released an issue paper on sources and uses of K-12 education funding growth in California. Over the past ten years, total funding for K-12 education has grown from \$12.7 billion in 1982-83 to \$27 billion in 1991-92. After adjusting for inflation, the total funding per unit of average daily attendance (ADA) in 1991-92 is 13% higher than the level of per-ADA funding in 1982-83, the year immediately prior to the enactment of SB 813 (the state's major school funding and reform measure). The 1991 Budget Act provides \$3 billion more in funds for K-12 education than would have been needed to keep pace with overall growth and inflation since 1982-83.

In the issue paper, LAO identifies the major sources of the education funding growth and the specific uses to which school districts have put these funds, focusing on those program areas that have grown at higher than average rates. LAO's findings indicate that, of the \$3 billion net increase in education funding, approximately \$2.5 billion (84%) is attributable to new state programs enacted since 1982-83. Examples of these programs include incentive funding for increasing the length of the school day and year and for increasing beginning teachers' salaries; reforms such as equalizing general purpose spending per pupil; other legislatively-enacted special programs such as the state school facilities aid program; and voter-approved initiatives such as the state lottery.

School district expenditure data for 1989-90 (the most recent year for which such data are available) indicate that roughly 80% of this additional funding was used for employee compensation. These data also indicate that by 1989-90:

-overall employee compensation-related expenditures had grown to a level 19% higher than the amount required to compensate for enrollment growth and inflation since 1982-83;

-within the employee compensation category, the fastest growing components were spending for classified administrator salaries, teacher salaries, and employee benefits;

-the additional education funding had resulted in no net reduction in statewide pupil-to-teacher ratios; and

-a significant portion of the additional funding had been spent on increasing average base teacher salaries—which in 1989-90 were 15% higher (after inflation) than in 1982-83.



LAO concludes that school districts tend to raise teachers' salaries rather than reduce class sizes, and recommends that if the legislature wishes to encourage class size reduction as a strategy for educational improvement, it may need to earmark funding specifically for this purpose.

A Review of the Department of Fish and Game. On September 3, LAO released a special study reviewing the Department of Fish and Game (DFG). The purpose of the study was to provide the legislature with some background information and guidance in solving DFG's fiscal and other problems. The study focuses on three key issues which LAO believes hamper DFG's performance: (1) the lack of clarity of DFG's mission; (2) organizational problems; and (3) fiscal concerns. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 1 for background information.)

First, LAO notes that DFG historically has provided services and programs primarily for those who use or consume the state's wildlife and natural habitat resources, such as individuals who hunt and fish. However, as California's population becomes increasingly urbanized, this traditional constituency group has diminished. DFG's responsibilities relating to general habitat and endangered species protection have increased, requiring more programs which protect the overall resource base. LAO contends that within these dual roles, DFG lacks a clear focus on exactly what its relative priorities are, and how it should allocate its fiscal resources among its competing objectives.

Second, LAO states that DFG's organizational structure has drifted gradually away from its original, decentralized form to a more centralized organization. Communication problems between DFG headquarters and regional managers hamper the effectiveness of staff in implementing programs.

Third, LAO states that the demographic changes that have affected DFG's role over time have also translated into a significant change in DFG's funding base. In the late 1950s, purchasers of hunting and fishing license contributed nearly 100% of the revenues used to fund DFG; today, these individuals contribute barely 50%. Replacing these revenue sources are various types of environmental funds, such as the Environmental License Plate Fund and the Public Resources Account (Proposition 99). According to LAO, DFG's fiscal problems include short-term difficulties in accurately estimating revenues, and a longer-term prob-

lem in that anticipated future revenues may be insufficient to keep pace with projected program demands. In addition, LAO notes that complex statutory and constitutional restrictions limiting the uses of the Department's own special funds distort the budgeting process and obstruct effective policy implementation.

In order to address DFG's problems, LAO recommends the following steps:

- The legislature should reconcile the dual missions that DFG currently tries to implement simultaneously, setting a clear policy of priorities for those times when DFG's resource use and the resource protection missions conflict.

