

The 2020-21 Budget: Assessing the Governor's Reorganization Proposals

Summary

As part of his budget plan for 2020-21, the Governor proposes six government reorganizations—which we define as the consolidation or transfer of government functions—across several policy areas. In many cases, the Governor proposes consolidating agencies or shifting responsibilities from existing agencies to newly established entities. The proposals would affect a broad array of state departments, offices, and commissions that perform a wide range of functions, including advising the Legislature and Governor, overseeing and implementing programs, collecting data, and licensing and regulating certain activities.

In reviewing the Governor's reorganization proposals, there are many issues for the Legislature to consider in determining whether to approve or reject each proposal. In this brief, we outline a broad framework to consider these issues. Specifically, we recommend that the Legislature consider the following key questions when evaluating the proposals:

- ***Would the Reorganization Make Programs More Effective?*** A reorganization should result in programs becoming more effective and the public receiving improved government services.
- ***Would the Reorganization Improve Efficiency?*** A reorganization should result in programs using fewer resources or improving the quality of services provided within existing resources.
- ***Would the New Structure Improve Accountability?*** A reorganization should result in a government structure where the Legislature and the public can easily identify the person or entity responsible for managing a program.
- ***Is the Reorganization Based Upon a Policy Rationale?*** A reorganization should be consistent with an underlying policy rationale to address a problem that has been clearly identified.
- ***Does the Reorganization Reflect Legislative Priorities?*** A reorganization should be consistent with the priorities that the Legislature has set for a program or government function.
- ***Do the Benefits Outweigh the Costs?*** The benefits of a reorganization should outweigh the costs to implement the reorganization, which can sometimes be significant.
- ***Is the Reorganization Well Planned?*** A reorganization should be well planned given that it can result in significant complexities—such as the need to reclassify positions and responsibilities.
- ***How Should the Reorganization Be Implemented?*** Government reorganizations can be implemented in a few different ways, though typically they have been pursued either through the formal executive branch reorganization process laid out in statute or budget trailer legislation.

INTRODUCTION

Across several policy areas, the Governor’s proposed budget for 2020-21 calls for various changes aimed at reorganizing California’s state government. (In this brief, we define “reorganization” as the consolidation or transfer of government functions across different agencies.) Specifically, the Governor proposes several reorganizations that consolidate agencies or shift responsibilities from existing agencies to newly established entities. While some reorganizations have the potential to achieve cost savings and improve services to the public, other reorganizations could have the opposite effect. In addition, there are often complexities and

sometimes unforeseen challenges in implementing government reorganizations. For these reasons, it is imperative for the Legislature to have the necessary tools to effectively evaluate the Governor’s proposals.

In this brief, we (1) describe the process by which reorganization can be implemented, (2) provide an overview of the Governor’s reorganization proposals, and (3) highlight several overarching issues for the Legislature to consider when evaluating the Governor’s proposals. (In the coming weeks, we will provide our specific findings and recommendations on the individual proposals in separate analyses.)

REORGANIZATION PROCESS

Government reorganizations can be implemented in a few different ways, though typically they have been pursued either through the formal executive branch reorganization process laid out in statute or budget trailer legislation. Historically, most major reorganizations have gone through the formal executive reorganization process. Below, we provide information on both processes.

Executive Branch Reorganization Process.

Through Article V, Section 6 of the California Constitution, the Legislature authorized the Governor to reorganize the functions of state agencies through the executive branch reorganization process. In establishing this process, the Legislature stated that the Governor should determine if such changes are necessary to accomplish one or more broad purposes, such as to reduce expenditures, increase efficiency, or eliminate duplications of effort. Since 1968, various Governors have submitted 37 reorganization plans through this process. The executive reorganization process can be used to transfer, consolidate, or eliminate agencies and programs. The process can also be used to establish new agencies to perform the functions of existing entities.

The major steps required in the executive branch reorganization process include:

- ***Submission of Plan for Statutory Drafting.*** Before initiating the reorganization process, the Governor must provide a copy of the reorganization plan to Legislative Counsel for statutory drafting so that it reflects the form and language suitable for enactment in statute and to ensure that the plan clearly and specifically expresses its nature and purpose.
- ***Submission of Plan for Independent Review.*** At least 30 days before submitting a reorganization plan to the Legislature, the Governor must submit the plan to the Little Hoover Commission—an independent state oversight agency tasked with reviewing and making recommendations to the Governor and Legislature on state operations and any proposed government reorganization plan.
- ***Review by Legislative Committees.*** Once the Governor submits the plan to the Legislature, (1) the Little Hoover Commission has 30 days to issue a report reviewing the plan and (2) the Legislature has 60 days to consider the proposal. Upon receipt, the plan is referred to policy committees of each house of the Legislature. The committees study and report on the plan no later than ten days prior to the end of the 60-day period.

