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LEGISLATIVE ANALYST
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INTRODUCTION

The role of the Legislative Analyst's Office is to review state programs and make recommendations to the Legislature as to how the state can operate more effectively and efficiently. While most of our recommendations can be addressed in the annual budget bill, some involve recommended changes in law that require separate legislation. This report includes such recommended law changes that we have made in recent years. If you would like more information or assistance on any one of the proposed recommendations, please contact the person(s) listed at the bottom of each page. The deadline for bill requests to Legislative Counsel is January 21, 2005. The last day for bill introduction is February 18, 2005.





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K-12 EDUCATION

Consolidate Categorical Funding Into Block Grants

Recommendation

Consolidate and simplify related categorical programs into a small number of manageable and flexible block grants.

Rationale

The state currently funds more than 70 categorical programs—each with detailed requirements and distinctly determined funding amounts. Chapter 871, Statutes of 2004 (AB 825, Firebaugh), took the first step to reduce the number of categorical programs by combining 22 categorical programs into six block grants beginning in 2005-06. While Chapter 871 is a start, the categorical finance system continues to be overly complicated and lacks transparency and accountability.

Our proposal would consolidate many of these programs into a few block grants to free local districts and schools to use funds more effectively and eliminate unnecessary “red tape.” Under this proposal, the role of the State Department of Education would shift from program administration and compliance to focus on accountability, technical assistance (especially to low-performing districts), and research and evaluation.

LAO Reference

Please see our *2002-03 Analysis*, page E-77; *2003-04 Analysis*, page E-43, and *2004-05 Analysis*, page E-37.

LAO Contact

Robert Manwaring: 319-8333 and Paul Warren: 319-8307



K-12 EDUCATION

Increase Class Size Reduction Program Flexibility For Educational Benefit

Recommendation

Relax the rigid 20 to 1 student-teacher ratio and allow school districts to use class size reduction (CSR) funding to assign teachers in ways that best meet their students' needs.

Rationale

Given differences among local school sites, a single educational strategy does not usually benefit all students. Indeed, recent research reveals that California's CSR program has: (1) had an uncertain impact on student achievement; (2) contributed to a significant increase in noncredentialed teachers, especially in the state's most disadvantaged schools; and (3) intensified the state's facility shortage.

For these reasons, we propose providing greater flexibility for CSR funding. We recommend that the state reduce restrictions on pupil per teacher ratios, allow targeted CSR, or support alternative uses of certificated staff. Our proposal would help schools with serious facilities constraints and/or high numbers of underqualified teachers use funds more effectively.

LAO Reference

Please see our *2003-04 Analysis*, page E-87.

LAO Contact

Jennifer Kuhn: 319-8332



K-12 EDUCATION

Align Student Achievement Standards for State and Federal Programs

Recommendation

Require the State Board of Education (SBE) to align student performance targets under the federal No Child Left Behind Act (NCLB) with the expectations for achievement under the California High School Exit Examination (CAHSEE).

Rationale

Beginning with the class of 2006, students must pass the CAHSEE to graduate from high school. By defining the test's content and passing score, the board established minimum achievement levels in English and mathematics that *all* students are expected to meet. In 2003-04, about three-fourths of 10th grade students passed at least one component of the test. In implementing NCLB, however, the board set student achievement standards much higher, roughly at a level consistent with eligibility for admission to the California State University. While an admirable goal, this has the practical effect of focusing attention on students performing near the goal, oftentimes at the expense of poorer-performing students. It also sends conflicting messages to educators about the goals of our system. We recommend the Legislature require SBE to equate the state's NCLB performance targets with the academic expectations set by the Legislature under CAHSEE.

LAO Reference

Please see our *2004-05 Analysis*, page E-115, and *2003-04 Analysis*, page E-113.

LAO Contact

Robert Manwaring: 319-8333



K-12 EDUCATION

Eliminate Statutory Authority Over Unspent Child Care Funds

Recommendation

Eliminate the statutory authority permitting the State Department of Education (SDE) to carry over unspent General Fund child care funds beyond the year of appropriation.

Rationale

In general, budget act appropriations must be spent or obligated in one year. Education Code Section 8278, however, permits SDE to carry over General Fund appropriations for child care and development activities for two fiscal years beyond the year of appropriation. Funds that are carried over may be spent on one-time child care activities described in statute.

This unusual expenditure authority renders unspent child care allocations unavailable for expenditure in other education areas—even though these other areas may be a higher priority. Our proposal would apply the usual budgetary rules to SDE child care programs, thereby restoring the Legislature’s flexibility to use child care carryover funds to meet its K-14 education priorities. Depending on the Legislature’s assessment of education needs in any given year, this could include child care and development or other priorities.

LAO Reference

Please see our *2001-02 Analysis*, page E-153.

LAO Contact

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K-12 EDUCATION

Consolidate Revenue Limit “Add-Ons” Into Base Revenue Limits

Recommendation

Consolidate five revenue limit adjustments into district base revenue limits. These adjustments or add-ons include: Meals for Needy Pupils, longer day/longer year incentive payments, Interdistrict Attendance, unemployment insurance, and the Public Employees’ Retirement System reduction.

Rationale

Revenue limit funds support the basic educational program for each student. Each district’s allocation includes a large base revenue limit grant plus up to 11 smaller add-on grants. The state appropriated \$110 million in the 2004-05 budget package to partially equalize base revenue limit grants. There are also large inequities in the add-on grants, ranging in the hundreds of dollars per pupil. Our proposal would merge funds provided through five add-on programs into base revenue limits. This would greatly simplify the computation of general purpose funding, make school funding easier to understand, and allow the state to equalize over time the amount of general purpose funds districts actually receive.

LAO Reference

Please see *The Distribution of K-12 Education General Purpose Funds* (December 2003) and *2004-05 Analysis*, page E-88.

LAO Contact

Paul Warren: 319-8307



K-12 EDUCATION

Reform the Economic Impact Aid (EIA) Formula To Reflect District Needs

Recommendation

Simplify the EIA formula so that district allocations are predictable and meet local needs for serving both poor and English learner (EL) students.

Rationale

The EIA program uses a complex formula to support district efforts to increase the achievement of low-performing students. Our analysis found that the EIA formula appears to distribute funds in an arbitrary and unpredictable manner. The formula appears arbitrary, for instance, because it provides very different funding levels to districts with similar numbers of EL and very poor students.