- DFG should re-evaluate its structural organization and its allocation of staff.

- DFG should continue to make improvements in its revenue-estimating methodologies in order to avoid proposing the expenditure of funds not likely to materialize.

- When appropriating funds for support of DFG's programs, the legislature should establish a policy of considering the level of uncertainty in the Department's revenue estimates, and establishing prudent reserves which reflect the level of uncertainty of these estimates.

- The legislature should consider a number of options to address DFG's long-run fiscal problem of program demands exceeding available resources. For example, it could reduce workload by eliminating or reducing some DFG operations, expand DFG's financial resource base through greater use of broad-based funding and/or various user fees or "impact fees," and improve the allocation of available resources through better priority setting.

- DFG should institute a planning process in order to determine long-term objectives and set annual program priorities.

- The legislature should continue to support departmental operations primarily from special funds and repeal various overly-narrow statutory and constitutional constraints currently placed on the use of these funds. In combination with the previous step, LAO predicts that this would enable the legislature to establish priorities for the Department and then fund the highest priorities first.

LEGISLATION:

SCR 52 (Alquist), as introduced July 18, declares that the Supplemental Report on the 1991 Budget Bill reflects the intents of both houses of the legislature in adopting the Budget Act of 1991; declares that the report shall be inter-

preted as the intent of the legislature by the various agencies of state government affected by the statements contained in the report; and requires LAO to transmit copies of the appropriate parts of the report to the agencies to which the report is directed. This resolution was chaptered on September 26 (Chapter 133, Resolutions of 1991).

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 3 (Summer 1991) at page 53:

AB 34 (Wyman), as amended June 19, would require LAO to prepare a condensed version or digest of each impartial analysis which the Office is required to prepare for each measure appearing in the official ballot pamphlet. This bill is pending in the Senate Elections Committee on Elections and Reapportionment.

AB 1303 (Lempert), as introduced March 6, would require LAO to perform, or cause to be performed, a study regarding both the extent to which the state's public elementary and secondary schools would benefit from the temporary service of employees of California businesses who have expertise in mathematics, science, or other subject areas as teachers in those subject areas, and the nature and amount of tax benefit that would be appropriated for use as an incentive to California businesses to grant a paid leave of absence or sabbatical to qualified employees to permit them to provide that temporary teaching service. This bill is pending in the Assembly Education Committee.

SB 1179 (Alquist), as introduced March 8, would amend existing law which authorizes the Joint Legislative Budget Committee to appoint a Legislative Analyst, and formally establish the Office of the Legislative Analyst in state government. This bill is pending in the Senate Rules Committee.

SB 986 (Alquist), as amended April 18, would delete obsolete provisions and revise others relating to the duties of the Legislative Analyst, and transfer various annual report duties of the Legislative Analyst to specified state agencies. This bill is pending in the Assembly Rules Committee.

AB 1258 (Polanco), as amended April 24, would require the Legislative Analyst to study the efficiency of the state's permitting process as it relates to various environmental protection laws and permit requirements on industrial facilities. This bill is pending in the Assembly Natural Resources 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 LAO and the Office of the Auditor General—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 LAO and OAG.

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.

In *Claypool v. Wilson*, filed on August 1, the Public Employees Coalition is petitioning the Third District Court of Appeal in Sacramento for a stay of legislation—AB 702 (Frizzelle)—that uses \$1.6 billion in Public Employees' Retirement System (PERS) pension reserves to help balance the budget. The suit names PERS as a "friendly" respondent. PERS declined to file suit seeking a stay of AB 702, but stated that any briefs it files will be in support of the employee coalition.

