

Summary of Recommended Legislation

Office of the Legislative Analyst
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I N T R O D U C T I O N

This report summarizes the recommendations for new legislation contained in the *Analysis of the 1988-89 Budget Bill* and *The 1988-89 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. ♦

Judicial

Guidelines and Priorities for Use of the Trial Court Improvement Fund

Recommendation

We recommend that Ch 1211/87 be amended to require the Judicial Council to present its specific guidelines and funding priorities for the Trial Court Improvement Fund to the Legislature by April 1988 and by December of each subsequent year to allow legislative review prior to hearings on the council's budget.

Fiscal Impact

No direct fiscal effect. Enactment of such legislation may affect the distribution and size of grants to counties from the Trial Court Improvement Fund.

Reference

Analysis, page 13.

Analysis

Among the components of the Trial Court Funding Program made operative by Ch 1211/87 is the Trial Court Improvement Fund. Chapter 1211 specifies that \$20 million shall be appropriated to the fund annually in the Budget Act. Beginning January 1, 1989, the Judicial Council will award grants from this fund to counties which participate in the Trial Court Funding Program for purposes of improving court management and efficiency.

The requirement that the annual appropriation from the Trial Court Improvement Fund be provided in the Budget Act does provide some opportunity for legislative oversight of the Judicial Council's use of the fund. However, there is no mechanism to ensure that the Legislature will be able to review the council's specific guidelines prior to providing the annual appropriation. In order for the Legislature to exercise its authority to oversee and set priorities for the expenditure of state funds, it needs to be apprised of the council's specific guidelines and have the opportunity to express its own preferences for the expenditure of these funds. ♦

Judicial Costs of Administering the Trial Court Improvement Fund

Recommendation

We recommend legislation be enacted to specify that the Judicial Council's costs for administering the Trial Court Improvement Fund be paid from the annual appropriation to the fund, and be limited to 5 percent of the annual \$20 million appropriation.

Fiscal Impact

Enactment of such legislation would result in annual General Fund savings of \$1 million.

Reference

Analysis, page 14.

Analysis

Among the components of the Trial Court Funding Program made operative by Ch 1211/87 is the Trial Court Improvement Fund. Chapter 1211 specifies that \$20 million shall be appropriated to the fund annually in the Budget Act. Beginning January 1, 1989, the Judicial Council will award grants from this fund to counties which participate in the Trial Court Funding Program for purposes of improving court management and efficiency.

In addition to the \$20 million requested for grants from the Trial Court Improvement Fund, the budget requests \$958,000 from the General Fund for nine positions to administer the grant program. Our review suggests that the council's administrative expenses related to the grant program should be paid from the special fund which supports the program (the Trial Court Improvement Fund) and should be limited to 5 percent of the annual \$20 million appropriation. This arrangement would be consistent with the manner in which the Legislature has funded the administrative costs of many local grant programs in prior years. ♦

State Block Grants for Trial Court Funding *County Notification of Intent to Participate in the Trial Court Funding Program*

Recommendation

We recommend enactment of legislation to amend the date by which counties must notify the state of their intention to participate in the Trial Court Funding Program.

Fiscal Impact

No direct fiscal effect. Enactment of such legislation would allow the Legislature to address more accurately the funding requirements of the Trial Court Funding Program during the budget process.

Reference

Analysis, page 23.

Analysis

The dates by which counties must notify the state of their intention to participate in the Trial Court Funding Program present a significant problem for the Legislature in acting on the annual state budget. This is because the dates do not coincide with the Legislature's budget cycle. For 1988-89, for example, the law requires counties to notify the state of their intent to participate by August 1, 1988 — one month after the new fiscal year begins. In subsequent years, existing law provides that counties submit renewal notifications by May 1 — about the time the budget subcommittees are concluding their annual review of the budget.