Because of its complexity, the formula can also yield unpredictable results. For example, we found that 300 districts received an increase in funds in 2003-04, even though the number of students in the target population fell. We also identified 16 districts that experienced an increasing target population, but declining funding. We recommend a simplified formula that provides more predictable and transparent funding rates based on the number of EL and poor students in each district.

LAO Reference

Please see our *2004-05 Analysis*, page E-80.

LAO Contact

Robert Manwaring: 319-8333 and Paul Warren: 319-8307



K-12 EDUCATION

Certify Past Proposition 98 Calculations

Recommendation

Certify Proposition 98 funding levels for fiscal years 1995-96 through 2002-03 using information on key Proposition 98 factors that was available at the close of each fiscal year.

Rationale

Current law requires the State Department of Education, California Community Colleges, and the Department of Finance to jointly certify the Proposition 98 spending levels within nine months of the end of a fiscal year. The agencies have met this requirement only once.

Inputs to the Proposition 98 formula—such as state population—are sometimes revised years later when new information comes to light. These revisions, if incorporated into Proposition 98 calculations, can result in a higher guarantee for past years. Alternatively, if timely certification occurs as required by statute, these technical revisions would not affect the guarantee.

Consistent with the intent of Proposition 98, we recommend that the Legislature statutorily certify the guarantee for 1995-96 through 2002-03 based on the data that was available nine months after the close of each fiscal year.

LAO Reference

Please see our *2004-05 Analysis*, page E-18.

LAO Contact

Robert Manwaring: 319-8333



K-12 EDUCATION

Reform Charter School Categorical Block Grant

Recommendation

Revise the formula for calculating the charter school categorical block grant so that it results in comparable funding rates between charter and noncharter schools. Expand the base block grant to include additional categorical programs.

Rationale

The charter school block grant is intended to provide comparable levels of categorical funding for charter schools and regular schools. In practice, however, the block grant has become overly complicated, and per-pupil funding rates for charter schools are well below those of regular schools.

Our proposal would simplify the block grant formula to ensure it yields comparable funding rates for charter and noncharter schools. We also recommend expanding the number of programs in the block grant to provide charter schools with additional fiscal flexibility, reduce overall administrative workload, and better meet the original legislative intent of the block grant.

LAO Reference

Please see our report, *Assessing California's Charter Schools* (January 2004).

LAO Contact

Jennifer Kuhn: 319-8332



K-12 EDUCATION

Enhance Charter School Oversight

Recommendation

Permit school districts, under certain conditions, to opt out from their current requirement to authorize charter schools. Allow charter schools to select among a greater range of agencies which can authorize charter schools.

Rationale

In general, only school districts may authorize a charter school. When that happens, the district assumes specific oversight responsibilities for the charter school. Under narrow statutory exceptions to this policy, about 10 percent of charter schools are authorized by county offices of education or the State Board of Education. This restrictive authorizing system creates two problems: (1) school districts may be unable to exercise meaningful oversight and (2) the lack of competition among charter authorizers can result in higher district oversight costs and lower quality oversight.

We recommend the Legislature allow charter schools to access a broader range of authorizers by creating a district opt-out option (for small or struggling districts) and authorizing other agencies to become authorizers (such as neighboring school districts, county offices, the state, or colleges and universities).

LAO Reference

Please see our report, *Assessing California's Charter Schools* (January 2004).

LAO Contact

Jennifer Kuhn: 319-8332



K-12 EDUCATION

Develop a Comprehensive Teacher Information System

Recommendation

Develop a comprehensive teacher data system to assess teacher training programs and better inform public policy.

Rationale

Currently, at least seven state agencies collect information on the state's K-12 teacher corps. These agencies, however, do not coordinate or link these independent data collections.

The failure to link these data dramatically reduces the usefulness of existing teacher information. For example, the state currently cannot determine which professional development programs enhance teacher quality or result in higher student achievement. Nor can the state study which recruitment, retention, and compensation strategies are most effective in promoting teacher quality.

We recommend the Legislature require the State Department of Education to develop a comprehensive teacher-level data system that is aligned with the state's student-level database. This would improve the Legislature's ability to develop informed policy on staff development programs and policies.

LAO Reference

Please see our *2004-05 Analysis*, page E-62, and *2003-04 Analysis*, page E-158.

LAO Contact

Jennifer Kuhn: 319-8332



HIGHER EDUCATION

Enact a Student Fee Policy for Postsecondary Education

Recommendation

Enact in statute an explicit student fee policy for all public colleges and universities which provides that students and the state each pay a fixed share of educational costs, thus ensuring gradual and moderate year-to-year changes in student fees.

Rationale

California lacks a consistent fee policy for postsecondary education. Typically, changes to student fee levels have been influenced more by the availability of state funds in any given year than through an established policy for sharing the cost of higher education between the state and students. The lack of an explicit fee policy can make it difficult for students, their families, and the state to plan effectively. By statutorily linking fees to a fixed share of educational costs, student fees would change much more gradually. Moreover, students would have a financial incentive to hold the segments accountable for cost increases. The Governor proposed a fee policy in his 2004-05 budget proposal, but the Legislature did not adopt it. An alternate proposal adopted by the Legislature was vetoed by the Governor.

LAO Reference

Please see our *2004-05 Analysis*, page E-198, and our *A Share-of-Cost Student Fee Policy* analysis presented to the Assembly Higher Education Committee on April 19, 2004.

LAO Contact

Jennifer Kuhn: 319-8332



HIGHER EDUCATION

Establish College Preparation Block Grant

Recommendation

Establish a College Preparation Block Grant targeted at K-12 schools with very low college participation rates.

Rationale

The state maintains over 35 different K-14 outreach programs that focus on preparing students from disadvantaged backgrounds for college. Most of these programs are administered by the University of California (UC) and the California State University (CSU). In reviewing these programs, we found that (1) some programs do not provide direct services to students, (2) some programs have overlapping goals and services, and (3) K-12 schools have very little control over the amount and type of outreach services provided to their students. Alternatively, our proposal would leverage districts' knowledge of their students' needs to determine the best mix of outreach interventions. Schools could use their funds to implement their own programs, or contract with UC, CSU, an independent college, or whichever provider can best meet their local needs. Schools would be accountable for the use of their block grant funding, ensuring that limited resources are in fact used to serve students most in need of additional assistance.

