

STUDENT AID COMMISSION—Continued**H. Guaranteed Loan Program (Item 345)**

This program was authorized in 1966 to provide state administration for a federal loan program which provides low-interest loans to college students. All federal funds were encumbered in 1967 and since that time the federal government has directly administered its loan program. The present function of the state program is to provide necessary administrative services for collecting outstanding loans. However, Chapter 1201, Statutes of 1977, provided the commission with a General Fund loan of \$2,000,000 to establish a state guarantee agency for the Federal Guaranteed Student Loan Program. Of this amount, \$500,000 is allocated to the commission in the current year, and \$1,000,000 in the budget year.

POLITICAL REFORM ACT OF 1974

Item 346 from the General

Fund

Budget p. 957

Requested 1978-79	\$3,233,785
Estimated 1977-78.....	2,976,926
Actual 1976-77	3,022,369
Requested increase \$256,859 (8.6 percent)	
Total recommended reduction	\$8,000

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONSAnalysis
page

1. Audits. Recommend legislation to permit less than 100 per- 916
cent auditing of lobbyist and campaign statements.
2. *Word Processing Equipment. Reduce by \$8,000.* Recom- 919
mend reduction for word processing equipment as commis-
sion has not justified request.

GENERAL PROGRAM STATEMENT

The Political Reform Act of 1974, an omnibus elections measures, includes provisions relating to (1) campaign expenditure reporting and contribution limitations, (2) conflict-of-interest codes and related disclosure statements required of public officials, (3) the state ballot pamphlet, (4) regulation of lobbyist activity, and (5) establishment of the Fair Political Practices Commission (FPPC).

Funds to implement these provisions are budgeted for four state agencies. Support for one of these agencies, the Fair Political Practices Commission, is provided directly by the Political Reform Act of 1974. Funds for the other state agencies and any additional funds for the commission are provided by the Legislature through the normal budget process.

Chapter 1075, Statutes of 1976, requires a separate budget item indicating (1) the amounts to be appropriated to agencies other than the commission, (2) any additional amounts required to be appropriated to the

commission, and (3) for information purposes, the continuing appropriation provided the commission by the Political Reform Act of 1974.

The departments which will expend funds in support of the act, the estimated expenditures and the general functions performed are displayed in Table 1. Two totals are shown to reflect (1) the amount appropriated in this item, which does not include the continuing appropriation to the FPPC, and (2) the total amount available in support of the Political Reform Act of 1974, including the continuing appropriation to the FPPC.

Table 1
Support for Political Reform Act of 1974

<i>Agency</i>	<i>Function</i>	<i>Estimated 1977-78</i>	<i>Proposed 1978-79</i>	<i>Percent of Total Available</i>
Secretary of State	Document filing and copying	\$411,885	\$430,694	9.3%
Franchise Tax Board.....	Auditing Statements	2,300,093	2,448,914	53.0
Attorney General.....	Enforcement	177,379	182,340	4.0
Fair Political Practices Com- mission	Administration of Act	87,569	171,837	33.7
Fair Political Practices Com- mission	Administration of Act	(1,291,990)	(1,382,499)	
Total amount appropriat- ed this item		<u>\$2,976,926</u>	<u>\$3,233,785</u>	
Total amount available in support of the Political Reform Act of 1974		<u>\$4,268,916</u>	<u>\$4,616,284</u>	<u>100.0%</u>

SECRETARY OF STATE DUTIES

Responsibilities assigned the Secretary of State by the Political Reform Act of 1974 include filing campaign expenditure statements and the registration of lobbyists. In addition the Secretary of State prints and makes available information listed in lobbyist registration statements. Work performed in accordance with the Political Reform Act is estimated to cost \$430,694 in the budget year. This represents an increase of 4.6 percent over anticipated current year costs of \$411,885.

FRANCHISE TAX BOARD DUTIES

The Franchise Tax Board is requesting \$2,448,914 and 98.8 work years, an increase of \$64,700 and 4.9 personnel-years (11 positions beginning 1/15/79). The Political Reform Act of 1974 requires that the Franchise Tax Board audit the statements of (1) all lobbyists required to register with the Secretary of State, (2) candidates and their committees who receive 15 percent or more of the votes cast in elections for state offices, (3) candidates for state office who spend or for whom is spent more than \$25,000 in a general, primary or special election and their committees, (4) independent committees which spend more than \$10,000 annually or which support a candidate subject to audit, and (5) statements of specified elected officials regarding their income and expenditures. The board's respon-

POLITICAL REFORM ACT OF 1974—Continued

sibilities are carried out through a separate division, the Political Reform Audit Division (PRAD).

Election Year Creates Substantial Workload

The PRAD expects that it will begin the budget year with a backlog of 502 audits requiring approximately 16,400 direct audit hours. The board estimates that 1,951 campaign audits and 650 lobbyist audits will be generated during 1978-79, for a total new workload of 2,601 audits requiring 120,700 hours. The detail of the new workload estimate is shown in Table 2.