- **Legislative Action on Plan.** Either house can reject the proposal by majority vote—but not until its policy committee has issued a report or the report’s deadline has passed. The Legislature can only vote to approve or reject the plan, it cannot amend it. If neither house rejects the reorganization plan during the 60-day period, it goes into effect on the 61st day

Budget Trailer Legislation Process. Budget trailer legislation is used to implement specific changes to state laws to effectuate the annual state budget. Generally, a separate piece of budget trailer legislation is needed for each major area of budget appropriations, such as transportation, human services, or education. The provisions of these bills are usually proposed by the Governor and negotiated as part of the budget package for each fiscal year. In recent years, several government reorganizations have been pursued through

budget trailer legislation. For example, in 2019, the Governor proposed removing the Division of Juvenile Justice from the California Department of Corrections and Rehabilitation and making it a new department under the California Health and Human Services Agency (CHSSA) after a one-year planning and transition period. This proposal was ultimately implemented through budget trailer legislation approved as part of the 2019-20 budget package.

Reorganizations pursued through budget trailer legislation are exempt from the procedures outlined in statute for the executive reorganization process. Instead, reorganizations pursued through this process must follow the current rules and regulations associated with passing budget trailer legislation. For example, budget trailer legislation (like all bills) must be made available to legislators and posted on the Internet for at least 72 hours before the Legislature can vote on them. In addition, budget trailer legislation takes effect immediately when signed by the Governor.

OVERVIEW OF GOVERNOR’S PROPOSALS

As part of his proposed budget plan for 2020-21, the Governor proposes six different government reorganizations. Our understanding is that the administration intends to implement the proposed reorganizations through budget trailer legislation rather than through the formal executive branch reorganization process. The Governor’s proposals would affect a broad array of state departments, offices, and commissions. These entities perform a wide range of functions that include advising the Legislature and Governor, overseeing and implementing programs, collecting data, and licensing and regulating certain activities. (We note the Governor also proposes new responsibilities for various agencies, such as increasing the responsibilities of the Department of Business Oversight. However, because establishing new government functions is generally not considered a reorganization, such proposals are not addressed in this brief.)

Specifically, the Governor proposes to:

- **Establish New Department of Early Childhood Development.** The Governor proposes to consolidate various childhood development programs and services currently administered across multiple agencies (such as the California Department of Education [CDE]) into a new Department of Early Childhood Development under CHSSA beginning in 2021-22. The Governor’s budget includes \$6.8 million (General Fund) for CHSSA in 2020-21—increasing to \$10.4 million annually beginning in 2021-22—to establish a transition team that would oversee the reorganization and administer child care programs under the new governance structure.
- **Establish New Department of Better Jobs and Higher Wages.** The Governor proposes to consolidate employment, training, and data collection services currently provided by several departments and boards within

the Labor and Workforce Development Agency into a new Department of Better Jobs and Higher Wages. The Governor's budget includes \$2.4 million (General Fund) in one-time resources in 2020-21 to establish the executive team of the new department.

- **Move Seismic Safety Commission Under Department.** The Governor proposes moving the Seismic Safety Commission, which is currently independent, under the Governor's Office of Emergency Services (OES). The Governor's budget shifts the resources for the commission to OES and provides additional funding. In total, the proposal provides \$3 million (\$949,000 General Fund) in 2020-21 and \$2.7 million (\$713,000 General Fund) in 2021-22 and ongoing for OES to operate the commission.
- **Establish Oversight Board for Department of Toxic Substances Control (DTSC).** The Governor proposes to establish a board that would set fees through regulation, hear permit appeals, and provide strategic guidance to DTSC. The Governor's budget includes

\$3 million (General Fund) in 2020-21 for the board.

