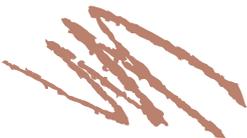


LAO 
RECOMMENDED
LEGISLATION


ELIZABETH G. HILL
LEGISLATIVE ANALYST
DECEMBER 2002



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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 24, 2003. The last day for bill introduction is February 21, 2003.

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K-12 EDUCATION

Consolidate Categorical Funding Into Block Grants

Recommendation

Consolidate and simplify related categorical programs into a discrete 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. Consolidating many of these programs into several block grants would free local districts and schools to address their needs in ways that best match their local circumstances. Money would flow more readily to those activities for which it is needed most, leading to more effective use of funds. It also would simplify administrative processes and eliminate unnecessary “red tape.” Under this proposal, state oversight would focus on the local impact of block grant funds on improving student achievement and other educational outcomes. Our proposal also would fundamentally change the mission of the State Department of Education from one of program administration and compliance to (1) focusing on accountability for student outcomes, (2) helping school districts to improve their education programs (especially in low-performing school districts), and (3) improving research and evaluation.

LAO Reference

Please see our *2002-03 Analysis*, page E-77.

LAO Contact

Robert Manwaring: 319-8333 or Jennifer Kuhn: 319-8332

K-12 EDUCATION

Class Size Reduction: Increase Program Flexibility for Educational Benefit

Recommendation

Allow school districts to use class size reduction (CSR) funding to deploy teachers in ways that best meet their students' needs. Rather than the rigid 20 to 1 formula that current law requires for each classroom, this alternative approach would provide for more flexible and effective implementation.

Rationale

Given differences among local school sites, a single educational strategy does not always benefit all students. Indeed, recent research has revealed that California's CSR program has: (1) had an ambiguous impact on student achievement; (2) contributed to a significant increase in noncredentialed teachers, especially in the most disadvantaged schools; and (3) exacerbated the state's facility shortage. For these reasons, we propose providing greater flexibility for CSR funding. For example, the state could reduce restrictions on pupil per teacher ratios, allow targeted class size reduction, or support alternative uses of certificated staff. Our proposal would help schools with serious facilities constraints and/or high numbers of underqualified teachers.

LAO Reference

Please see our *1997-98 Analysis*, page E-52.

LAO Contact

Jennifer Kuhn: 319-8332

K-12 EDUCATION

Broaden Permissible Uses of English Language Learner (Proposition 227) Funding

Recommendation

Broaden the permissible uses of the \$50 million annually appropriated by Proposition 227, in order to better address the needs of English language learner pupils.

Rationale

Presently, the \$50 million annual appropriation made by Proposition 227 is narrowly restricted to English language instruction to adults who pledge to subsequently tutor school children in the learning of English. Our proposal would further the overall purpose of the proposition to teach all children English as rapidly and effectively as possible by allowing school districts to select additional strategies for delivering English tutoring and other specialized assistance in English instruction. For example, under our proposal, districts could pay for English tutoring of pupils by tutors who already know English. Proposition 227 specifically provides that the Legislature may amend the proposition to “further the act’s purposes” through a bill (passed by two-thirds vote and signed by the Governor).

LAO Reference

Please see our *1999-00 Analysis*, page E-44.

LAO Contact

Maryza Gutierrez: 319-8336

K-12 EDUCATION

Align Federal and State Intervention and Sanction Programs

Recommendation

Align specific elements of federal and state school intervention and sanction programs for low-performing schools to develop a unified accountability system.

Rationale

State and federal sanction and intervention programs need to be aligned as required by the federal No Child Left Behind Act of 2001. The current system requires a school to develop different school improvement plans for state and federal intervention or sanction programs, which directs resources away from implementing reforms. In addition, the state and federal systems have differing (1) eligibility requirements, (2) academic improvement targets, (3) timelines, and (4) exit criteria. The conflicting structures of the state and federal systems can send inconsistent messages on the performance of a school. For example, a school could be making “significant progress” under the state system, while at the same time not be making “adequate yearly progress” under the federal system. Integrating the two systems into one would ensure that schools receive a consistent message.