Table 2
Political Reform Audit
New Workload Generated in 1978-79

<i>Type of Audit</i>	<i>No. of Audits</i>	<i>Hours per Audit</i>	<i>Total Hours</i>
Lobbyists	650	22	14,300
Candidates			
Statewide offices	35	20	700
Senate	50	12	600
Assembly	180	17	3,060
Judicial	25	20	500
Interim reports	20	10	200
Controlled Committees			
Statewide offices	330	102	33,660
Senate	81	82	6,642
Assembly	262	79	20,698
Judicial	29	65	1,885
Interim reports	25	35	875
Independent Committees			
Expenditure of \$10,000 or more	292	50	14,600
Expenditure of less than \$10,000	526	25	13,150
Special Elections			
Candidates	6	25	150
Controlled committees	10	100	1,000
Ballot Measure Committees	80	96	7,680
Total	2,601	—	120,700

The board's estimate of the number of hours required is generally based on the estimated hours per audit developed by the Department of Fi-

Table 3
Average Hours per Audit Entity
Department of Finance Estimates vs. Franchise Tax Board Experience

<i>Audit Entity</i>	<i>Department of Finance Estimates</i>	<i>Franchise Tax Board Experience¹</i>
Senate candidates	20	12
Assembly candidates	20	17
Senate controlled committees	80	82
Assembly controlled committees	80	79
Ballot measure committees	120	96

¹ Based on experience of 1976-77 fiscal year.

nance, except where its experience indicates some other standard is warranted. The Franchise Tax Board's actual hours during 1976-77 were, with one exception, less than the Department of Finance estimates as shown in Table 3 on page 914.

The board proposes to address the election year workload by (1) adding 11 audit positions as of January 15, 1979, and (2) carrying over approximately 1,337 campaign audits (requiring 73,000) hours into the 1979-80 fiscal year, and beyond. By using this "load leveling" strategy, the board estimates that it will be able to meet the workload requirements over the four year election cycle within the statutory deadlines. Audit backlogs, new workload and budget year activity are summarized in Table 4.

Required Audit Hours May Decrease

There are several factors which may result in greater productivity than the board projects in its budget. In the five campaign audit categories where sufficient experience justified adjustments, the Franchise Tax Board found that required campaign audit hours in the aggregate were approximately 7 percent less than the hours based on Department of Finance estimates. If its future experience with the remaining ten categories is similar, the board would accomplish more with existing and proposed staff than the budget projects. Were this to occur in both the current year and budget year, the backlog would still be over 1,200 cases. It is possible that some further reduction in audit time may be achieved in the lobbyists audit function as more experience is gained and reporting practices are improved. However, because of the substantial workload

Table 4
Political Reform Audits
Audit Backlogs and Estimated
Audit Activity 1978-79

	<i>Number of Audits</i>	<i>Total Audit Hours</i>	<i>Audit Personnel- Years</i>
Backlog as of July 1, 1978	502	16,374	10.7
New Workload Generated 1978-79	2,601	120,700	78.9
Audits Completed 1978-79	1,766	64,258	42.0
Backlog as of June 30, 1979	1,337	72,816	47.6

Table 5
PRAD Staffing for 1977-78 and 1978-79

	<i>Personnel-Years</i>	
	<i>1977-78</i>	<i>1978-79</i>
Direct audit time	30.9	35.1
Audit training and administrative time	6.1	6.9
Total audit time	37.0	42.0
Audit supervision and review	10.0	10.0
Clerical support	18.0	18.0
Administration	13.0	13.0
Total PRAD	78.0	83.0
Distributed general administration, data processing etc.	15.9	15.8
	93.9	98.8

POLITICAL REFORM ACT OF 1974—Continued

being generated in the budget year, no excess staffing capacity would be created if these reductions were realized.

Total staffing of the PRAD, including clerical and administrative, for the current and budget years is shown in Table 5 on page 915.

Budget Language Controversy Litigation

In the 1977-78 Budget Bill, the Legislature included control language which directed that:

- (1) funds may not be expended for audits unless such audits are conducted according to standards promulgated by the American Institute of Certified Public Accountants;
- (2) no funds may be used for audit inquiries by letter of more than 10 percent of the campaign transactions subject to the audit, and which require a response only where the records differ from the reported amount;
- (3) no funds may be used for audits of more than 25 percent of the number of such campaign expenditures, and
- (4) if indications of fraud are found, further investigations may be conducted irrespective of the limitations on audits otherwise provided.

The Governor eliminated the language because it raised a "serious constitutional issue of the separation of powers". In response, the Legislature adopted Senate Concurrent Resolution No. 55 which addressed the Governor's veto and urged the Controller not to allow funds to be used contrary to the Legislature's control language. The Legislative Counsel issued an opinion that the Governor's veto was not valid. The Controller informed the Franchise Tax Board (FTB) that it would not issue warrants to pay expenses incurred contrary to the language of the Budget Bill, and the FTB initiated a suit to force payments. The Attorney General, representing the FTB, appealed to the Supreme Court to hear the case, but the court rejected jurisdiction and remanded the suit to the Court of Appeals.

The FTB has decided that it will not audit reports submitted since July 1977 until the controversy is resolved. Since it has essentially finished the backlog from the 1976-77 fiscal year, it has initiated discretionary audits of lobbyist employers. If this practice is continued for an extended period, the workload carry-over into the budget year will be substantially greater than shown in Table 4.

Potential for Audit Cost Reduction

We recommend legislation to permit less than 100 percent auditing of lobbyist and campaign statements.

In 1977, Arthur Anderson and Company, a private accounting and consulting firm, was retained by the Auditor General to review the administration of the Political Reform Act of 1974. In its August 1977 report, Arthur Anderson and Company made several recommendations for improving the efficiency of the FTB-PRAD activities, which would need legislation to implement. In particular, the report recommends that random audit selection be utilized rather than 100 percent audits of all entities currently required.

Random Audit Selection Appropriate. The Arthur Anderson report proposes that random selection of audits would be utilized for lobbyists and legislative candidates and their committees, but that candidates for statewide offices and ballot proposition committees continue to have 100% audits. The report concludes that virtually the same level of compliance could be achieved by using sampling as with universal audit. Two approaches to random selection have been suggested. First, all winners of legislative elections and a sample of losers and lobbyists could be audited. An objection raised to this approach is that audit findings can become an issue in subsequent campaigns, and that to subject a winner but not his opponent would be unfair to the winners. The second approach would eliminate this problem. It proposes that both winners and losers in randomly selected districts be audited, in addition to a random sample of lobbyists.