To remedy the problem created by the current notification dates, we recommend that the law be amended to require that in the first year counties provide their initial notification by May 1. In subsequent years, we recommend that renewal notifications be provided by December 1. ♦

Office of Emergency Services
*Implementation of the Superfund Amendments and
Reauthorization Act of 1986*

Recommendation

We recommend legislation allowing the Office of Emergency Services to collect the necessary fees from regulated businesses to cover the state and local costs of the implementation of Superfund Amendments and Reauthorization Act of 1986.

Fiscal Impact

No net fiscal impact on the state.

Reference

Analysis, page 41.

Analysis

The budget proposes expenditures totaling \$1.1 million in reimbursements for support of the state's implementation of the Superfund Amendments and Reauthorization Act of 1986 (SARA). SARA requires that the state and local governments prepare specified plans regarding releases of certain toxic chemicals and that regulated businesses file information regarding these chemicals if the chemicals are used or stored on the premises of the business.

Under current state and federal law, however, the Office of Emergency Services (OES) does not have the legal authority to assess or collect fees for support of these activities. Without legislation giving OES this authority, the state would not fulfill the requirements of SARA or would be forced to reduce services in another program area in order to support these costs. ♦

Department of Justice *Reimbursement for Legal Work in Conflict of Interest Cases*

Recommendation

We recommend legislation requiring counties to reimburse the state for legal work performed by the Attorney General on behalf of district attorneys who are disqualified from handling local cases due to conflicts of interest.

Fiscal Impact

Potential annual General Fund savings of more than \$1 million.

Reference

Analysis, page 53.

Analysis

The Attorney General performs legal work on behalf of counties in circumstances in which (1) state intervention is necessary to ensure that the law is being adequately enforced, and (2) district attorneys are disqualified from prosecuting criminal cases because of conflicts of interests. In the former situation, counties reimburse the department for the costs of prosecution. In the latter case, counties are not required, by statute, to reimburse the Department of Justice (DOJ) for the costs of performing legal work.

Our analysis indicates that this bifurcated reimbursement system is inconsistent. While the counties reimburse the state for certain legal work performed on behalf of the counties, the state pays in conflict of interest cases. Furthermore, it is unclear why the state pays for the costs of prosecution for an employee in the district attorney's office accused of a crime while the county bears the costs of prosecuting an employee of any other county office or person convicted of a crime in the county.

Accordingly, we recommend that the law be modified to develop a more consistent reimbursement policy by requiring counties to reimburse the state for all or a portion of the costs of performing legal work in conflict of interest cases. The DOJ indicates that the state has incurred annual General Fund costs of more than \$1 million on these cases over the last three years. Such legislation could result in a potential annual savings of \$1 million. ♦

**California Industrial Development Financing
Advisory Commission
*Common Reserve Funds***

Recommendation

We recommend legislation authorizing the commission to transfer monies from the Industrial Development Fund into common reserve funds.

Fiscal Impact

None.

Reference

Analysis, page 89.

Analysis

Government Code Section 91560 expresses legislative intent that the commission establish common reserve funds to assist small businesses in securing industrial development bonds (IDBs). It authorizes the commission to levy fees on bond issues for this purpose once it has adopted regulations for the operation of the common reserve funds.

Rather than levy new fees for the establishment of common reserve funds, the commission proposes to use a portion of the existing surplus in the Industrial Development Fund (estimated at \$3 million for 1987-88). However, current law does not provide the commission with any authority to transfer the surplus funds to these common reserve funds. Therefore, we recommend legislation authorizing the commission to transfer its surplus funds as necessary for this purpose. ♦

STATE AND CONSUMER SERVICES

Department of General Services *Energy Efficiency Revenue Bond Program*

Recommendation

We recommend legislation to strengthen legislative oversight and control of the Energy Efficiency Revenue Bond Program.

Fiscal Impact

Would strengthen legislative oversight of a program involving the expenditure of up to \$500 million over the next 10 years.

Reference

Analysis, page 134.