- **Establish New Center for Data Insights and Innovation.** The Governor proposes to consolidate the Office of Innovation, the Office of the Patient Advocate, and the Office of Health Information Integrity into the new Center for Data Insight and Innovation under CHHSA. The center would integrate data from across CHHSA departments and use data analytics and insights to inform program improvements. According to the administration, the center would be established within existing CHHSA resources in 2020-21.
- **Establish New Department of Cannabis Control.** The Governor has stated his intention of consolidating existing licensing responsibilities administered by the Bureau of Cannabis Control, the Department of Food and Agriculture, and the Department of Public Health into the new Department of Cannabis Control by July 2021. According to the administration, it plans to submit a specific proposal to the Legislature this spring.

KEY CONSIDERATIONS FOR THE LEGISLATURE

In reviewing the Governor's reorganization proposals, there are many issues for the Legislature to consider in determining whether to approve or reject each proposal. At the time of this analysis, however, specific details regarding some of the proposals have not been provided by the administration, which can make it difficult for the Legislature to adequately review their merits in a timely manner. In order to assist the Legislature, we developed a broad framework for considering the proposals that builds upon our assessment of prior reorganization plans and best practices identified from other government agencies. Specifically, we identify a series of key questions that we recommend the Legislature consider using when evaluating the Governor's reorganization proposals, which are summarized in **Figure 1** and discussed next in more detail.

Would the Reorganization Make Programs More Effective?

A reorganization should result in programs becoming more effective and the public receiving improved government services. Given that the administration has not provided specific and complete details regarding some of the Governor's reorganization proposals, it is difficult at this time to determine whether the proposals would achieve this goal. It will be important for the administration to indicate how the proposed reorganizations will assist the various departments and programs in achieving their intended goals and objectives and what impact they will have on the level of service provided to the public. This would allow, for example, the Legislature to consider whether there are barriers to the effectiveness

of child care programs that the creation of the Department of Early Childhood is Development is necessary to address.

Would the Reorganization Improve Efficiency?

Reorganization can often eliminate fragmented, duplicative, and overlapping government functions, which can create efficiency. Addressing these issues can allow programs to use fewer resources or improve the quality of services provided within existing resources (including providing a service to the public in a more timely manner). For example, it is reasonable to think that the establishment of the new Department of Cannabis Control would diminish the fragmented nature of the current cannabis regulatory responsibilities. This is because the current system has three separate agencies responsible for licensing different segments of the cannabis industry. Establishing one department to handle licensing could improve coordination and potentially create efficiencies. However, without a detailed plan from the administration, it is not possible to tell whether this would be the case under the Governor’s proposal.

In contrast, reorganization can undermine efficiency. For example, the Governor’s proposal to create a new Department of Early Childhood Development could fragment services in some areas. This is because the reorganization proposes transferring General Child Care from CDE to the new department. As a result, it could fragment General Child Care from CDE’s administration of State Preschool. This could result in entities that provide both State Preschool and child care needing to interact with both CDE and the Department of Early Childhood Development, rather than just CDE as is currently the case. This could reduce the overall efficiency of the administration of child care services by requiring child service entities administer separate contracts with two separate state departments.

Would the New Structure Improve Accountability?

A reorganization should result in a government structure where the Legislature and the public can easily identify the person or entity responsible for managing a program. Clearly establishing who is responsible for a program would better enable the Legislature and the public to hold that person or entity accountable for meeting clearly defined outcome-orientated goals and performance standards. For example, the new Department of Cannabis Control may have the potential to improve accountability by creating a single entity responsible for licensing the legal cannabis market.

Is the Reorganization Based Upon a Policy Rationale?

A reorganization should be consistent with an underlying policy rationale to address a problem that has been clearly identified. For example, the Governor’s proposal to place the Seismic Safety Commission under OES is based on the rationale that it would enhance the state’s overall preparedness efforts by ensuring that the commission plays a greater role in the state’s emergency planning process. It is possible that the transfer could achieve this goal as placing the

Figure 1

Key Considerations for Evaluating Reorganization Proposals

- ✓ Would the Reorganization Make Programs More Effective?
- ✓ Would the Reorganization Improve Efficiency?
- ✓ Would the New Structure Improve Accountability?
- ✓ Is the Reorganization Based Upon a Policy Rationale?
- ✓ Does the Reorganization Reflect Legislative Priorities?
- ✓ Do the Benefits Outweigh the Costs
- ✓ Is the Reorganization Well Planned?
- ✓ How Should the Reorganization Be Implemented?

commission within OES means it would be part of the state's lead disaster planning and response coordination agency. As such, it could mean that more of the commission's recommendations are adopted into the disaster planning process.

Does the Reorganization Reflect Legislative Priorities?