We concur that random selection for audit of lobbyists and candidates is desirable. The objectives of an audit effort are to: (1) encourage compliance with the disclosure requirements of the act and (2) detect and report noncompliance of the law. Experience with the 1975 audit workload shows that 76 percent of the audits found substantial compliance (73 percent) or minor violations (3 percent) while 7 percent showed substantial noncompliance, and 17 percent showed marginal compliance which requires further investigation to determine whether minor violations or substantial noncompliance occurred. We believed that the deterrence effect can be largely achieved by a random selection of audits as is done in tax law enforcement. The fact that some noncompliance occurred under 100 percent auditing indicates that 100 percent audits by themselves will not result in 100 percent compliance.

The Fair Political Practices Commission (FPPC) commissioned a study of the impacts of campaign disclosure and lobbyist provisions of the Political Reform Act which was conducted by Evaluation Research Consultants (ERC). The consultant's November 30, 1977, report also concluded that random selections of audits for lobbyists and candidates was desirable due to the high costs of 100 percent audits. The ERC report suggests that sampling rates could be 50 percent or less. The report suggested and we concur that newly registered advocates should be subjected to audits in the first year as audits are of substantial educational value as to reporting requirements. However, we suggest that if a future audit of a lobbyist shows marginal compliance or substantial noncompliance, the case should again be subject to annual audit.

Based on interviews with 1976 campaign participants, the Evaluation Research Consultants' report suggests that the competition inherent in the political process is more effective than any public agency in detecting violations of Political Reform Act requirements. Political opponents, newspapers and reporters, and citizens' groups play a key role in effective enforcement of the act. Their activities are facilitated by ready availability of required reports from candidates and their committee.

The economies to be achieved by a sampling approach are substantial. If a 50 percent audit selection criteria were applied to legislative candi-

POLITICAL REFORM ACT OF 1974—Continued

dates, their committees and lobbyists, a reduction of 45 percent of projected audit hours over the four-year election cycle would result. The annual savings would be over \$1.1 million in the budget year and substantially more with salary and cost increases over the four-year cycle contemplated by the FTB in its budget proposal.

The FTB concurred with the Auditor General's recommendations subject to the proviso that procedures fair to all participants be specifically spelled out in the law. It is our understanding that the FPPC is prepared to support legislation which would allow sampling of lobbyists reports. However, it has not yet formulated a position on the question of sampling campaign reports, though it is reviewing the alternatives suggested in the Arthur Anderson report.

Other Potential Savings. Several other statutory changes have been suggested which would make PRAD activities more efficient. Arthur Anderson recommended and Evaluation Research Consultants concurred that lobbyist filing requirements should be changed from monthly statements to quarterly statements. Such a change would reduce the burden on lobbyists as well as reduce document processing requirements for the Secretary of State and FTB-PRAD. We believe that quarterly filings should be allowed by the FPPC if a lobbyist has been audited once and found to be in substantial compliance or had only minor violations, and as long as results of future audits show similar results. Thus, for "new" lobbyists and lobbyists who have only complied marginally or substantially not complied, monthly filings would still be required.

It has also been recommended that the act be amended to allow candidates and their controlled committees to be treated as a single audit entity. Arthur Anderson notes that most candidates use their committee as the sole mechanism for accepting contributions or accepting funds. Nonetheless, the FTB does an audit of the candidate's filings, which are essentially blank, and prepares a report. A separate report is prepared for the controlled committee. A combined audit of the candidate and his controlled committee would eliminate the meaningless audit and report which occurs in approximately 80 percent of the cases.

The PRAD element constitutes the largest single item in the political reform budget amounting to 53 percent and \$2.4 million in the budget year. It is not clear the benefits of audit activities are proportional to these costs. We believe that the reduction of the auditing effort coupled with the increase in the FPPC's investigating staff, discussed below, would tend to bring the costs of the various agencies more in line with their contributions towards the purposes of the Political Reform Act of 1974.

ATTORNEY GENERAL'S DUTIES

The Political Reform Act of 1974 requires the Attorney General to enforce the criminal provisions of the act with respect to state agencies, lobbyists and state elections. In addition, the act provides that upon request of the Fair Political Practices Commission, the Attorney General shall provide the commission legal advice and representation without charge. Current year expenditures to provide required services are es-

timated at \$177,379, and \$182,340 is requested for the budget year, an increase of 2.8 percent.

FAIR POLITICAL PRACTICES COMMISSION

The Fair Political Practices Commission was established by the Political Reform Act of 1974 and is responsible for the administration and implementation of the Act. The commission consists of five members, including the chairman and one other member who are both appointed by the Governor. The Attorney General, The Secretary of State and the State Controller each appoint one member. The commission is supported by a staff hired under its authority and receives a statutory General Fund allocation adjusted annually for cost-of-living changes based on an initial allocation of \$1 million.

In accordance with the Political Reform Act of 1974, the commission's statutory budget for 1977-78 is \$1,382,499. The Governor's Budget provides an additional \$171,837 to enable the commission to meet identified workload increases.

Word Processing Machine

We recommend funding for one word processing machine be deleted for a savings of \$8,000.