Analysis

Existing law authorizes the State Public Works Board to issue up to \$500 million of revenue bonds over a 10-year period to finance projects that increase the energy efficiency of state facilities. This Energy Efficiency Revenue Bond Program is administered by the Department of General Services, Office of Energy Assessments. Existing law requires the Administration to notify designated legislative committees prior to carrying out energy projects under the program so that the committees may review and comment on the proposed revenue bond expenditures. On a number of occasions during 1986 and 1987, the department has proceeded with proposals over the objections of the Legislature.

Under current procedures, the Legislature does not have the opportunity to review proposed expenditures from energy revenue bonds *before* funds are appropriated (as it does for energy projects funded through traditional capital outlay budgets), even though it has the same interest in insuring that funds are spent on the best possible projects. There is no intrinsic difference between energy projects funded through capital outlay budgets or the revenue bond program, nor is there any difference in the financial risk assumed by the state. Thus, in our view, there should be no difference in the process by which they are reviewed.

We therefore recommend enactment of legislation revising the process for reviewing energy projects funded through revenue bonds. This revision should include a requirement that the annual *Governor's Budget* delineate the projects proposed for funding in the coming year. ♦

Department of Transportation
Capital Outlay Appropriation

Recommendation

We recommend legislation be enacted to make highway capital outlay appropriations available for encumbrance for two years, instead of three years.

Fiscal Impact

No direct state fiscal impact. Such legislation would hasten the free-up of funds which have been appropriated for highway capital outlay purposes, but are no longer needed, and make them available for appropriation by the Legislature for other highway uses.

Reference

Analysis, page 234.

Analysis

The department proposes to change the way it (1) budgets for capital outlay expenditures and (2) encumbers funds for these expenditures. Beginning in 1988-89, it will *request* an amount of funds sufficient to cover the costs of only those capital outlay projects which it anticipates will be advertised for construction during the fiscal year. In addition, it will *encumber* only those amounts of state funds necessary to cover expected payments due during the fiscal year. Consequently, capital outlay appropriations no longer need to be available for encumbrance over three years, as is the current practice.

We recommend that legislation be enacted to make capital outlay appropriations available for encumbrance for two years, instead of three years. Shortening the time for which appropriations can be encumbered would free-up, at an earlier time, any appropriated funds which are no longer needed. These funds then will be available to the Legislature to be allocated for other highway uses. The shorter period of two years would allow for the overlapping of state and federal fiscal years. ♦

Department of Forestry and Fire Protection
*Use of Forest Resources Improvement Fund for
State Forest Acquisitions*

Recommendation

We recommend legislation authorizing the use of the Forest Resources Improvement Fund (FRIF) for the acquisition of lands for the state forest system.

Fiscal Impact

Would permit acquisitions for the state forest system to be funded from the proceeds of timber sales from the state forests, resulting in indeterminable potential savings to the General Fund.

Reference

Analysis, page 343.

Analysis

The Governor's Budget proposes using the FRIF to acquire three parcels of land for the state forest system. Although existing law does not authorize the use of the FRIF for state forest acquisitions, we believe it should. The principal sources of income for the FRIF are receipts from the sale of forest products from state forests. The FRIF represents a logical funding source for acquiring lands that serve state forest purposes and which may be the source of future receipts to the FRIF. Moreover, the use of the FRIF for state forest acquisitions would free up General Fund monies for other state purposes. ♦

Department of Water Resources

Flood Control Funding Assurance

Recommendation

We recommend legislation to permit the state to recover all funds required from a local sponsor of a flood control project in the event the local sponsor fails to meet its obligations.

Fiscal Impact

Assures that the state could recover the full amount of the local share of flood control costs from local project sponsors.

Reference

Analysis, page 424.