LAO Reference

Please see our *2004-05 Analysis*, page E-160.

LAO Contact

Anthony Simbol: 319-8334



HIGHER EDUCATION

Establish Consistent Statewide Financial Aid Policies

Recommendation

Expand competitive Cal Grant programs by consolidating them with institutional aid programs.

Rationale

Although the state guarantees financial aid for all recent high school graduates who meet financial and academic requirements, it limits the number of awards (22,500) for older students. In 2003-04, about 136,000 students competed for these awards—thus, the program served fewer than one in six eligible applicants. The competitive Cal Grant programs could be expanded without new costs by consolidating them with existing institutional financial aid programs. The University of California, California State University, and California Community Colleges together spend about \$500 million on such programs. Each of these programs operates under different rules. Thus, students with similar financial need are treated differently based on the campus they attend. Consolidating these grants under a single program would result in consistent policies that treat similar students alike. Statewide consolidation also would improve accountability because institutional aid policies are currently developed outside of the Legislature's direct purview.

LAO Reference

Please see our *2002-03 Analysis*, page E-202.

LAO Contact

Jennifer Kuhn: 319-8332



HIGHER EDUCATION

Link Private University Cal Grant to Public University Subsidy

Recommendation

Establish a statutory formula linking the value of private university Cal Grants with the subsidy the state provides for needy students at public universities.

Rationale

Private colleges and universities are an important part of the overall capacity of the state to ensure access to higher education. In 2004-05, the Cal Grant awarded to needy students attending these private institutions was reduced by 14 percent, while Cal Grants for students attending public universities was increased. We recommend that the amount of the private university Cal Grant be set as a weighted average of the General Fund subsidy provided for each additional public university student plus the weighted average of the public university Cal Grant. This formula is a simple means by which the state can ensure that it provides about the same amount of support for all financially needy students, thus promoting fairness and permitting fuller access to both the public and private segments of higher education.

LAO Reference

Please see our *2004-05 Analysis*, page E-223.

LAO Contact:

Jennifer Kuhn: 319-8332



HIGHER EDUCATION

Reexamine Existing Freshman Eligibility Standards

Recommendation

Clarify how the University of California (UC) and the California State University (CSU) should define freshman eligibility as called for in the Master Plan for Higher Education.

Rationale

The Master Plan calls for UC and CSU to admit freshmen from the top one-eighth and one-third of public high school graduates, respectively. In order to achieve these targets, the segments have adopted their own admissions criteria. Students meeting these criteria are considered “eligible” for admission. These definitions of eligibility therefore affect access to and the quality of the state’s higher education systems, yet they have been made with minimal legislative oversight. The Legislature also has little information about how well existing admissions criteria are aligned to its K-12 education priorities. For instance, the segments now define the state’s top high school graduates based on data that is not available for all high school graduates (such as voluntary tests like the SAT). Instead, the Legislature could specify that UC and CSU determine eligibility solely based on measures available for all students, such as high school grade point average and scores on the California Standards Tests (taken in the 9th, 10th, and 11th grades).

LAO Reference

Please see *Maintaining the Master Plan’s Commitment to College Access* (February 2004).

LAO Contact

Anthony Symbol: 319-8334



HIGHER EDUCATION

Enhance Incentives for Community Colleges to Provide Remedial Education

Recommendation

Fund all precollegiate courses at a uniform rate—the community college credit rate.

Rationale

Currently, the state funds precollegiate courses at the University of California (UC), California State University (CSU), and California Community Colleges at different rates. We are not aware of any policy basis for this disparity. We recommend, therefore, that the state fund these courses at a uniform level, using the community college credit rate (which is approximately \$4,300 per full-time equivalent student). Using this uniform rate would help ensure that the systems appropriately use the community colleges to share the responsibility for providing precollegiate education. Several campuses—including UC Davis, UC San Diego, and CSU Northridge—already rely on community college instructors to teach many of their precollegiate courses. In these cases, the courses already are funded at the community college credit rate.

LAO Reference

Please see our *2003-04 Analysis*, page E-242, *Improving Academic Preparation for Higher Education* (February 2001), and *Are Entering Freshmen Prepared for College-Level Work?* (March 2004).

LAO Contact

Anthony Simbol: 319-8334



CALWORKS

Expand CalWORKs Community Service

Recommendation

In order to better use community service as a bridge to unsubsidized employment, allow counties to use private for-profit organizations as community service employers.

Rationale

California Work Opportunity and Responsibility to Kids (CalWORKs) recipients must begin community service after two years on aid if they have not found a job. Under current law, such community service must be performed in the public and private nonprofit sectors. Excluding the for-profit private sector from participating in community service employment, however, (1) significantly reduces the number of potential employers and (2) increases the difficulty of finding high-quality work slots, particularly in jobs that might closely resemble those in the private sector.

LAO Reference

Please see *CalWORKs Community Service, What Does It Mean for California?* February 1999, page 18.

LAO Contact

Lisa Folberg: 319-8358



ADOPTIONS ASSISTANCE PROGRAM

Reform Grant Levels and Eligibility

Recommendation

Set payment levels at amounts that recognize the adoptive parents' financial responsibility for their adoptive children and better tie benefit levels to the needs of adoptive children.

Rationale

The current Adoptions Assistance Program (AAP) provides the *maximum* foster care grant for virtually every child who is adopted from the foster care program, including children who could be placed in an adoptive home without financial incentives. This policy has turned AAP into one of the fastest growing social services programs in terms of caseload and cost. To remedy this situation, the AAP benefits should be limited to those children who would truly be hard to place without ongoing financial assistance. Following placement, the level of AAP benefits should be tied to the needs of the child. This approach to adoptions assistance payments would recognize that adoptive parents take on the same responsibilities as parents who give birth to their own children (including financial responsibility). Many people become foster parents as a route to adoption. Therefore, the "incentive" provided by AAP may be unnecessary for many families.

LAO Reference

Please see *Reforming the Adoptions Assistance Program* in our *2004-05 Analysis*, page C-255.