LAO Reference

Please see our *2002-03 Analysis*, page E-114.

LAO Contact

Victoria Carreón: 319-8330

K-12 EDUCATION

Phase Out Basic Aid

Recommendation

Phase out “basic aid” given to high-property-wealth districts over a three-year period.

Rationale

So-called basic aid school districts are among the districts with the highest amounts of combined state/local revenues per student. The provision of basic aid to these districts exacerbates the disparities in per-student funding that the Legislature tries to address through equalization funding. The amount currently spent on basic aid (an estimated \$17.1 million in 2001-02) could be used instead to address higher priority educational needs.

LAO Reference

Please see our *1997-98 Analysis*, page E-64.

LAO Contact

Jennifer Borenstein: 319-8338

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

Education Code Section 8278 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. However, unlike all other Proposition 98 expenditures, unspent child care allocations are unavailable for expenditure in other education areas, even though these other areas may be of higher priority in any given fiscal year. Our proposal would restore the Legislature's full budgeting flexibility to use child care carryover funds for purposes aligned to its full range of 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

Anthony Simbol: 319-8334

K-12 EDUCATION

Eliminate Child Care Eligibility for 13-Year Old Children

Recommendation

Eliminate subsidized child care services for 13-year olds, resulting in annual savings of \$5.5 million.

Rationale

Under current law, children age 13 or younger from families with incomes below 75 percent of the state median income are eligible for state child care. No other state provides subsidized care to 13-year old children. This is mainly because federal funds may not be spent on child care for children older than age 12. Aligning state and federal eligibility requirements for child care would simplify the rules that local providers must follow regarding allowable expenditures. Moreover, multiple state and federal programs already serve 13-year old students before and after regular school hours at many sites in California. The *2002-03 Budget Act* includes \$40.9 million in new federal funds for before and after school programs to further increase services available to these students. The Legislature could phase in our proposal in order to provide sufficient time for families and child care providers to adapt to the new restriction.

LAO Reference

Please see our *Supplemental Analysis of the 2002-03 Governor's Budget for Child Care*.

LAO Contact

Anthony Simbol: 319-8334

K-12 EDUCATION

Eliminate Child Care Eligibility for “Grandfathered” Families

Recommendation

Eliminate subsidized child care eligibility for families that were grandfathered by Chapter 270, Statutes of 1997 (AB 1542, Ducheny).

Rationale

In 1997, the Legislature reduced the family income eligibility threshold for subsidized child care from 100 percent to 75 percent of the state median income (SMI), adjusted for family size. Chapter 270, however, specified that children from families with incomes between 75 percent and 100 percent of SMI that were receiving subsidized care as of December 31, 1997, maintain their right to such care as long as their family income does not exceed 100 percent of SMI. Eliminating the eligibility exception for these children would redirect limited resources to families with the greatest need for care. Typically, there are long waiting lists for subsidized child care because demand from families with incomes at or below 75 percent of SMI substantially exceeds available space. Our proposal would shorten the waiting time for the families with lower incomes.

LAO Reference

Please see our *Supplemental Analysis of the 2002-03 Governor’s Budget for Child Care*.

LAO Contact

Anthony Simbol: 319-8334

HIGHER EDUCATION

Enact a Student Fee Policy for Postsecondary Education

Recommendation

Enact in statute an explicit student fee policy for the University of California and the California State University that provides for an appropriate sharing of educational costs between students and the state, and which preserves access to higher education.

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.

The *Supplemental Report of the 2002 Budget Act* directed the California Postsecondary Education Commission (CPEC) to convene a working group to develop a long-term student fee policy for California's public university systems. The CPEC is to report its findings by December 1, 2002. These findings and recommendations or an alternate proposal could serve as the basis for legislation regarding a student fee policy and provide a rational mechanism for adjusting student fees.

LAO Reference

Please see our *2002-03 Analysis*, page E-179.