Analysis

The Reclamation Board, within the Department of Water Resources, acts as the nonfederal sponsor for flood control projects constructed by the U.S. Army Corps of Engineers in the Sacramento and San Joaquin River systems. As the nonfederal sponsor, the board must assure the federal government that it will cover *all* nonfederal costs, including any local share. It has been able to do so because state law (1) permits the board to loan the local sponsor its share of costs for lands, easements, rights-of-way, and relocations (LERRS) and (2) provides mechanisms for the state to recover any funds loaned if repayments are not made. New federal cost-sharing requirements, however, mandate an additional cash payment of at least 5 percent of total project costs from nonfederal sponsors. Existing state law does not allow the board to pay any portion of, or provide a loan for, the new federal 5-percent cash requirement. Nor is there a mechanism for the board to recover the 5-percent cash payment, which it must agree to provide to the federal government, in the event that the local sponsor fails to pay the required amount. For 1988-89, the Reclamation Board proposes to sponsor a project for which the local cash requirement will be \$460,000 over the project term. Consequently, we recommend legislation to permit the state to recover all funds required from the local sponsor of a flood control project in the event that the local sponsor does not fulfill its obligations. This could be achieved by extending the recovery mechanisms in existing law to include defaults on local commitments for cash payments. ♦

State Water Resources Control Board *Laboratory Certification Program*

Recommendation

We recommend legislation which would (1) extend the board's authority to levy laboratory certification fees, (2) require that the fees be used to support the program directly, rather than being deposited into the General Fund, (3) provide funding for the certification program in the second half of 1988-89, and (4) establish a definite schedule for repayment of a General Fund start-up loan.

Fiscal Impact

Would result in a General Fund savings of \$197,000 in 1988-89 and \$395,000 annually thereafter, by extending the board's authority to fund the certification program from fees.

Reference

Analysis, page 435.

Analysis

Chapter 1520, Statutes of 1985, requires the state board to certify that laboratories are competent, properly staffed, and equipped to perform wastewater analyses. Under the measure, the board is required to recover its costs from application fees. The fees are deposited into the General Fund and the program's costs are funded by a General Fund appropriation in the annual Budget Act. In addition, Ch 1520/85 appropriated \$200,000 from the General Fund as a loan to pay the start-up costs of the program and required repayment from the application fees by January 1, 1988.

The Legislature appropriated approximately \$395,000 in 1986-87 and again in 1987-88 from the General Fund for the laboratory certification program. Our review indicates, however, that the board has failed to *implement* the program. Further, the board has not collected any fees to offset its annual General Fund appropriation, or to repay the start-up loan as required by Ch 1520/85.

Although the certification program is continued in law, the fee authority provided by Ch 1520/85 sunsets on January 1, 1989, half-way through the budget year. We believe that the Legislature should enact legislation making the fee authority permanent, because the program was intended to be self-financing and fees are an appropriate cost of doing business for the laboratories.

However, changes are needed to provide the board with an incentive to implement the program on a timely basis, and to reduce the burden of the program on the General Fund. This can be accomplished by funding the laboratory certification program directly on a fee reimbursement basis, rather than depositing the fee revenue into the General Fund and providing General Fund appropriations for the program. In addition, the legislation should provide program funding from the fees for the second half of 1988-89, and establish a repayment schedule for the General Fund start-up loan. ♦

Department of Health Services
Hazardous Materials Laboratory
Certification Fees

Recommendation

We recommend the enactment of legislation requiring the Department of Health Services to adopt regulations that increase the fees for certification of hazardous materials laboratories by an amount sufficient to cover program costs.

Fiscal Impact

Revenues of approximately \$525,000 annually to the Hazardous Waste Control Account.

Reference

Analysis, page 514.

Analysis

Chapter 1209, Statutes of 1982, requires any laboratory analysis of hazardous materials to be performed by a laboratory certified by the Department of Health Services as being competent and equipped to perform the analysis. Chapter 1209 set fees of \$600 for initial certification and \$500 for annual renewals, and provides for annually adjusting the fees based on departmentwide cost increases.