LAO Contact

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CALIFORNIA CHILDREN AND FAMILIES COMMISSION

Establish Matching Grant Program for Proposition 10 Funds

Recommendation

Establish a state-funded voluntary matching grant program for (1) early childhood programs that have been shown to be cost-effective and/or (2) demonstration programs that are potentially cost-effective, based on existing research.

Rationale

Proposition 10 provides county commissions with a significant increase in funding for programs related to early childhood development. The Legislature has no direct control over the expenditure of Proposition 10 funds, but does have an opportunity to influence decisions taken by the state and, more importantly, the county commissions. A variety of early childhood programs, typically small-scale demonstration programs, have been evaluated as being effective according to outcome measures such as school achievement and health status. Enacting a matching grant program would create a fiscal incentive to encourage the county commissions to use their funds in a cost-effective manner.

LAO Reference

Please see *Proposition 10: How Does It Work? What Role Should the Legislature Play in Its Implementation?* January 1999.

LAO Contact

Julie Salley-Gray: 319-8352



COUNTY HEALTH AND SOCIAL SERVICES PROGRAMS

Strengthen and Expand the State-Local Realignment Enacted in 1991

Recommendation

Enact legislation to improve the existing realignment arrangements and consider expanding realignment to *additional* state programs.

Rationale

In 1991, the state enacted a major change in the state and local government relationship, known as realignment. Mental health, social services, and health program were transferred from the state to county control, and counties were provided with dedicated tax revenues to pay for these and other changes. Our analysis found that realignment has been a largely successful experiment, but that some aspects could be improved. Our analysis has also identified additional state programs that merit consideration for realignment. Under the California Constitution, as recently amended by Proposition 1A, the transfer of additional program responsibility to local government would have to be accompanied by commensurate offsetting revenues or program savings.

LAO Reference

Please see *Realignment Revisited: An Evaluation of the 1991 Experiment in State-County Relations*, February 2001 and *The 2003-04 Budget: Perspectives and Issues, Realignment and the 2003-04 Budget*, page 123.

LAO Contact

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DEPARTMENT OF HEALTH SERVICES

Require Certain Aged and Disabled Medi-Cal Beneficiaries To Shift to Managed Care

Recommendation

Enact legislation directing the Department of Health Services to prepare and implement a plan to gradually shift certain aged and disabled Medi-Cal beneficiaries (in counties where Medi-Cal health plans already exist) into managed care.

Rationale

Today, the Medi-Cal Program offers a paradox: aged and disabled beneficiaries who would benefit the most from the improved health care that can come from receiving the coordinated care offered by managed care have largely been excluded from the Medi-Cal managed care program. To improve health care for this group and reduce annual Medi-Cal expenditures by an estimated \$100 million in 2007-08, about 330,000 aged or disabled persons could be shifted from the fee-for-service system to Medi-Cal managed care. The aged and disabled represent one of the most costly groups, in terms of health care, for whom the state has the greatest opportunity for containing Medi-Cal expenditures. However, the aged and disabled have not been targeted for managed care programs.

LAO Reference

Please see *Better Care Reduces Health Care Costs for Aged and Disabled Persons*, March 2004.

LAO Contact

Shawn Martin: 319-8362 and Farra Bracht: 319-8355



DEPARTMENT OF HEALTH SERVICES

Maximize Opportunities for Savings in the California Children's Services Program

Recommendation

Enact legislation that would require the Department of Health Services to implement measures to control increasing costs and preserve General Fund resources in the California Children's Services (CCS) program.

Rationale

The CCS program provides medical treatment and therapy services to eligible children and young adults under 21 years of age with certain debilitating medical conditions or major traumatic injuries. Our analysis, *Missed Opportunities for General Fund Savings in the CCS Program*, indicates that CCS caseload and costs are continuing to rise. Our review emphasizes the need to evaluate cost control measures, or to slow the further increase in these costs in ways that will not undercut the provision of health care for some of the state's most medically fragile children. Our analysis also indicates that, in a number of ways, the state is not taking full advantage of available federal funds to support the program. We propose specific steps to improve the operation of CCS that could free-up General Fund resources.

LAO Reference

Please see our *2003-04 Analysis*, page C-20.

LAO Contact

Celia Pedroza: 319-8354



DEPARTMENT OF HEALTH SERVICES

Modify Rate Structure for Facilities for the Developmentally Disabled

Recommendation

Enact legislation directing the Department of Health Services to adopt a broader definition of the services that can be provided by Intermediate Care Facilities for the Developmentally Disabled (ICF/DDs) and modify the ICF/DD rate structure accordingly.

Rationale

Our analysis indicates that the state has the option of drawing down additional federal funds of up to \$50 million annually within a few years to offset the state costs of services provided to residents of ICF/DDs. Federal regulations allow for a broad definition of the services that can be provided in ICF/DDs with reimbursement under the Medi-Cal program. Other states have been successful in defining their ICF/DD programs more broadly than California to cover the services and support for clients with developmental disabilities, thereby increasing their federal reimbursement under Medicaid.

LAO Reference

Please see our *2004-05 Analysis*, pages C-185 and C-186.

LAO Contact

Shawn Martin: 319-8362



DEPARTMENT OF MANAGED HEALTH CARE

Help Restore Managed Care to Rural California

Recommendation

Enact legislation to encourage HMOs to return to rural areas and to foster locally controlled health care systems in those counties where HMOs may be unwilling or unable to operate.

Rationale

Chapter 208, Statutes of 2001 (AB 532, Cogdill), directed our office to examine the reasons why a number of HMOs have discontinued operations in rural areas, and further directed us to offer recommendations to address this situation. Our report, *HMOs and Rural California*, provided the Legislature with a number of options to restore managed care to rural California. Our analysis indicates that HMOs are withdrawing coverage because of a combination of circumstances that makes it difficult for them to operate profitably, including shortages of health care providers, differences in rural medical practices, and the state's lack of support for managed care in rural areas. We propose specific steps to create a more attractive health care marketplace for HMOs in rural counties. We also identify ways the state can help communities that may not be able to attract HMOs to develop their own health care systems that may provide some of the potential benefits of managed care.

LAO Reference

Please see *HMOs and Rural California*, August 2002.

LAO Contact

Celia Pedroza: 319-8354



DEPARTMENT OF DEVELOPMENTAL SERVICES

Clarify the Lanterman Act

Recommendation

Reinstate statutory language that clarifies that parents of children with developmental disabilities, and not state taxpayers, should be financially responsible for the purchase of goods and services that would normally be purchased by the parents of a child without developmental disabilities.