LAO Contact

Sona Nagar: 319-8337

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 now 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 2001-02, almost 100,000 students competed for these awards—thus, the program served less than one in four eligible applicants. One way to expand the competitive Cal Grant programs without additional cost is to consolidate them with existing institutional financial aid programs. The University of California, California State University, and California Community Colleges together spend \$484 million on institutional aid programs. Each of these programs operates under different rules. Thus, students with the same level of financial need are treated differently based on the campus they choose to attend. Consolidating these grants under a single program would result in consistent policies that would treat similar students similarly. 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

Establish Accountability in Remedial Education

Recommendation

Require the University of California (UC), California State University (CSU), and California Community Colleges to assess and routinely report on the effectiveness of their precollegiate courses.

Rationale

Approximately one-third and one-half of all regularly admitted freshmen entering UC and CSU, respectively, are academically unprepared for college-level coursework. These students must enroll in precollegiate reading, writing, and/or mathematics courses. Similarly, academically unprepared community college students who want to transfer to UC or CSU must also complete precollegiate courses. Currently, none of the segments assess and report on the effectiveness of these courses in actually helping prepare students for college-level coursework. Thus, little accountability exists to ensure that the higher education systems are providing appropriate and adequate assistance to at-risk students. Furthermore, students and policymakers do not have access to information that would help them to make admissions decisions and programmatic improvements.

LAO Reference

Please see our *2001-02 Analysis*, page E-38, or *Improving Academic Preparation for Higher Education* (February 2001).

LAO Contact

Anthony Simbol: 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 *2001-02 Analysis*, page E-38, or *Improving Academic Preparation for Higher Education* (February 2001).

LAO Contact

Anthony Simbol: 319-8334

HIGHER EDUCATION

Consolidate Community College Categorical Programs

Recommendation

Fund 11 of the California Community Colleges' (CCC's) categorical programs through two block grants. Specifically, create a "Student Services" block grant to fund CCC's financial aid, extended opportunity programs and services, disabled students, Fund for Student Success, and matriculation programs. Also, create a "Faculty and Staff Support" block grant to fund CCC's instructional improvement, faculty and staff diversity, faculty and staff development, part-time faculty compensation, part-time faculty office hours, and part-time faculty health insurance programs.

Rationale

Different community college districts face different demands for these programs. Block grants would promote efficiency by allowing districts to allocate funding among these programs in a way that best suits their needs, while at the same time allowing the Legislature to specify an overall level of funding for the general categories of student services and faculty and staff support.

LAO Reference

Please see our *2002-03 Analysis*, pages E-250 through E-255.

LAO Contact

Steve Boilard: 319-8331

HIGHER EDUCATION

Link Community College Funding to Performance

Recommendation

Modify the “Partnership for Excellence” (PFE) with the California Community Colleges (CCC) to create a meaningful link between funding and performance. At least \$100 million of CCC’s PFE funding (totaling \$300 million in 2002-03) should be allocated to districts based on their achievements in specified areas.

Rationale

The PFE, which is scheduled to sunset on January 1, 2005, provides additional funding to community colleges to help them improve their performance in specified areas. It was intended that there would be meaningful accountability mechanisms to ensure that this funding did indeed improve performance. Currently, however, funding is distributed to colleges based on their student enrollment. By making at least a portion of this funding contingent on performance, the PFE would provide an incentive for improved performance.

LAO Reference

Please see our *2002-03 Analysis*, pages E-241 through E-249.

LAO Contact

Steve Boilard: 319-8331

MEDI-CAL PROGRAM

Establish a Rational Process for Setting Medi-Cal Rates

Recommendation

Enact legislation directing the Department of Health Services (DHS) to perform a comprehensive analysis of the access to physician services and quality of care provided to Medi-Cal beneficiaries. The DHS would recommend periodic adjustments to physician rates based upon that analysis, and the Legislature would determine whether to appropriate funding for such rate adjustments.

Rationale

The DHS has not conducted annual rate reviews or made periodic adjustments to Medi-Cal rates to ensure reasonable access to health care services. Rather, adjustments have generally been adopted on an ad hoc basis. Our analysis indicates that the rates paid for services provided under the Medi-Cal Program are relatively low compared to those paid by the federal Medicare Program and other health care purchasers. There is some research evidence that higher physician fees can improve access to care and quality of care. Adoption of the rate-setting process we propose would be likely in the long term to foster reasonable access to health care for Medi-Cal beneficiaries and a better quality of care.