The \$171,837 requested augmentation will provide primarily for eight new positions to meet increased workload. Six of these positions are for investigation purposes (five investigators and one stenographer) and are in response to a recommendation contained in a recent report of the Auditor General entitled "Efficiencies and Economies of the Administration of the Political Reform Act of 1974." We have reviewed the justification for the augmentation and, with the exception of \$8,000 budgeted for a word processing machine, recommend approval of the augmentation in the reduced amount of \$163,837. We recommend against the funds requested for the word processing machine based on the lack of a demonstrated need for this equipment.

AGRICULTURAL LABOR RELATIONS BOARD

Item 347 from the General
Fund

Budget p. 957

Requested 1978-79	\$9,435,516
Estimated 1977-78.....	8,580,870
Actual 1976-77	5,316,950
Requested increase \$854,646 (10.0 percent)	
Total recommended reduction	\$1,947,134

Analysis
page

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

1. Administrative Clarification. Recommend legislation to clarify administrative responsibilities of the general counsel. 924

AGRICULTURAL LABOR RELATIONS BOARD—Continued

2. Management Information System. Recommend board establish a management information system and report to the Joint Legislative Budget Committee by December 1, 1978. 925
3. Board Procedures. Recommend board review interim and final Report and Recommendations of the Chairman's Task Force on the National Labor Relations Board to simplify board procedures and report to the Joint Legislative Budget Committee by December 1, 1978. 925
4. *Board Opinions. Reduce by \$211,914.* Recommend deletion of five proposed attorneys, 2.5 clerical positions and related expenses. 925
5. *Election Objections. Reduce by \$245,800.* Recommend deletion of 8.5 existing attorneys and four clerical positions. 926
6. *Unfair Labor Practice Hearings. Reduce by \$63,920.* Recommend deletion of two proposed temporary-help (hearing-officers) positions. 926
7. *Extended Certification. Reduce by \$118,300.* Recommend deletion of four existing attorney positions. 927
8. *Regional Office Staffing. Reduce by \$1,307,200.* Recommend deletion of 18 existing attorneys, 34 field examiners and 8.5 clerical positions. 927
9. Staff Promotions. Recommend funding for staff reclassifications be allocated by the Department of Finance on basis of procedures approved by the State Personnel Board which ensure that promotions are based on performance and workload evaluations. 930
10. Staff Training. Recommend board establish comprehensive training program for field staff. 931
11. Sale of Transcripts. Recommend legislation establishing uniform procedures and fees for preparation of transcripts. 931

GENERAL PROGRAM STATEMENT

The Agricultural Labor Relations Board was established by Chapter 1, Statutes of 1975, Third Extraordinary Session, for the purpose of guaranteeing agricultural workers the right to join employee organizations, to bargain collectively with their employers and to engage in concerted activities through representatives of their own choosing. Agricultural workers are currently excluded from coverage under the National Labor Relations Act which guarantees similar benefits to other workers in the private sector. To fulfill its objectives, the board conducts the following programs:

1. General administration, which provides budget, accounting, personnel and support services to the board, the general counsel and four regional offices.
2. Board administration, which includes the five-member Agricultural Labor Relations Board and the board's executive secretary. The board establishes policy, procedures and regulations for purposes of

carrying out the Agricultural Labor Relations Act and holds hearings to adjudicate disputes between farm workers and their employers involving such matters as representation elections and unfair labor practice charges by employers or workers. The board also reviews decisions of hearing officers when requested by either party.

3. General counsel administration which, through the office of the general counsel:
 - a. Conducts secret ballot elections to enable farm workers to select representatives of their own choosing;
 - b. Investigates and prosecutes unfair labor practice charges before the board or hearing officers; and
 - c. Defends all board actions in the courts and obtains court orders when necessary to carry out decisions of the board regarding such matters as providing remedies for unfair labor practices.

ANALYSIS AND RECOMMENDATIONS

As shown in Table 1, the Agricultural Labor Relations Board proposes a General Fund appropriation of \$9,435,516, which is \$854,646 or 10.0 percent above estimated expenditures in the current year.

Table 1
Budget Summary
Agricultural Labor Relations Board

	<i>Estimated</i> <i>1977-78</i>	<i>Proposed</i> <i>1978-79</i>	<i>Change from</i> <i>current year</i>	
			<i>Amount</i>	<i>Percent</i>
Funding				
General Fund.....	\$8,580,870	\$9,435,516	\$854,646	10.0%
Program				
Administration (distributed to other programs)	(\$587,733)	(\$609,189)	(\$21,456)	(3.7%)
Personnel-years	19.2	19.2	-	-
Board Administration				
a. Policy and procedures	114,642	118,273	3,631	3.2
Personnel-years.....	3	3	-	-
b. Hearings and board review.....	3,485,797	3,995,219	509,422	14.6
Personnel-years.....	86	94.1	8.1	-
General Counsel Administration				
a. Representation cases	604,344	714,267	109,923	18.2
Personnel-years.....	21.4	23.7	2.3	-
b. Unfair labor practice cases	3,865,236	4,072,262	207,026	5.4
Personnel-years.....	117.7	119.3	1.6	-
c. Court litigation	510,851	535,495	24,644	4.8
Personnel-years.....	12.6	12.6	-	-
Total	\$8,580,870	\$9,435,516	\$854,646	10.0%
Personnel-years.....	259.9	271.9	12	-

The budget increase largely reflects (1) merit salary adjustments and price inflation, (2) the upgrading and reclassification of 83 positions costing \$27,239, (3) an additional \$106,000 to allow the board to share equally with the parties to an unfair labor practice dispute the costs of preparing transcripts, and (4) the net addition of eight new positions. The latter results from a total of 27.5 new positions offset by 19.5 positions which are being abolished through workload and administrative adjustments. The

AGRICULTURAL LABOR RELATIONS BOARD—Continued

27.5 proposed new positions include (1) five attorneys, 2.5 clerical positions and related expenses totaling \$211,914 to assist the board in writing decisions and (2) three field examiners (limited to June 30, 1980) costing \$101,424 to place greater emphasis on helping growers, workers and the general public understand the Agricultural Labor Relations Act. The remaining 17 new positions, which are primarily the temporary help equivalent of hearing officer positions, are proposed to replace an approximately equal number of positions which are being abolished in the current year through administrative adjustments.