Rationale

The Lanterman Act states the intent of the Legislature to ensure the provision of services to developmentally disabled individuals and their families. Services and supports may include, but are not limited to, more than 20 specific services that are listed in the Lanterman Act. However, the Lanterman Act is not as specific regarding which services, if any, the state is not responsible for providing to developmentally disabled individuals. At one time, state law was clear that the state is not obligated to pay for services for a client that parents would typically be responsible for purchasing for any children. This statutory language was allowed to sunset in 2002.

LAO Reference

Please see our *2004-05 Analysis*, pages C-184 and C-185.

LAO Contact

Shawn Martin: 319-8362



DEPARTMENT OF MENTAL HEALTH

Allow Supervision of Sexually Violent Predators By Parole Agents

Recommendation

Enact legislation allowing the Department of Mental Health (DMH) to contract with the Department of Corrections (CDC) for the supervision of sexually violent predators (SVPs) who have been released into the community.

Rationale

In 2003, the state experienced the first court-approved releases to the community of individuals deemed to be SVPs who had been committed and treated in state mental hospitals. The DMH arranged for supervision and treatment of SVPs through a contract with a private vendor after a number of counties had declined to provide these services in the community. Our analysis of the budget requests to implement this new contract indicated that SVP supervision could be provided by the state at a much lower cost and with greater public safety if DMH instead entered into an interagency agreement with CDC to use its existing system of parole agents to provide these same services.

LAO Reference

May 2003 letter to the Joint Legislative Budget Committee.

LAO Contact

Dan Carson: 319-8350



DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

“Remodel” the Drug Medi-Cal Program

Recommendation

Enact legislation that would shift various state funding allocations for drug or alcohol treatment services to counties and contain methadone costs.

Rationale

Our office was directed by the *Supplemental Report of the 2002-03 Budget Act* to conduct a review of the Drug Medi-Cal Program, which provides substance abuse treatment services for an estimated 45,000 persons annually. Among other concerns, we found significant inconsistencies in the resources being provided to support different modes of treatment, and that a disproportionately small share of the program budget was spent on services for children and female beneficiaries.

We recommended a series of actions to remodel the program to provide counties with broad new authority under a new financial structure to decide the modes of treatment provided within their jurisdiction and to determine exactly how such services would be provided. We further recommended that the state take over direct responsibility statewide for the provision of narcotic treatment services as part of a strategy to help contain the fast-rising costs of methadone maintenance treatment.

LAO Reference

Please see *Remodeling the Drug Medi-Cal Program*, February 2004

LAO Contact

Dan Carson: 319-8350



OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT

Identify Areas With Shortage or Oversupply of Hospital Beds

Recommendation

Enact legislation directing the Office of Statewide Health Planning and Development (OSHPD) to review statewide hospital bed occupancy rates and determine, on a regional basis, if there is an undersupply or oversupply of hospital beds.

Rationale

The availability of such information would help the Legislature to determine where there is a shortage or potential shortage of hospital beds and if state assistance is warranted to prevent the closure of hospitals needed to maintain access to services for Medi-Cal patients and the uninsured. In addition, if there is evidence of excess bed capacity in some areas of the state, OSHPD could use the occupancy rate data and financial information that it collects to identify opportunities for hospital consolidation.

LAO Reference

Please see our *2002-03 Analysis*, pages C-38 through C-47.

LAO Contact

Farra Bracht: 319-8355



DEPARTMENT OF JUSTICE

Enact Changes in Responsibilities and Relationships With Local Governments

Recommendation

- Designate Department of Justice (DOJ) as the lead agency for all interactions with foreign governments related to the prosecution of persons committing crimes in California who have fled to their home countries.
- Require local law enforcement agencies to pay for the costs of services provided by the DOJ's crime laboratories.
- Require counties to reimburse the state for legal work performed by DOJ on behalf of district attorneys who are disqualified from handling local cases due to conflicts of interest.

Rationale

Designating DOJ as lead agency for all foreign prosecutions would enhance law enforcement coordination efforts between foreign governments and California. Requiring local governments to pay for crime lab services and prosecution in conflict of interest cases would properly align local government's funding and programmatic responsibilities for investigation and prosecution of criminal cases.

LAO Reference

Foreign prosecution—see our *1997-98 Analysis*, page D-179.

Crime lab services—see our *1999-00 Analysis*, page D-133.

Legal work in conflict of interest cases—see our *1988-89 Analysis*, page 53.

LAO Contact

Melissa Tanner: 319-8343



DEPARTMENT OF CORRECTIONS

Enact Reforms in Prison Industry Authority

Recommendation

Privatize the Prison Industry Authority (PIA) as an independent, nonprofit, tax-exempt organization. Focus PIA on providing job training and other services aimed at preventing second-strike offenders from coming back to state prison with 25-years-to-life third-strike sentences. Also, enact other changes to restructure PIA management, improve fiscal accountability, do away with protected markets, establish clear rules for competition, allow for new private partnerships, and measure mission performance.

Rationale

Following a number of years of poor financial performance, the PIA has improved, but the state continues to receive a poor return on its more than \$100 million contribution in buildings and equipment for the program. The PIA's progress has been hampered by an ever-shifting and muddled mission, constraints on inmate productivity, governmental constraints such as the state's personnel system, and a weak internal governance structure.

LAO Reference

Please see *Reforming the Prison Industry Authority*, April 1996.

LAO Contact

Brian Brown: 319-8351



DEPARTMENT OF THE YOUTH AUTHORITY

Modify County Fee Process

Recommendation

Enact legislation to modify the process by which parole consideration dates are established for Youth Authority wards with less serious offenses. Specifically, permit counties to have a greater say in determining the length of stay of wards that they send to the Youth Authority.

Rationale

When a young offender is accepted by the Youth Authority as a new admission, he becomes a ward of the department, and all decisions regarding length of stay, parole, and parole revocation are at the sole discretion of the Youth Authority Board (YAB). Current law also requires counties to pay a fee to the state for each offender they send to the Youth Authority. Counties pay significantly higher fees for wards sent to the Youth Authority for less serious offenses (YAB categories V through VII) than serious offenses. Because the counties pay for a large share of the costs of these less serious wards, the counties should have a role in determining the optimal length of stay for the wards, rather than leaving the decision solely to the YAB. There are several options for how this could be accomplished.