LAO Reference

Please see *A More Rational Approach to Setting Medi-Cal Physician Rates*, February 2001.

LAO Contact

Farra Bracht: 319-8355

MEDI-CAL PROGRAM

Require Regional Clearinghouses for Nursing Home Placements

Recommendation

Require the use of regional nursing bed clearinghouses to facilitate the transfer of Medi-Cal patients needing only nursing care from hospitals to less costly freestanding nursing facilities.

Rationale

Current law requires hospitals to individually contact nursing homes during regular workdays to seek placements for Medi-Cal patients who no longer require hospital care, but who do need nursing care. If an appropriate outside placement is not located, then the patient may remain in a hospital-based nursing bed.

Use of regional clearinghouses, which would maintain a central database of available nursing beds, would simplify and expedite the placement process, reduce hospital administrative costs, and allow the department to easily verify compliance with the placement process. State savings could be up to several million dollars annually.

LAO Reference

Please see our *1997-98 Analysis*, page C-50.

LAO Contact

Dan Carson: 319-8350

DEPARTMENT OF DEVELOPMENTAL SERVICES

Establish Client Fees for Regional Center Services

Recommendation

Establish fees based upon a client's or his or her family's ability to pay for services purchased by Regional Centers (which serve people with developmental disabilities). Specifically, establish a share of cost for services provided for children under 18 and require adult clients with assets to contribute to the cost of their care.

Rationale

Unlike most health and social services provided by the state, eligibility to receive case management and community services from Regional Centers does not depend on a "means" test or determination of financial need based on income level or assets. Further, with a few minor exceptions, services are provided without any requirement that those benefiting from the services, and who have the ability to contribute, pay a share of cost. These costs to the state have been increasing rapidly. In order to help to control these costs, this proposal would impose fees only on those with an ability to pay.

LAO Reference

Please see our *2002-03 Analysis*, pages C-140 through C-142.

LAO Contact

Dan Carson: 319-8350

COUNTY HEALTH AND SOCIAL SERVICES PROGRAMS

Strengthen the State-Local Realignment Enacted in 1991

Recommendation

Enact legislation to change the way allocations of realignment revenues are made to improve their administration, provide incentives for innovation and cost savings, and to create reserves to mitigate future reductions in revenues.

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 programs 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. We propose statutory changes that would simplify realignment allocations, increase local flexibility in the use of the funds, provide incentives to counties to control program costs, and mitigate the need for reductions during periods of economic difficulty.

LAO Reference

Please see *Realignment Revisited: An Evaluation of the 1991 Experiment in State-County Relations*, February 2001.

LAO Contact

Michael Cohen: 319-8310, Lisa Folberg: 319-8358, and Dan Carson: 319-8350

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, and 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

Farra Bracht: 319-8355, and Lisa Folberg: 319-8358

DEPARTMENT OF VETERANS AFFAIRS

Rethink Cal-Vet Loan Program

Recommendation

In the short term, enact legislation to strengthen internal and external oversight of the Cal-Vet program to ensure proper management. In the long term, amend state law to direct the orderly phase-out of issuance of new Cal-Vet home loans. Subject to voter approval, surplus Cal-Vet funds should be directed to programs that will benefit both veterans and state taxpayers.

Rationale

The Cal-Vet home loan program portfolio has been declining due to federal restrictions on tax-exempt state bonds (which fund the program) and the aging of the war veteran population. Significant financial and operational problems in the past eroded the state's equity (assets less liabilities) in the Cal-Vet fund by about \$200 million.

LAO Reference

Please see *Rethinking the Cal-Vet Loan Program*, January 1998.

LAO Contact

Dan Carson: 319-8350

DEPARTMENT OF VETERANS AFFAIRS

Require Repayment of General Fund Loans

Recommendation

Enact legislation requiring that any future collections of reimbursements that exceed budgeted levels be used to repay General Fund loans provided in past years.