Budget Overview

Board Overstaffed. Notwithstanding the turbulent history of the agricultural labor relations program and the fact that workload elements have fluctuated substantially with the various peak seasons in the agricultural industry, we believe that the board has sufficient operating experience to refine its estimates of budgetary requirements. However, the board has failed to predict accurately its caseload as shown in Table 2, which compares the board's estimates for the past, current and budget years with actual caseloads for the same periods.

Table 2
ALRB Budget Projections Compared
with Actual Experience
1976-77 and 1977-78

	1976-77		1977-78			1978-79 Proposed
	<i>Estimated in 1977-78 Budget</i>	<i>Actual (8 months)</i>	<i>Estimated in 1977-78 Budget</i>	<i>Revised in 1978-79 Budget</i>	<i>Actual to Dec. 31, 1977 (6 months)</i>	
Elections						
Held.....	600	177	1,000	250	89	250
Objection	360	54	600	150	57	200
Unfair labor practice charges						
New charges filed	826	652	1,150	1,520	462	1,520
Previous year's backlog	356	793	—	—	—	—
Subtotal.....	1,182	1,445	—	—	—	—
Complaints issued	544	202	529	280	74	280
Hearing held	280	118	308	210	74	210

As demonstrated in Table 2, the board has substantially overestimated its caseload in almost every area and this has resulted in substantial overstaffing of the agency. Because the board has failed to develop workload and budgetary projections, we are proposing revisions which we believe more accurately reflect real needs.

The gross disparities between projected and actual workload and the overstaffing problem are traceable to a number of causes, chief of which is that the board has failed to establish a management information system for purposes of determining its staffing requirements. It has no time reporting system for measuring personnel requirements for its various functions. Statistical information on workload is so inadequate that it cannot even determine the total number of unfair labor practices charges which have been filed since the board began operations in 1975. Even its 1976-77

actual workload data are reported incorrectly in the Governor's Budget. It has also failed to establish uniform managerial controls to identify personnel whose production is substandard or to control the activities of the workforce while on duty.

Part of the board's management difficulty can be explained by its lack of adequate start-up time in 1975 and its closure in 1976 due to the lack of funding. However, during the closure period, the board established procedures to receive a constant flow of unfair labor practice charges. These charges, which serve as a basic workload indicator, account for much of the past-year backlog identified in Table 2. Also during the shut-down period, the board maintained administrative personnel on the Department of Finance payroll to develop workload standards for the sole purpose of establishing staffing requirements when normal operations were resumed. Finally, as of this writing, it has had 15 months of consecutive, uninterrupted operation. We believe, therefore, that the board's failure to assess its workload and budget requirements accurately is primarily a failure of its management. The Department of Finance also shares responsibility for these deficiencies because it has not adequately reviewed the board's current-year baseline budget and budget-year increases.

Caseload Projections. In attempting to develop a statistical framework for evaluating workload trends regarding unfair labor practice charges and elections, we examined data for the period November 1, 1976 to October 1977. From the board's standpoint, this period probably provides a more favorable basis for estimating workload than does the first half of the current year.

Based on workload activity in this period, the board's estimate of 250 elections for 1977-78 and 1978-79 is supportable, but the board should receive, in the budget year, only about 1,000 unfair labor practice charges—far below the 1,520 projected. We will continue to monitor the board's workload closely and report to the fiscal committees during the budget hearings on any trends which would materially affect these projections.

While there remains a possibility that the board's workload may rise above the past and current year levels and create problems, the opposite might occur instead. The board's workload has begun to level off and we believe it will continue to do so. Farm labor organizations are no longer able to marshal all of their resources for election drives as they did during the early days of the board's existence. Once having won a representation election, they must concentrate on contract negotiations with the grower, a process which requires substantial money and manpower. After a contract is signed, a labor organization must commit substantial resources to administer it. This involves such matters as representing employees in grievance proceedings with the employer and settling disputes over contract provisions through arbitration. Consequently, it is unlikely that the level of representation elections will rise significantly.

Workload Standards. Because the board has no workload standards, we have utilized those developed by the National Labor Relations Board (NLRB) whose functions are very similar to those of this board. During its long history, the NLRB has pioneered staffing standards which have

AGRICULTURAL LABOR RELATIONS BOARD—Continued

served as models to many other federal agencies. There are, however, differences between the two agencies which must be kept in mind in applying NLRB standards to the ALRB. NLRB elections are not required to be held within seven days after petitions are submitted as are ALRB elections. Nor do its proceedings require language interpreters as frequently as ALRB proceedings. The industries under NLRB jurisdiction generally do not have as many "peak season" problems as the California agricultural industry. Finally, the migratory nature of the farm labor force frequently makes it difficult for the ALRB to locate witnesses, especially for backlogged unfair labor practice cases.

NLRB workload standards are usually expressed in ranges. Recognizing the differences between the operations of the two boards, we have used the ranges most favorable to the ALRB in every case.