LAO Reference

Please see our *1999-00 Analysis*, page D-105.

LAO Contact

Melissa Tanner: 319-8343



DEPARTMENT OF THE YOUTH AUTHORITY

Realign Juvenile Parole Function to County Probation

Recommendation

Give counties the responsibility and funding to supervise juveniles released from Youth Authority facilities. Under this proposal, individuals leaving the state Youth Authority would transition directly into the local probation system. State funding that would otherwise be used for juvenile parole services would be redirected to county probation departments in the form of a subvention grant.

Under the California Constitution, as recently amended by Proposition 1A, the transfer of additional program responsibility to local government would have to be accompanied by commensurate offsetting revenues of program savings.

Rationale

There is a high level of duplication within the state and local juvenile justice systems. Both the state and local governments operate programs to supervise youthful offenders in the community. However, the local probation system is much larger and has a broader array of existing services to address the diverse needs of the youthful offender population.

LAO Reference

Please see our *2004-05 Perspectives and Issues*, page 93.

LAO Contact

Greg Jolivette: 319-8340



CALIFORNIA AIR RESOURCES BOARD

Improve State Oversight of Local Air Districts

Recommendation

Direct the Air Resources Board (ARB) to adopt a statewide policy to guide local enforcement and data management. Require ARB to develop a work plan for timely reviews of local district programs.

Rationale

The state has an interest in ensuring that locally administered air quality programs are implemented effectively and consistently in order to achieve the state's air quality goals. However, state-level policies to guide local enforcement practices, including data reporting to the state, are lacking. In addition, ARB's review of local programs—a statutory mandate—has been minimal. As a result, problems such as inconsistent and not fully effective local enforcement have developed without ARB taking timely corrective action.

LAO Reference

Please see *Improving State Oversight and Direction of Local Air Districts*, January 25, 2001.

LAO Contact

Michelle Baass: 319-8321



CALFED BAY-DELTA PROGRAM

Establish Funding Principles and User Fees

Recommendation

Enact a user fee on Bay-Delta water diverters (water agencies and other water right-holders that “take” water from the Bay-Delta system) to pay an appropriate share of costs for CALFED activities that benefit them. Add financial planning requirements to the California Bay-Delta Authority’s responsibilities.

Rationale

Applying the beneficiary pays principle to CALFED funding, including enacting a user fee on water diverters, will result in a more reasonable allocation of the program’s costs to those who benefit from the program. This policy is consistent with prior legislative intent and CALFED’s legal framework.

The Legislature’s evaluation of the administration’s annual budget proposal for CALFED would be aided if it could consider that proposal in the context of a long-term financing plan for CALFED. This plan should be updated annually and lay out multiyear funding requirements as well as identify funding sources anticipated to meet those requirements.

LAO Reference

Please see our *2004-05 Analysis*, pages B-28, B-31, and B-33.

LAO Contact

Mark C. Newton: 319-8323



CALFED BAY-DELTA PROGRAM

Define and Oversee Environmental Water Account

Recommendation

Establish in state law provisions for the Environmental Water Account (EWA) program's governance, operation, and funding, and require a clear annual accounting of the program's activities and impacts.

Rationale

The EWA involves the state buying water to hold in reserve to release when needed for fish protection. Although established administratively, EWA has not been enacted in state law. While the concept of EWA has merit, we believe the Legislature should state in statute the state role in EWA, particularly funding. The legislation should also address operational issues including governance, scientific review, and the acquisition and use of water by EWA.

The Legislature should have information to assess whether the program is working as intended. Specifically, there should be a clear accounting of water purchases, the use of EWA water, and environmental and water supply reliability benefits.

LAO Reference

Please see *Environmental Water Account: Need for Legislative Definition and Oversight*, January 29, 2001. Also see our *2002-03 Analysis*, page B-24 and our *2001-02 Analysis*, page B-27.

LAO Contact

Mark C. Newton: 319-8323



DEPARTMENT OF WATER RESOURCES

Revise State-Local Cost Share for Flood Control Projects

Recommendation

Reduce the state's share of nonfederal costs of federally authorized flood control projects to a maximum of 50 percent.

Rationale

Under current law, the state contributes between 50 percent and 70 percent of the nonfederal share of costs of federally authorized flood control projects, many of which are sponsored by a local agency. Because these projects provide direct benefits to local communities, it is reasonable for local jurisdictions to bear a larger portion of the costs than they currently do. This approach is consistent with a "beneficiary pays" principle. If the state were to reduce its contribution to between 30 percent and 50 percent of the nonfederal share of cost of future projects, substantial savings would accrue to the state. These freed-up funds could be directed to other state priorities, which might include currently underfunded floodplain mapping and other floodplain management activities.

LAO Reference

Please see our *2004-05 Analysis*, page B-93.

LAO Contact

Brendan McCarthy: 319-8309



WATER TRANSFERS

Facilitate Water Transfers While Better Protecting Those Parties Affected by Transfers

Recommendation

Consolidate water transfer law into a single act, with clearly stated goals and more consistent and comprehensive third-party protection. Establish a water transfer information office to facilitate water transfers on a statewide basis.

Rationale

Water transfers—from one party with extra water to another party with temporary or ongoing needs—have significant potential as a management tool to address the state’s water needs. However, current water transfer law is unclear and inconsistent.

Making water transfer law clear and consistent should reduce uncertainty that impedes such transfers. In addition, the creation of a statewide water transfer information office could (1) reduce transaction costs associated with transfers by streamlining regulatory review and (2) improve the evaluation of the third-party impacts of transfers.

LAO Reference

Please see *The Role of Water Transfers in Meeting California’s Water Needs*, September 8, 1999.

LAO Contact

Brendan McCarthy: 319-8309



CALIFORNIA COASTAL COMMISSION

Increase Likelihood That Locals Adopt Coastal Commission's Recommendations

Recommendation

Increase incentives for local governments to incorporate into their Local Coastal Programs (LCPs) recommendations of the Coastal Commission.

Rationale

All local governments within the state's coastal zone are required to adopt LCPs to ensure that development within the zone complies with the Coastal Act. The Coastal Commission is required to review these LCPs periodically, and to make recommendations on how they can better promote the goals of the Coastal Act. However, there is no requirement that local governments adopt these recommendations.