Revenues from these certification fees cover 16 percent of the department's administrative costs in the current year. In addition, the budget requests \$175,000 to expand the program. If this funding request is approved, the fee revenue would cover roughly 12 percent of the program costs.

The department could provide no justification for the laboratory certification fees continuing to be significantly below the cost of operating the program. According to the department, the laboratories seeking certification are large, with gross revenues generally ranging from \$5 million to \$10 million annually. Therefore, we recommend the enactment of legislation requiring the department to adopt regulations that increase the laboratory certification fees by an amount sufficient to cover the full cost of the certification program. ♦

In-Home Supportive Services (IHSS) *Statutory Maximum Service Award*

Recommendation

We recommend the enactment of legislation to ensure that the cost control mechanism for IHSS is meaningfully related to the clients' needs for services and the Legislature's budgetary priorities for the IHSS program.

Fiscal Impact

Such legislation could result in costs or savings to the General Fund. The amount of costs or savings would depend on how the legislation adjusts the existing cost control mechanism.

Reference

Analysis, page 720.

Analysis

Under the IHSS program, counties provide supportive services to aged, blind, and disabled individuals to help them live safely in their own homes. Current law (1) limits the amount of service that each IHSS client may receive based on the monthly cost of the service, and (2) requires an annual adjustment to the amount of the maximum service award by the percentage increase in the California Necessities Index (CNI). For example, in 1988-89 the maximum service awards will increase by 4.7 percent.

It is our understanding that the Legislature originally enacted the statutory maximum as a cost control mechanism for the IHSS program. Without a maximum dollar award, counties would provide services based only on the clients' assessed need, which is sometimes higher than the statutory maximum permits. While the statutory maximum has a clear-cut impact on IHSS costs, it is not clear why the maximum is tied to the CNI. Adjusting the maximum by the CNI has no discernible relationship to the clients' needs or to the Legislature's budget priorities for the IHSS program.

We have identified three basic options for ensuring that the cost control mechanism is meaningfully related to the clients' needs for services, and the Legislature's budgetary priorities for the IHSS program: (1) change the methodology for determining increases in

the maximum service award so that wage changes neither increase nor decrease the hours of service provided to clients, (2) establish the maximum service award in each year's Budget Act, or (3) establish a different kind of cost control mechanism. We recommend enactment of legislation to implement one of the options. ♦

YOUTH AND ADULT CORRECTIONAL

Department of Corrections *Extend Full Work Credits to Technical Parole Violators Housed in Community Correctional Facilities*

Recommendation

We recommend legislation to enable parole violators housed in community correctional facilities or county jail facilities to earn work credits according to the same formula as parole violators housed in state prison.

Fiscal Impact

Enactment of such legislation would permit parole violators housed in community correctional facilities to earn work credits at a faster rate and thus be released earlier, thereby generating General Fund savings for the Department of Corrections. At the time our analysis was prepared, the department had not estimated these savings, but our review suggests that savings would increase with the department's expansion of the community bed program.

Reference

Analysis, page 755.

Analysis

In 1987 the Legislature expanded the work credit program for prison inmates to include technical parole violators through enactment of Ch 1435/87 (SB 16, Presley). This legislation provided that parole violators serving parole revocation sentences *in state prison* may earn work credits according to the same formula as regularly sentenced inmates. Under this legislation, however, parole violators who are housed in community correctional facilities continue to earn work credits at a *lower* rate than parole violators or inmates housed in state prison who are participating in comparable work/training programs.

Our analysis indicates that there is no difference between the two groups of parole violators that would justify the difference in work credits granted. Further, the department anticipates that the number of parole violators housed in community correctional facilities will increase. The Legislature has recently expressed its intent to

extend the work/training incentive program to parole violators as well as inmates. For these reasons, we recommend that parole violators in community correctional facilities be granted work credits under the same formula as parole violators in state prison. ♦

Department of Education
Gifted and Talented Education: Sunset

Recommendation

We recommend legislation to continue the Gifted and Talented Education (GATE) program beyond June 30, 1988. Current law would terminate the program on that date.