Rationale

When the veterans' homes operated by the department encounter difficulties in collecting reimbursements from Medicare, Medi-Cal, and other sources, the department has obtained loans from the General Fund to meet its cash needs. During the past three fiscal years, the department has received \$22.9 million in General Fund loans for this purpose. Although the homes are supposed to repay such loans within six months, that often has not occurred. At the time this report was prepared, \$12.6 million in such loans were outstanding. Absent statutory direction, the department would bear no consequences for its failure to repay its loans.

LAO Reference

Please see our *2002-03 Analysis*, pages F-117 through F-126.

LAO Contact

Dan Carson: 319-8350

CALWORKS

Provide County Flexibility

Recommendation

Give counties the option to provide employment services for more than two years so long as participants work at least 20 hours per week.

Rationale

The CalWORKS program requires parents to participate in employment or welfare-to-work activities for a specified number of hours per week (single parents must work 32 hours and two-parent families must work a combined 35 hours). Generally, after a maximum of 24 months on aid, participants must meet their weekly participation requirement either through unsubsidized employment, community service, or a combination of the two. After the 24-month time limit, participants may meet their requirement through *employment services* in only limited circumstances. Given that counties are in the best position to judge what mixture of employment, education or training, or community service is most likely to result in long-term self-sufficiency for each recipient, counties should have the flexibility to determine whether *working* recipients should be permitted to participate in employment services for the remainder of their work requirement.

LAO Reference

Please see our *2001-02 Analysis*, page C-196.

LAO Contact

Kasia O'Neill Murray: 319-8354

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

Kasia O'Neill Murray: 319-8354

FOSTER CARE PROGRAM

Reform Foster Family Agency Rates

Recommendation

Reform Foster Family Agency (FFA) rates to accelerate the movement of foster children toward family reunification or adoption.

Rationale

Because foster children need permanent, stable families, both the state and federal governments have emphasized the importance of reducing the length of time children spend in foster care. Under current law, we conclude that (1) children remain longer in FFA placements than in Foster Family Home (FFH) placements; (2) neither child nor family background differences explain the longer FFA stay; and (3) youth in FFHs are reunified with biological families and adopted at a much higher rate than FFA youth.

To encourage the movement of foster children toward family reunification or adoption, we recommend adjusting the FFA rates over time. While the rate paid to the FFA foster family would remain the same over time, the portion of the rate paid to the FFA organization for services and administration would decrease the longer a child remained in care.

LAO Reference

Please see *Examining the Role of Foster Family Agencies* in our *2002-03 Analysis*, page C-219.

LAO Contact

Mary Adèr: 319-8351

CALIFORNIA CHILDREN AND FAMILIES COMMISSION

Matching Grant Program for Proposition 10 Funds

Recommendation

Establish a state-funded voluntary matching grant program for the Proposition 10 county commissions, which would fund (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 productively.

LAO Reference

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

LAO Contact

Mary Adèr: 319-8351

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 nearly \$97 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

Lisa Mangat: 319-8341

DEPARTMENT OF THE YOUTH AUTHORITY

Modification to 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, the process should be modified to permit counties to have a greater say in 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 Youthful Offender Parole Board (YOPB). 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 (YOPB 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 YOPB. There are several options for how this could be accomplished.

LAO Reference

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

LAO Contact

Jeff Cummins: 319-8343

DEPARTMENT OF THE YOUTH AUTHORITY

Adjustment to County Fees to Account for Inflation

Recommendation

Enact legislation to periodically adjust the fees charged to counties in order to account for the effects of inflation.

Rationale

The basic fees charged to counties for young offenders committed to the Youth Authority were increased in 1996 from \$25 per ward per month (the level set in 1961) to \$150 per ward per month. The increase accounted for the effects of inflation over 35 years. The new fees should similarly be adjusted at least every three years in the future to account for inflation in order to protect the financial interests of the state and ensure that the counties are not subject to such a radical upward adjustment as was the case in 1996.

LAO Reference

Please see our *2002-03 Analysis*, page D-48.