The commission's recommendations could be given more strength through statute, such as by giving the commission the authority to decertify LCPs that do not meet certain standards. In this way, local governments would be more inclined to respond to the commission's recommendations, and therefore to maintain LCPs that more effectively promote the goals of the Coastal Act.

LAO Reference

Please see our *2000-01 Analysis*, page B-93.

LAO Contact

Michelle Baass: 319-8321



PROPOSITION 50 RESOURCES BOND

Establish Policy on Funding Eligibility of Private Water Companies

Recommendation

Permit private water companies to be eligible to apply for Proposition 50 bond funds.

Rationale

Unlike prior resources bond measures that generally restrict grant and loan funds to public agencies and nonprofit organizations, Proposition 50 is a recent bond measure that is generally silent on the issue of public versus private eligibility for these bond funds. There is a benefit from having a consistent state policy, guided by legislative direction, on the issue of allocating such bond funds to private water companies. We believe that the broad public purpose of Proposition 50 bond funds would be served by including private entities as eligible recipients of such funds.

LAO Reference

Please see *Proposition 50 Resources Bond: Funding Eligibility of Private Water Companies*, May 2004.

LAO Contact

Mark C. Newton: 319-8323



RESOURCES BONDS

Establish Administrative Cost Controls on Resources Bonds

Recommendation

Establish a reasonable limit on, and definition of, administrative costs to be funded from both recently approved and future resources bonds.

Rationale

Recent resources bond measures do not define administrative costs and, in most cases (Propositions 12, 40, and 50), there are few limits on the amount of bond proceeds that can be used to administer loan and grant programs. As a result, the implementing agencies effectively have broad discretion when determining administrative costs.

LAO Reference

Please see *Enhancing Implementation and Oversight: Proposition 40 Resources Bond*, May 7, 2002 and *Parks and Water Bonds: Implementation Issues*, May 25, 2000. Also see our *2004-05 Analysis*, page B-41.

LAO Contact

Mark C. Newton: 319-8323



DEPARTMENT OF FORESTRY AND FIRE PROTECTION

Levy Fire Protection Fees

Recommendation

Require that property owners who directly benefit from fire protection services of the California Department of Forestry and Fire Protection (CDFFP) partially offset the costs of that service by paying a fee.

Rationale

The CDFFP provides fire protection services in state responsibility areas (SRAs). The SRA lands generally consist of all forestlands, watersheds, and rangelands that are not owned by the federal government or located within the jurisdiction of a city. Property owners in the SRAs directly benefit from the program, as does the state's population through the preservation of natural lands. Thus, the state and property owners who benefit from the program should share in the costs of providing fire protection services.

The Legislature previously enacted a fire protection fee of \$35 per parcel of land located in SRA, pursuant to Chapter 741, Statutes of 2003 (SB 1049, Committee on Budget and Fiscal Review). However, the Legislature repealed this fee prior to its initial collection, pursuant to Chapter 219, Statutes of 2004 (SB 1112, Committee on Budget and Fiscal Review).

LAO Reference

Please see our *2003-04 Analysis*, page B-88.

LAO Contact

Jenny Giambattista: 319-8325



TIMBER HARVEST PLAN REVIEW

Enact Timber Harvest Fees

Recommendation

Require fees be paid by timber operators in order to fully cover the costs incurred by various state agencies in their review and enforcement of timber harvest plans (THPs).

Rationale

As a condition of timber harvesting in the state, timber operators must prepare a THP for approval by the California Department of Forestry and Fire Protection (CDFFP). The THP covers such matters as harvest volume, cutting method, erosion control, and wildlife habitat protection. The THPs are reviewed by multiple state agencies in addition to CDFFP, including the Department of Conservation, the Department of Fish and Game, and the State Water Resources Control Board. Fees levied on timber operators should cover the total state agency costs to review and enforce THPs, since there is a direct link between these activities and those who directly benefit from them through their harvesting of timber.

LAO Reference

Please see our *2003-04 Analysis*, page B-60.

LAO Contact

Jenny Giambattista: 319-8325



CONSERVANCIES

Clarify Land Acquisition Objectives and Review Goals

Recommendation

Provide clearer statutory direction to each state conservancy regarding the objectives of their land acquisition programs. Amend conservancies' authorizing statutes to require periodic assessments of conservancies' progress in attaining their goals and of the continued appropriateness of these objectives.

Rationale

The statute establishing a conservancy often identifies goals that are broad and divergent, including goals that are difficult to reconcile—such as promoting recreation versus protecting wildlife. Accordingly, legislation clarifying and refining the conservancies' statutory missions is warranted to better ensure that the conservancies are addressing the Legislature's objectives and priorities.

Since the establishment of most conservancies, many changes have occurred in the state's development patterns and understanding of environmental and wildlife issues.

Accordingly, a periodic review of conservancies to evaluate how well they are meeting their missions is warranted.

LAO Reference

Please see *California's Land Conservation Efforts: The Role of State Conservancies*, January 5, 2001.

LAO Contact

Michelle Baass: 319-8321



DEPARTMENT OF CONSERVATION

Improve Mine Enforcement and Oversight

Recommendation

Improve compliance with the state's Surface Mining and Reclamation Act (SMARA) by authorizing the state to inspect mines on a reimbursable basis when local lead agencies are not fully meeting the act's requirements.

Rationale

Responsibility to enforce SMARA is split between the state and local "lead agencies" (primarily county governments). In general, lead agencies approve mining permits and conduct annual reviews and inspections, under state oversight. However, lead agencies often do not conduct annual mine inspections as required by statute. The state could ensure that annual inspections are performed by authorizing state inspections (funded by the lead agencies) when the lead agencies fail to conduct them.

LAO Reference

Please see our *2001-02 Analysis*, page B-50.

LAO Contact

Michelle Baass: 319-8321



TRANSPORTATION

Require Fees to Cover the Costs of Issuing Encroachment Permits

Recommendation

Require that the fees charged to private companies by Caltrans for issuing encroachment permits cover, but do not exceed, the total cost of providing this service.