ADMINISTRATIVE SERVICES**Electronic Recording Equipment**

Last year the Legislature adopted supplemental language to the Budget Act, requiring the board to examine the possibility of substituting tape recording equipment for hearing reporter services in preparing transcripts of unfair labor practice hearings. The board was requested to employ the services of one of several state agencies which currently prepare transcripts from tape recordings and to report to the Joint Legislative Budget Committee by January 1, 1978.

During this same period, the Office of Administrative Hearings (OAH) of the Department of General Services revealed plans to test electronic recording equipment for preparing transcripts of its hearings. The board believes, and we agree, that OAH is the most appropriate agency to conduct the test because it is planning to use the most modern equipment available. Because OAH would not have been able to conduct the test within the prescribed time, the board sought and was granted an extension of the reporting deadline to May 1, 1978, by the Joint Legislative Budget Committee.

Managerial Clarification Needed

We recommend legislation to clarify the administrative responsibilities of the general counsel for supervision of regional staff.

The Agricultural Labor Relations Act establishes, as independent entities, the general counsel who prosecutes unfair labor practice charges and conducts representation elections and the board which functions as an adjudicatory body for resolving disputes in such cases. The purpose of this separation is to ensure that the parties who are charged with violations of the act are given fair and impartial treatment. It is generally believed that the general counsel has administrative authority over regional operations. However, numerous disputes have risen between the two entities over administrative matters affecting the regional offices. We believe that legislation designating the general counsel as the appointing power over the regional staff (such as AB 2247 now before the Legislature) is needed to clarify the issue.

Management Information System Needed

We recommend that the board establish a reliable information system for purposes of managing its staff and estimating staffing requirements and report to the Joint Legislative Budget Committee by December 1, 1978.

As noted above, the ALRB has failed to establish a management information system for evaluating its personnel, measuring productivity and relating caseload to staffing and other budgetary requirements. As a consequence, it is unable to identify a factor so basic as the total number of unfair labor charges which it has received since beginning operations in September 1975. Further, the workload statistics which are maintained by the board and the general counsel do not always agree. We believe that a management information system should be developed and maintained by the board's administrative unit. The board should examine the system developed by the NLRB which is widely recognized as one of the most effective systems now in use. At a minimum, it should include a reliable time reporting system.

BOARD ADMINISTRATION**Improving Board Procedures**

We recommend that the ALRB review the interim and final report and recommendations of the Chairman's Task Force on the National Labor Relations Board (NLRB) to simplify board procedures and report to the Joint Legislative Budget Committee by December 1, 1978.

Last year the Legislature adopted supplemental language to the Budget Act directing the ALRB to examine the "Interim Report and Recommendations of the Chairman's Task Force on the NLRB for 1976" and report to the Joint Legislative Budget Committee by November 1, 1977. The board's report failed to address some of the more crucial areas identified by the task force, and consequently is not adequate. Among the recommendations not considered in the report are those that would make greater use of the board's rule-making authority to establish precedents (which are now made on a case-by-case basis) as a means of reducing litigation, provide regional staff and hearing officers additional training in settlement techniques, and limit parties' briefs in appealed cases to no more than 50 pages. The task force recently issued its final report. We believe the ALRB should review these reports and prepare appropriate responses.

Excessive Attorney Staffing

We recommend deletion of five proposed attorneys and 2.5 clerical positions requested to assist the board in writing opinions for General Fund savings of \$211,914.

The Agricultural Labor Relations Board is requesting \$211,914 for five additional attorneys, 2.5 clerical support positions and related expenses to assist in writing a projected 382 decisions in the budget year. Without this augmentation, the board believes it could write only 178 decisions, leaving a backlog of 204. This workload projection is based on the assumption that 95 percent of the 397 decisions of hearing officers will be appealed to the board.

AGRICULTURAL LABOR RELATIONS BOARD—Continued

There is no reason to believe that hearing officers will complete 397 hearings in the budget year. They issued only 107 decisions last year (eight months) and only 63 decisions during the first six months of the current year. If the trend established in 1977-78 continues, only 126 decisions will be issued in the budget year. If 95 percent of these are appealed, the board will be asked to review only 120 cases which, together with a current opinion backlog of 41 cases, will total only 161 cases. This is below the 178 cases which the board reports that its existing attorneys can handle.

As shown in Table 2, the number of current-year unfair labor practices charges and elections is far below the board's estimates. Further, most of the recent elections have been in the dairy industry, which has a much lower-than-average rate of appeal. Last year the Legislature denied a similar request for additional positions on the basis that the board should streamline its case review process and establish more economical review procedures.

Election Objections Screening Function Overstaffed

We recommend deletion of 8.5 attorneys and four clerical positions for General Fund salary savings of \$245,800.

Under the Agricultural Labor Relations Act, any party to a representation election may file objections to the conduct of the election. Those who do usually allege that misconduct on the part of the board or one of the parties influenced the outcome of the election. The objections are first screened by the executive secretary who generally dismisses those which appear invalid and sets for hearing those which involve factual disputes and apparent law violations. The latter are reviewed in an informal hearing by an attorney from the office of the executive secretary who prepares a recommendation for the executive secretary to resolve the dispute. Appeals from decisions by the executive secretary may be made to the board.

The board currently has a staff of 17.1 attorneys to screen an estimated 200 cases in the budget year. This far exceeds comparable NLRB staffing which handles between 37 and 46 cases per professional position. The NLRB would require only 4.4 to 5.4 personnel-years to handle 200 election objection cases. The ALRB is unable to explain why it is only 25 percent as productive as the NLRB in handling such cases. Unless the board is able to provide an explanation to the satisfaction of the Legislature, 8.5 attorneys and four clerical positions should be deleted for General Fund salary savings of \$245,800 plus operating expenses and equipment. This would leave the board 8.6 attorneys, which still greatly exceeds the NLRB staffing standards.