Fiscal Impact

Enactment of such legislation would have no direct fiscal impact. Funding for the GATE program would continue to depend on annual appropriations provided by the Legislature in the Budget Act.

Reference

Analysis, page 872.

Analysis

The GATE program, which provides unique educational opportunities for gifted and talented pupils, is scheduled to terminate on June 30, 1988. While we have found several areas of needed improvement in the GATE program, our analysis indicates that, generally, GATE is being implemented in accordance with legislative intent and is accomplishing its objective of providing enriched learning opportunities for participating pupils. Consequently, GATE warrants continuation.

Accordingly, we recommend legislation to continue the program beyond June 30, 1988 by extending its "sunset" date or by deleting provisions of current law that would terminate it on June 30, 1988. ♦

Department of Education

Reform School Construction Financing

Recommendation

We recommend legislation to establish an alternative system for financing local school facilities. Specifically, we recommend that every school district be guaranteed a certain minimum revenue yield from a given tax rate so that all districts, regardless of their property tax base, are able to raise sufficient revenues to finance their local school facilities needs.

Fiscal Impact

This proposal would neither increase nor decrease the total amount of state revenues available to local school districts for financing school facilities needs. Because local school districts would have an incentive to raise matching funds locally for school construction projects, existing limited state resources could be used to meet more districts' needs.

Reference

Analysis, page 884.

Analysis

Since the passage of Proposition 13 in 1978, the responsibility for funding local school facilities construction, reconstruction and modernization has shifted from school districts to the state. In the intervening years, the voters have approved the sale of \$1.8 billion in state general obligation bonds, and the Legislature has provided \$300 million in tidelands oil revenues to support the State School Building Lease-Purchase Program. Nonetheless, at the present time, all of these funds have been allocated to school districts. In addition, as of January 27, 1988, school districts were requesting \$2.6 billion for new construction projects, and \$1 billion for reconstruction/modernization projects under the Lease-Purchase program. Under existing law, however, no funds are available in this program to fund these requests.

A recent report by the firm of Price Waterhouse identifies various problems with the current program, and suggests ways to improve it. Our review, however, indicates that even if all the suggested changes were implemented, the following two problems still would be present:

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- ***Inequitable tax burden.*** Because the Lease-Purchase program is primarily financed through statewide general obligation bonds, the tax burden is spread among all taxpayers, including (1) those who are already taxing themselves at the local level to pay for their school facilities needs, and (2) those that have met their needs through less expensive alternatives. As a result, some taxpayers are taxed twice, and others once, in order to have their facility needs met.
 - ***Districts are discouraged from raising revenues locally.*** The Lease-Purchase program provides for a school district's allocation to be reduced by the amount (if any) that the district has raised locally which exceeds a specified minimal amount.

Because the current method of funding school construction (1) does not provide sufficient funds to meet district needs in a timely manner, and (2) results in an inequitable distribution of the burden of paying for new school facilities, we recommend that an alternative funding mechanism be established. Specifically, we recommend that legislation be enacted guaranteeing every school district a certain minimum revenue yield from a given tax rate through the use of a "guaranteed yield schedule." Under this schedule, each school district levying a given tax rate to amortize school facilities bonds would be guaranteed the same minimum yield per pupil housed. By carefully designing the guarantee schedule, the Legislature could provide strong fiscal incentives for school districts to construct facilities at a "standard" level of costs per pupil housed, while still allowing local communities to tax themselves at somewhat higher rates in order to provide either more space per pupil or a higher quality of construction. Districts could retain the option to participate in the existing Lease-Purchase program if they are unable to obtain voter approval to raise sufficient revenues locally. ♦

Department of Education *New School Construction*

Recommendation

We recommend legislation requiring that funds allocated to school districts under the State School Building Lease-Purchase Program for new construction projects be provided on the basis that the school would be operated on a year-round basis.