A reorganization should be consistent with the priorities that the Legislature has set for a program or government function. For example, the Legislature has expressed interest in better integrating health and human services programs. To the extent that the proposed Center for Data Insights and Innovation leads to increased data sharing, research, and analysis across CHSA programs, it could be consistent with the Legislature's interest in greater coordination of health and human services overall.

A reorganization should also result in affected programs having the appropriate level of independence. The state has hundreds of boards and commissions that serve a variety of roles. In certain cases, these entities were established by the Legislature to operate with some level of independence from the executive branch. For example, the Legislature passed Chapter 532 of 2006 (SB 1278, Alquist), which reiterated the Legislature's perspective that an independent Seismic Safety Commission plays a critical role in providing effective policy guidance and leadership on seismic safety issues. The Governor's proposal to place the Seismic Safety Commission under OES, however, could reduce the commission's independence. The Legislature will want to determine whether this change is consistent with its current priorities for the commission.

Do the Benefits Outweigh the Costs?

A reorganization can sometimes result in significant implementation costs, such as from expenses related to the integration of data and budget systems, and the relocation of offices. In addition, costs can be created when programs within agencies are removed to become independent agencies that require their own administrative staff, such as human resources and other support staff. The Legislature should be fully

aware of these costs when making its decisions. However, some of the Governor's proposals do not currently provide sufficient information on how much they would likely cost. For example, the Governor's budget does not include funding for the full cost of the proposed Department of Better Jobs and Higher Wages. As currently proposed, the request only has one-time funding for ongoing salary costs associated with executive team positions and for some operating expenses. Without additional information on what the ongoing cost to operate the new department would be, it is difficult for the Legislature to assess whether the cost of creating the new department is outweighed by the potential benefits of doing so.

Is the Reorganization Well Planned?

Reorganization can result in significant complexities—such as the need to shift employees and equipment to new locations, create or harmonize information technology systems, and reclassify positions and responsibilities. Accordingly, it is important that a reorganization be well planned. Given that the administration has not provided details on many of its reorganization proposals, it is unclear at this time whether the administration is fully prepared to address such complexities. In the coming weeks, the Legislature will want to make sure that the administration provides a detailed implementation plan for each proposal.

How Should the Reorganization Be Implemented?

As discussed above, reorganizations have generally been pursued through the executive reorganization process or budget trailer legislation. While it appears that the administration intends to implement its reorganization proposals through budget trailer legislation, the Legislature should consider whether the executive reorganization process is more appropriate. We note that the Legislature has raised concerns about using budget trailer legislation for reorganizations in the past. For example, in 2012-13, the Governor's proposed budget included three agency reorganization proposals that it intended to pursue through budget trailer legislation. At the time, questions were

raised in the Legislature as to whether it would be appropriate to reorganize state agencies without going through the process established in statute. Ultimately, the reorganizations went through the executive reorganization process.

We note that the executive reorganization process is relatively expedient since it can be completed in 90 days. In comparison, reorganization through budget trailer legislation would have to wait until the passage of the budget in June. The executive process also includes a framework designed to increase the likelihood that a reorganization would be effective and smoothly implemented. For example, as discussed earlier, the executive process requires the Little Hoover Commission to conduct an independent analysis to determine a reorganization plan's impact on state operations, which could help identify potential consequences of the reorganization.

Additionally, executive reorganization requires that plans put forward by the Governor must (1) provide for the transfer or disposition of any property or records affected by the reorganization; (2) ensure that any unexpended appropriations are transferred in accordance to the legislative intent for the funds; and (3) list all statutes that would be inconsistent with the reorganization plan and, as a result, would be suspended. These requirements would not necessarily apply to budget trailer legislation.

For the reasons given above, we recommend the Legislature encourage the Governor to submit his proposals through the executive reorganization process or provide justification for why he is not doing so. At the time of publication, the administration has not provided a rationale as to why the proposed reorganizations should be done through budget trailer legislation.

CONCLUSION

The Governor's budget proposes several reorganizations across multiple agencies and programs. Reorganization is a major endeavor that should be based on a well-defined purpose and plan. As discussed in this brief, there are often complexities in implementing government

reorganizations. As such, it will be important for the Legislature to keep in mind key considerations when evaluating the proposals, such as whether the reorganizations would make programs more effective and efficient, are based on a clear policy rationale, and whether they are well planned.

LAO PUBLICATIONS

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