Unfair Labor Practice Hearings

We recommend deletion of two proposed temporary-help (hearing-officers) positions for unfair labor practice hearings for a General Fund savings of \$63,920.

The board proposes 14 temporary-help hearing-officer positions costing approximately \$447,400 to augment an existing staff of seven positions to conduct unfair labor practice hearings. Because there were 118 such hear-

ings last year and 74 so far this year the maximum number of hearings which the board has conducted per budgeted hearing officer is 8.4 compared to 13.1 by comparable NLRB hearing officers. ALRB hearings average five days in length compared to four for NLRB hearings. Based on ALRB past experience and on the NLRB standard adjusted for longer hearings, each ALRB hearing officer should conduct at least 9.8 hearings per year. By adding an additional two positions to allow for staff training, the board should require no more than 19 hearing officers for a reduction of two and a General Fund savings of \$63,920 in salary costs and staff benefits (excluding operating expenses and equipment).

Extended Certification

We recommend deletion of four existing attorney positions for the extension-of-certification program for General Fund salary savings of \$118,300.

Under Section 1155.2(b) of the Labor Code, a union which has won an election may file a petition 90 to 60 days prior to the expiration of its initial 12-month certification to extend the certification period for an additional year. The board may approve the request if it determines that the employer has refused to bargain with the union in good faith. Last year the Legislature approved five additional attorneys and a part-time position of temporary help costing \$175,000 to assist the board in determining whether certification should be extended in such cases. Approval of the positions was based on an estimated 250 petitions annually. The board actually received 69 petitions in the past year, and projects only 75 in the current year and 75 in the budget year without a commensurate reduction in staff for the function. It is doubtful that 75 petitions will be received in the current year because only five had been filed by December 31, 1977. Based on the board's own data, one attorney is more than sufficient for this function. Deletion of the four surplus attorneys would result in General Fund savings of \$118,300, excluding operating expense and equipment costs.

GENERAL COUNSEL ADMINISTRATION

Regional Offices Overstaffed

We recommend deletion of 18 existing attorneys, 34 field examiners (including 3 new examiners) and 8.5 clerical positions for General Fund salary savings of \$1,307,200.

As shown in Table 3, on page 928, the workload for each of the 92 existing professional positions (excluding regional directors) in the regional offices is relatively low and generally declining. This is indicative of overstaffing.

The number of elections per professional position has declined from an average of 0.24 per month last year to 0.16 in the current year. The number of new unfair labor practice charges has declined from 2 to 0.8 per professional staff position per month during the same period. The latter reflects elimination of the backlog caused by the closure of the board in 1976 and also a decline in the number of new charges from an average of 81.5 per month in 1976-77 to 77 per month in the current year.

AGRICULTURAL LABOR RELATIONS BOARD—Continued

Table 3
Selected ALRB Workload Data by Region

	<u>Sacramento</u>		<u>Fresno</u>		<u>Salinas</u>		<u>San Diego</u>		<u>Statewide Total</u>	
	<u>1976-77</u>	<u>1977-78</u>	<u>1976-77</u>	<u>1977-78</u>	<u>1976-77</u>	<u>1977-78</u>	<u>1976-77</u>	<u>1977-78</u>	<u>1976-77</u>	<u>1977-78</u>
Number of professional positions	13	13	32	32	19	19	28	28	92 ^a	92 ^a
Elections	2	3	13	12	7	10	155	64	177	89
Unfair labor practice charges										
Backlog	38	—	112	—	312	—	331	—	793	—
New	14	17	115	233	28	71	495	141	652	462
Total	52	17	227	233	340	71	826	141	1,445	462
Elections per professional position.....	0.2	0.2	0.4	0.4	0.4	0.5	5.5	2.3	1.9	1.0
Unfair labor charges per position.....	4.0	1.3	7.1	7.3	17.9	3.7	29.5	5.0	15.7	5.0

^a Excludes regional directors.

Table 3 also reflects an improper allocation of staff among the district offices based on workload data. Each professional position in the Sacramento region held an average of 0.2 elections compared to 5.5 in the San Diego region last year. Unfair labor practice charges also varied from 4 per professional position in Sacramento to 29.5 in San Diego. To some extent, the workload imbalance is remedied by temporary transfers of staff from offices experiencing low workload periods to other regions, but the overall pattern of staff allocation needs substantial revision to conform to regional differences in workload.

Table 4, comparing ALRB and NLRB data workload for the same periods in 1976, shows that workload of the NLRB field-staff was almost double that of the ALRB staff last year and almost four times higher in the current year.

Table 4
ALRB Workload Compared with
NLRB Workload, Adjusted for Comparable Periods

	<i>ALRB 1976-77 (8 months)</i>	<i>NLRB 1975-76^a Workload Adjusted (8 months)</i>	<i>ALRB Current Year (6 months)</i>	<i>NLRB 1975-76^a Workload Adjusted (6 months)</i>
General Counsel				
Elections conducted	177	5,933	89	4,449
Contested election decisions	—	1,749	—	1,312
Unfair labor practice charges	1,445	23,006	462	17,255
Total work units	1,622	30,688	551	23,016
Professional staff	92	1,010	92	1,010
Work units per professional position	17.6	30.4	6.0	22.8

^a Latest available NLRB data.

^b This function is performed by the ALRB's Executive Secretary.

As stated earlier, NLRB staffing standards are expressed in ranges, and we have used the most liberal range in all cases in an attempt to compensate for some of the differences between the operations of the two agencies. In the elections workload category, which is a particularly sensitive area with the ALRB, we have reduced the NLRB staffing standard by more than 50 percent.