In late September, the Wilson administration filed *Tirapelle v. Davis*, No. 368220 (Sacramento County Superior Court), a suit against state Controller Gray Davis to enforce a provision in the 1991-92 budget cutting the salaries of 27,000 state employees who are managers, supervisors, and political appointees by 5%. On September 23, Davis announced that he would refuse to cut the salaries on grounds the action taken by the Department of Personnel Administration (DPA) was illegal. Governor Wilson and DPA Director David Tirapelle contend that the cuts will save \$35 million—or 750 state jobs—over the course of the year. The court was expected to rule on the administration's motion for preliminary injunction on October 9.

ASSEMBLY OFFICE OF RESEARCH

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Established in 1966, the Assembly Office of Research (AOR) brings together legislators, scholars, research experts and interested parties from within and outside the legislature to conduct extensive studies regarding problems facing the state.

Under the director of the Assembly's bipartisan Committee on Policy Research, AOR investigates current state issues and publishes reports which include long-term policy recommendations. Such investigative projects often result in legislative action, usually in the form of bills.

AOR also processes research requests from Assemblymembers. Results of these short-term research projects are confidential unless the requesting legislators authorize their release.

MAJOR PROJECTS:

California 2000: Biological Ghettos (July 1991) is the sixth volume in the *California 2000* series, which focuses on public policy challenges facing the state as it moves into the 21st century. (See CRLR Vol. 10, No. 1 (Winter 1990) pp. 47-48 for summaries of other AOR *California 2000* reports.) The report, which addresses major issues in land conservation, examines how economic and social pressures, current organizational structures, and legal issues have resulted in the formation of "biological ghettos," defined in the report as isolated parcels of land where wildlife species are forced to exist in a struggle to survive.

The report notes that instead of growing "upward" to conserve land, California's population grows "outward" and consumes land. In the process, scenic landscapes, wildlife diversity, and quality of life deteriorate. The report estimates that 75-90% of some habitats—such as old-growth forests, wetlands, riparian woodlands, and coastal dunes—have already disappeared since California became a state. As a result, at least 73 species of native mammals, birds, plants, amphibians, and fish are known to have been eliminated from the state; hundreds of wildlife species are currently on the brink of extinction.

First, the report examines how economic and social pressures have contributed to the creation of biological ghettos by fragmenting forests, imperiling parks, shrinking wildlife refuges, and depleting other public lands. For

example, extensive timber cutting and the purchase of private lands within state forests have led to fragmentation. These fragmented forests divide wildlife habitats into small parcels which are not large enough to house wildlife which migrate or require large areas to survive.

In addition, the report states that increasing numbers of visitors and expanding residential, commercial, and agricultural development near park boundaries have placed California's parks in peril, while wildlife habitats on public lands face threats from revenue-generating activities such as oil and gas production, livestock grazing, and mining. Most of the revenue generated from these public lands is not earmarked for replacement or improvement of the state's scenic landscapes and wildlife habitats.

Second, the report examines how current organizational structures have failed to protect critical habitats due to scattered decisionmaking, conflicting missions, limited resources, and dislocated data. Presently, decisionmaking for the protection and expansion of public lands is scattered among various state agencies, each operating with sometimes conflicting missions. For example, the Department of Parks and Recreation is both a natural resource protector and a recreation provider; the State Lands Commission is both a public lands protector and a natural resource extractor; the Department of Fish and Game is both a wildlife protector and a hunting and fishing promoter; and the Department of Forestry is both a forest protector and a timber producer. In addition, databases regarding critical wildlife habitats are scattered among various state agencies, resulting in incompatible and inaccessible information which may be outdated or incomplete.

Third, the report describes the impact of legal issues on land conservation. After examining the California Environmental Quality Act, the Forest Practice Act, the California Endangered Species Act, the Land Conservation Act, and the Wildlife Conservation Law, the report concludes that loopholes, lack of uniform interpretation and application, insufficient data disclosure, project delays, and a lack of public participation render these state laws inadequate to protect public lands and critical wildlife habitats.

Finally, the report makes five policy recommendations to protect California's remaining scenic landscapes and critical wildlife habitats:

-create a land conservation database clearinghouse to integrate the state's