Rationale

Caltrans issues encroachment permits to government agencies and private companies for construction and nontransportation activities within the state highway system's right-of-way. State law allows the department to charge private companies for these permits, provided the total fees collected do not exceed the cost of reviewing permit applications from private companies. However, the encroachment permitting fees Caltrans collects cover only about two-thirds of the cost of reviewing private-company permit applications. This has resulted in the state annually providing about \$2.5 million worth of this service to private companies free of charge. Because the fees charged do not equal the cost of issuing the permits, the State Highway Account (SHA) must cover the difference. If the fees more closely matched the costs, this SHA money could instead be used for other transportation purposes.

LAO Reference

Please see our *2002-03 Analysis*, page A-49.

LAO Contact

Joel Riphagen: 319-8360



TRANSPORTATION

Repeal Proposition 42

Recommendation

Ask the voters to increase transportation funding stability by repealing the State Constitution's requirement that revenue from the sales tax on gasoline be used for transportation purposes.

Rationale

Proposition 42, passed by voters in March 2002, directs revenue from the sales tax on gasoline to transportation purposes. The intent of the proposition was to increase transportation funding by more than \$1 billion annually. Unfortunately, this revenue has proven to be unpredictable. Since 2003, Proposition 42 revenues for transportation have been partially or fully suspended, to reduce the General Fund's annual budget deficits. Future transfers are also uncertain for the same reason. This uncertainty makes long-term transportation planning difficult and could result in the state wasting time and money due to stopping and restarting projects. Repealing Proposition 42 would return some stability to transportation funding—although at a lower level—while partially addressing the General Fund's structural deficit. Our recommendation on the following page would increase transportation funding to compensate for repealing Proposition 42.

LAO Reference

Please see our *2004-05 Analysis*, pages A-29 through A-36.

LAO Contact

Joel Riphagen: 319-8360



TRANSPORTATION

Increase and Index the State Gas Tax

Recommendation

Increase the state excise tax on gasoline and diesel fuel to provide a stable funding source to replace Proposition 42 revenue and index the tax to prevent erosion of the tax's value over time.

Rationale

A 1999 California Transportation Commission study identified over \$100 billion in unfunded transportation needs over the following decade. Since that time, transportation funding needs have increased. From 1998-99 through 2004-05, vehicle-miles traveled in the state are projected to increase by more than 15 percent, while inflation-adjusted gas tax revenues decline by 8 percent.

Transportation projects have traditionally been funded by an excise tax on gasoline and diesel fuel. This tax is a logical transportation funding source because 1) drivers pay the tax in proportion to the amount of driving they do, and 2) the tax is a way to make drivers pay for some of the economic costs they impose on society, including congestion and pollution. For these reasons, we believe it is appropriate to raise the gas tax to address transportation's unfunded needs. Furthermore, to prevent the future erosion of transportation funding relative to road use, we recommend that the gas tax be indexed to the California consumer price index.

LAO Reference

Please see our *2004-05 Analysis*, pages A-29 through A-36.

LAO Contact

Joel Riphagen: 319-8360



TRANSPORTATION

Conduct Ongoing Transportation Needs Assessment

Recommendation

Require a statewide transportation needs assessment every five years.

Rationale

The first step in identifying a solution to a problem is identifying the scope of the problem. Yet, when it comes to transportation, there is currently no requirement that Caltrans or any other state entity assess and report on the state's overall transportation needs on a regular basis.

While Caltrans and regional transportation planning agencies (RTPAs) must regularly update funding and scheduling documents, such as the State Transportation Improvement Program and the State Highway Operation and Protection Program, these documents provide no information about unfunded needs. Similarly, RTPAs are required to adopt 20-year long-range planning documents under both state and federal law, but these documents are not compiled to provide a view of the state's needs as a whole.

Lao Reference

Please see *California Travels: Financing Our Transportation*, May 2000, page 54.

LAO Contact

Dana Curry: 319-8320



TRANSPORTATION

Fund Transit Rolling Stock

Recommendation

Amend the State Constitution to permit the use of gas tax revenues for transit rolling stock.

Rationale

The State Constitution (Article XIX) restricts the use of fuel tax revenues (gas and diesel taxes) to (1) construction, maintenance, and operation of roads and highways or (2) construction and maintenance of mass transit guideways and facilities (mainly rail tracks). Transit rolling stock (mainly railcars and buses) is the only type of transportation capital outlay that currently cannot use fuel tax revenues under Article XIX. Modifying Article XIX to allow fuel tax revenues to be used for transit rolling stock would allow greater flexibility in the use of fuel tax revenues for the most cost-effective transportation projects.

LAO Reference

Please see *After the Transportation Blueprint: Developing and Funding an Efficient Transportation System*, March 5, 1998, page 3.

LAO Contact

Paul Steenhausen: 319-8324



DEPARTMENT OF GENERAL SERVICES

Authorize Equipment Financing Program

Recommendation

Create a statutory framework for the state's equipment financing program.

Rationale

Every year the state purchases hundreds of millions of dollars in equipment. The state either makes these purchases outright, or through some type of financing program. In 1996, the Department of General Services (DGS) established the GS \$Mart (pronounced "GS Smart") Program that the state uses to finance equipment purchases. Since the inception of GS \$Mart, the state has financed over \$445 million in equipment purchases. In our 2003 review, one of the major problems we identified was the lack of statutory authority, and thus legislative direction, for the program.

LAO Reference

Please see *Get \$mart: Reforming the State's Equipment Financing Program* (January 2003).

LAO Contact

Anna Brannen: 319-8344



DEPARTMENT OF PERSONNEL ADMINISTRATION

Review Collective Bargaining Agreements

Recommendation

To strengthen the Legislature's oversight of collective bargaining and require a minimum 30-day review period for collective bargaining proposals.

Rationale

The Ralph C. Dills Act directs the administration and employee representatives to reach labor agreements before adoption of the budget act for the ensuing year. The act further specifies that provisions of memoranda of understanding (MOUs) requiring the expenditure of state funds be approved by the Legislature in the annual budget act before the provisions may take effect. Historically, however, agreements often have not been reached in time for legislative consideration as part of the budget process. Instead, the Legislature has received MOUs for approval late in the legislative session. In addition, assessments of the total cost of the MOUs have not always been available or complete for consideration with the proposals.

Reference

Please see our *Analysis of the 2001-02 Budget*, pages F-150 and F-151; and F-198 through F-200.

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