Fiscal Impact

Enactment of such legislation would not affect the total amount of funds available in the State School Building Lease-Purchase Fund for the construction of new school facilities. This legislation, however, could result in an unknown, but potential multi-million dollar (several hundred million) *decrease* in demand from school districts for these funds.

Reference

Analysis, page 882.

Analysis

Under current law, school districts qualifying for the new construction program are awarded a total amount of funds based on a complex funding formula. This formula would provide approximately \$4.2 million to a district seeking to build a K-6 facility to house 600 pupils. The current funding formula allocates funds on the basis that the school will operate on a traditional nine-month calendar.

Our review indicates that if this school were to operate on a year-round basis, the same number of students could be accommodated in a smaller facility at a significantly lower cost. That is, a school that has been designed to accommodate 500 pupils on a nine-month calendar, can accommodate approximately 600 pupils on a year-round schedule (based on a 20 percent capacity increase). However, a 500 pupil year-round school would cost only an estimated \$3.5 million, for a savings of approximately \$700,000 from the cost of a traditional 600 pupil school.

Our analysis indicates that year-round schools are educationally sound and, for several other reasons, provide a viable alternative to the traditional nine-month calendar. In light of (1) the state's lim-

ited financial resources, and (2) school districts' ability to raise facility revenues locally through the sale of local construction bonds, we can find no analytical justification for the state to continue to provide funds under the Lease-Purchase program for the construction of traditional, rather than year-round schools.

Accordingly, we recommend legislation requiring Lease-Purchase program funds for new construction to be allocated to school districts on the basis that the facility will operate on a year-round basis. Under this proposal, however, districts could retain the option to operate the school on a nine-month calendar, if they used local funds to pay for the additional cost of constructing the larger facility needed to house the same number of students. ♦

California Student Aid Commission *Cal-SOAP Sunset Extension Justified*

Recommendation

We recommend legislation be enacted to extend the sunset date for the California Student Opportunity Access Program (Cal-SOAP) program to January 1, 1994 because (1) the program is effectively meeting its intended purposes, and (2) under current law the program will sunset on January 1, 1989.

Fiscal Impact

There would be no state fiscal impact in the budget year, assuming approval of the \$577,000 proposed in the 1989 budget for the program.

Reference

Analysis, page 1116.

Analysis

Current law requires (1) the California Postsecondary Education Commission (CPEC) to evaluate the Cal-SOAP program by December 31, 1987, and (2) repeals the program on January 1, 1989 unless a statute is enacted which deletes or extends that date.

The Governor's Budget provides *full-year* funding for the Cal-SOAP program in 1988-89. Current law, however, repeals the authorization for the program on January 1, 1989—half-way through the budget year. During the 1987 legislative session, the Legislature passed AB 102 (Chacon) which extended the sunset date of the Cal-SOAP program. The Governor, however, vetoed the bill stating that it was premature to reauthorize the program before CPEC completed its evaluation of the program.

CPEC has since completed its evaluation of the Cal-SOAP program. CPEC finds that the program has been effective in designing and implementing services that improve and increase access to college for low-income and ethnic minority students in California, and recommends that the program be established permanently (sunset date clause for the program be deleted from statute).

In concept, we agree with CPEC's recommendation. We, however, believe that the program should be extended for another five

years, rather than established permanently. Continued use of the sunset provision, would provide the Legislature with the appropriate oversight to ensure that the program continues effectively to meet its intended purpose. Accordingly, in order for the Cal-SOAP program to continue without disruption in the budget and future years, we recommend legislation to extend the sunset date of the Cal-SOAP program until January 1, 1994. ♦

Office of Criminal Justice Planning
Penalty Assessment Special Funds Should Be Eliminated

Recommendation

We recommend enactment of legislation to require that all revenue collected from penalty assessments, except revenue collected from fish and game violations, be transferred to the General Fund, rather than to various special funds.