LAO Contact

Jeff Cummins: 319-8343

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: Please see our *1997-98 Analysis*, page D-179. Reimbursement for crime lab services: Please see our *1999-00 Analysis*, page D-133. Reimbursement for legal work in conflict of interest cases: Please see our *1988-89 Analysis*, page 53.

LAO Contact

Jeff Cummins: 319-8343

RESOURCES BOND PROGRAM IMPLEMENTATION

Provide Oversight of Expenditures

Recommendation

Provide a reasonable limit on, and definition of, *administrative costs* funded from recently approved resources bonds (Propositions 12, 13, and 40). Require annual reports on bond expenditures. Designate lead agencies to oversee implementation.

Rationale

Recent resources bond measures do not define administrative costs, and in some cases (Propositions 12 and 40), 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.

Since these measures involve multiple implementing agencies, coordination among these agencies is necessary to ensure that the bond-funded expenditures are cost-effective in addressing the state's priorities. Such coordination could be achieved by the designation of a lead agency.

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.

LAO Contact

Mark C. Newton: 319-8323

CALFED BAY-DELTA PROGRAM

Define and Oversee Environmental Water Account

Recommendation

Decide whether to approve of the concept of the Environmental Water Account (EWA) program, a component of the CALFED Bay-Delta program. If approve, provide parameters for EWA's governance, operation, and funding, and require a clear annual accounting of the program's activities and impacts.

Rationale

The EWA is a new concept that involves the state buying water to hold in reserve to release when needed for fish protection. Before the program continues, the Legislature should determine the appropriate state role in EWA, particularly in terms of funding, and address operational issues including governance, scientific review, and the acquisition and use of water by EWA.

Since EWA is a largely untested concept, the Legislature should have good information to assess whether the program is working as intended and meeting its goals. 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

CALIFORNIA COASTAL COMMISSION

Increase Likelihood That Locals Adopt Commission's Recommendations

Recommendation

Increase incentives for local governments to incorporate the Coastal Commission's recommendations for amendments to their Local Coastal Programs (LCPs).

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

Catherine Freeman: 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 additional ways for the state to intervene when local lead agencies are not fully meeting the act's requirements.

Rationale

While statute clearly authorizes the Department of Conservation to review mine reclamation plans and financial assurances submitted by lead agencies (primarily counties) for compliance with SMARA, the department's recommendations that arise from those reviews are often not adopted by lead agencies. This could be addressed by authorizing the department to revoke plans and assurances approved by these agencies that do not substantially comply with SMARA. Moreover, 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) where the lead agencies fail to conduct them.

LAO Reference

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

LAO Contact

Jenny Giambattista: 319-8325

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.

LAO Reference

Please see our *2002-03 Analysis*, page B-60.

LAO Contact

Jenny Giambattista: 319-8325

TIMBER HARVEST PLAN REVIEW

Timber Harvest Fees Should Be Enacted

Recommendation

Require fees on timber operators 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 *2002-03 Analysis*, page B-50.

LAO Contact

Jenny Giambattista: 319-8325

STATE FIRE MARSHAL

Coordinate Regulation of Petroleum Pipelines

Recommendation

Designate the State Fire Marshal (SFM) in the California Department of Forestry and Fire Protection as the lead state agency to (1) coordinate pipeline testing and maintenance requirements, (2) streamline the pipeline-permitting process, and (3) develop an inventory of high-risk sites that have had past petroleum leaks.

Rationale

The petroleum production and transportation infrastructure is currently regulated by a multitude of federal, local, and state agencies, including the SFM, the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation, and the State Lands Commission. The designation of a lead state agency among pipeline regulators could serve to reduce potential duplication and uncertainty for the regulated community, streamline the permitting process, and coordinate data sources to develop an inventory of high-risk sites.

LAO Reference

Please see our *1999-00 Analysis*, page B-27. Also see *Oil Pipeline Spills: The Avila Beach and Guadalupe Experience*, Cal Update, December 1998.