Fiscal Impact

No direct fiscal impact on the state.

Reference

Analysis, page 1125.

Analysis

The Assessment Fund was created by Ch 530/80 to streamline the system for collecting and distributing revenues collected from penalty assessments levied on criminal and traffic fines. The fund serves as a depository for the assessments collected by the courts. Monies in the fund are distributed monthly to seven state special funds, in accordance with formulas specified in law.

Four of these seven funds are used to finance training programs for law enforcement personnel, two are used to finance programs that assist victims of crimes, and one is used to support programs designed to improve driver safety. In 1986-87, \$119 million was distributed to these funds; the budget estimates that \$161 million will be distributed in 1988-89.

Distribution of penalty assessment resources based strictly on statutory percentages can result in resource allocations which do not accurately reflect program needs. In turn, resource allocations which are not reflective of program need may restrict significantly the ability of a program to fulfill its legislative mandate. In addition, the present system of maintaining revenues in a special fund dedicated to a specific purpose limits the ability of the Legislature to oversee and set priorities for the expenditure of all state funds.

In order to ensure that resources generated by penalty assessments are allocated on a basis consistent with program need, we recommend that legislation be enacted to eliminate the current

allocation requirements. Instead, we recommend that penalty assessment revenues be transferred to the General Fund for legislative allocation to programs through the annual budget process. However, because of a constitutional requirement that revenue collected from fish and game violations be used only for fish and game activities, we recommend that revenue from this source be transmitted directly to the Fish and Game Preservation Fund, for allocation during the budget process. ♦

Commission on State Mandates *Deadlines for Local Governments*

Recommendation

We recommend the enactment of legislation to implement deadlines for local governments to submit parameters and guidelines and statewide cost estimates to the commission.

Fiscal Impact

The enactment of such legislation would have no direct fiscal impact on the state. To the extent that local governments violate the sanctions imposed by this legislation, they would lose some portion of their state reimbursement, which would result in unknown savings to the state.

Reference

Analysis, page 1208.

Analysis

In the 1987-88 *Analysis*, we recommended that the commission report to the Legislature on options to reduce the time period required by the mandate determination process. In its report to the Legislature, submitted in September 1987, the commission stated that delays in processing mandate determinations often result from the failure of local government agencies to submit necessary documentation to the commission in a timely manner. The commission offered two recommendations to remedy this problem which we consider reasonable. First, the commission recommended that local agencies be required to submit their proposed parameters and guidelines within 60 days of a successful test claim finding. Second, the commission recommended that local agencies be required to respond within 60 days of receiving a statewide cost estimate.

Our analysis indicates that these deadlines and sanctions would provide local agencies with the incentive to submit necessary documentation to the commission in a timely manner. Accordingly, we recommend that legislation be enacted to establish these deadlines and sanctions. ♦

Commission on State Mandates

Statute of Limitations for Judicial Review

Recommendation

We recommend that the Legislature enact legislation to extend the statute of limitations applicable to the state's challenge of mandate findings.

Fiscal Impact

The enactment of such legislation would have no direct fiscal impact on the state.

Reference

Perspectives and Issues, page 141.

Analysis

A recent court decision, *Carmel Valley Fire Protection District v. State of California*, held that the state cannot avoid its financial liability for state-mandated local programs solely by reducing a local government claims bill appropriation. The court held that the state must successfully challenge in court the Commission on State Mandates' mandate finding within a period of three years in order to eliminate the state's financial liability.

The three-year statute of limitations is problematic because in some cases the Legislature has not made its determination as to whether funding is required until more than three years have elapsed since the mandate finding. This is because the mandate determination process is very time-consuming, and the Legislature's deliberations on the local government claims bill can extend over a period of several months. Accordingly, we recommend the enactment of legislation to extend the statute of limitations applicable to the judicial review of a mandate finding to a period of one year from the effective date of the claims bill which deletes funding for the mandate. ♦