LAO Contact

Jenny Giambattista: 319-8325

CALIFORNIA AIR RESOURCES BOARD

Revise Fee Structure in Stationary Source Program

Recommendation

Require fees to more fully cover the costs of the Air Resources Board's program that regulates stationary sources of air pollution.

Rationale

Private parties that benefit from using public resources—such as air—should be responsible for paying the costs imposed on society to regulate such activities. Activities currently funded from the General Fund, including data collection, planning, and monitoring, are critical steps to develop air quality standards that form the basis of air quality permitting and enforcement activities statewide. These activities provide a basis in science and technology for the permits and prevent the permit requirements from being arbitrary or unduly burdensome. As such, they provide a benefit to the permit holder and are appropriately funded by fees.

LAO Reference

Please see our *2002-03 Analysis*, page B-80.

LAO Contact

Catherine Freeman: 319-8321

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 and 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 in order to achieve the state's air quality goals. However, 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

Catherine Freeman: 319-8321

DEPARTMENT OF PESTICIDE REGULATION

Improve Oversight of County Pesticide Enforcement

Recommendation

Hold counties accountable for enforcing and improving the compliance of pesticide users. Direct the Department of Pesticide Regulation to develop clear goals for its enforcement program and measurable performance criteria to monitor the progress of the counties toward those goals.

Rationale

Significant noncompliance with pesticide regulations exists in several counties, raising questions of the effectiveness of local inspections and local work plans. Since state funding to the county enforcement agencies is not tied to the attainment of work plan goals, there is little or no *fiscal* incentive for improvement.

Currently, the work plans negotiated with the counties require reporting on the level of enforcement *activity*—such as the number of inspections conducted—rather than on well-defined performance measures that measure results. Accountability will be improved by requiring the department to track data on county compliance (with clear performance goals) on an ongoing basis and to report its findings annually.

LAO Reference

Please see our *2002-03 Analysis*, page B-90.

LAO Contact

Catherine Freeman: 319-8321

STATE WATER RESOURCES CONTROL BOARD

Revise Fee Structure for Water Quality Regulatory Program

Recommendation

Revise State Water Resources Control Board's fee structure so that state funding for the board's core water quality regulatory program is supported fully by fees.

Rationale

Private parties that benefit from using public resources should be responsible for paying the costs imposed on society to regulate such activities. We think that the relationship between private degradation of resources is particularly strong in the case of point source water pollution (the focus of the board's core regulatory program), thereby justifying a full fee-based recovery of the (state) costs of the core regulatory program.

LAO Reference

Please see our *2002-03 Analysis*, page B-94, and our *1999-00 Analysis*, page B-109.

LAO Contact

Keely Martin Bosler: 319-8309

WATER TRANSFERS

Facilitate Water Transfers

While Better Protecting Those 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 that concerns 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. 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 *Role of Water Transfers in Meeting California’s Water Needs*, September 8, 1999.

LAO Contact

Keely Martin Bosler: 319-8309

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

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

Authorize High Occupancy Toll Lane Pilot Project

Recommendation

Create high occupancy toll (HOT) lanes as a pilot program.

Rationale

Single occupant vehicles make less efficient use of state highway capacity than carpools or buses. Charging drivers for the cost of driving, through the use of tolls, can encourage people to use alternatives to driving alone. In this way, tolls can serve as a type of user fee which can result in a more efficient use of the existing capacity on the state highway system.

In order to determine whether a more widespread use of road pricing is advisable, the Legislature should establish a pilot program to authorize HOT lanes. The HOT lanes allow single-occupant vehicles to buy access into the carpool lane for a fee, and thereby make greater use of any excess capacity in the carpool lane.

LAO Reference

Please see *HOV Lanes in California: Are They Achieving Their Goals?*, January 7, 2000, page 20, and *After the Transportation Blueprint: Developing an Efficient Transportation System*, March 5, 1998, page 12.

LAO Contact

Joel Riphagen: 319-8360

TRANSPORTATION REVENUES

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

Dana Curry: 319-8320

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Resources and Environmental Protection

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| Air quality/land acquisition/solid and hazardous waste | Catherine Freeman |
| Wildlife/parks/forestry | Jenny Giambattista |

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