We also have accepted the ALRB's estimate that it will hold 250 elections in the budget year. We believe that no more than 1,000 unfair labor practice charges will be filed. Based on recent trends, this estimate is probably higher than the number that will be filed in the current year. The board's regional staffing needs, based primarily on the NLRB staffing standards, are reflected in Table 5, on page 930.

As Table 5 shows, 46 rather than 98 proposed professional positions and 29.6 rather than 38.1 clerical positions are required to handle 250 elections and an estimated 1,000 unfair labor practice charges, based on the most liberal NLRB staffing standards and the proposed new function of educating growers, workers and the public in agricultural-labor-relations law. This means that the board is budgeting an excess of 52 professional and 8.5 clerical positions which should be deleted for General Fund salary savings of \$1,307,200 (excluding operating expenses and equipment costs except for those relating to three proposed new field examiners for external

AGRICULTURAL LABOR RELATIONS BOARD—Continued

Table 5
Supportable ALRB Field Staffing Needs Based on
NLRB Staffing Standards

	Work Units	NLRB Workload Standards Per Professional Position	ALRB Staffing Requirements in Personnel- Years
Regional directors			4.0
Elections.....	250	50 ^a	5.0
Unfair labor practice Charges.....	1,000		
Withdrawn or dismissed	500	80-100 ^b	6.3
Settled.....	120	55	2.2
Complaints issued	250	14-17 ^b	17.9
External education			4.0 ^c
Miscellaneous activities including extra training.....			6.6 ^d
Total professional positions needed			46.0
Total budgeted			98
Overbudgeted.....			52
Clerical positions needed (64% of professional)			29.6
Total budgeted			38.1
Overbudgeted.....			8.5

^a The NLRB standard is 106 elections per professional position. We have reduced the standard to 50 in recognition of the possible greater complexity of ALRB elections.

^b We have used the smaller figure which is more favorable to the board.

^c Three new and one existing positions are proposed in the budget year to implement external education as a new function.

^d Represents the equivalent of 17 percent of total staff, which greatly exceeds the 7 percent allowed by the NLRB. The ALRB formula would allow only three personnel-years.

education). All of the positions which should be deleted are existing except for the three proposed field examiners.

Staff Promotions

We recommend that funding for staff reclassifications be allocated by the Department of Finance only on the basis of formal procedures approved by the State Personnel Board which ensure that staff promotions are based on performance and workload evaluations.

The board proposes a current-year expenditure of \$180,557 and a budget-year expenditure of \$207,796 for staff promotions, including upgrading of the four regional directors despite significant workload variations among the regional offices. The board did not eliminate a single employee except for one regional director for incompetence prior to the end of his or her probationary periods last year, and it now appears to be promoting people whose performance is questionable. Numerous complaints are made about the quality of the staff, both from within the agency as well as from outside parties who deal with the board. A common criti-

cism concerns a lack of objectivity among the field staff. Our discussions with the board do not evidence a commitment by the board to using promotions as a means of ensuring that the staff performs satisfactorily as well as objectively. Part of the problem results from the uncertainty within the board with respect to the division of authority between the board and the general counsel. We believe that the Department of Finance should withhold all funds for staff promotions until the ALRB develops a plan for basing promotions on formal performance and workload evaluations and such plan is reviewed and approved by the State Personnel Board.

Need Staff Training

We recommend that the ALRB establish a comprehensive training program for attorneys and field examiners, and report to the Joint Legislative Budget Committee by December 1, 1978.

The low productivity rate of the ALRB field staff demonstrates a need for additional staff training in such matters as labor law and investigative and settlement techniques. It also indicates that the board's administrative personnel are in need of training to increase their management and supervisory skills. As we pointed out last year, most of the board's staff lacked experience in areas requiring labor law skills such as with the NLRB, the Federal Mediation and Conciliation Services and the State Conciliation Service or in the field of labor arbitration. There is no indication in the budget that the board has developed a program for providing its staff with the training that is essential for carrying out the board's responsibilities effectively.

Sale of Transcripts

We recommend legislation establishing uniform procedures and fees for all state adjudicatory bodies requiring parties to disputes to share in the costs of the preparing transcripts.

Last year the Legislature reduced the board's budget by approximately \$100,000, as we recommended, to require the parties to an unfair labor practice charge to share equally the full costs of preparing transcripts (two-way cost sharing). The Legislature took this action because of the high rate of what appeared to be frivolous appeals by the parties and a skyrocketing workload based on last year's estimates by the board.

The board did not adopt the policy called for by the Legislature. Instead, it began charging the party *requesting* a transcript the full cost of preparing it. The other party to the dispute was not required to share in the costs.

The board is requesting \$106,000 in the budget year to allow it to share in the costs of preparing transcripts. Under the board's proposed system it would pay one-third of the costs of the preparation of transcripts when both parties to the dispute request copies, one-half of the costs when only one party requests a copy and all of the costs when neither of the parties wants a copy.

Since passage of the Budget Act of 1977, the number of frivolous appeals has abated, and the board's workload is far below last year's projections. Further, the cost-sharing problem now appears moot because unions and growers are not purchasing copies of transcripts, preferring instead to examine, at no cost, the board's copy in Sacramento.

AGRICULTURAL LABOR RELATIONS BOARD—Continued

An examination of other state administrative agencies reveals a wide variation of practices as well as fees charged for transcripts. For example, the Workers' Compensation Appeals Board charges \$1.50 per page for an original of a transcript and 75¢ per page for one copy. The Public Utilities Commission charges 90¢ per page and the Unemployment Insurance Appeals Board charges \$2.20 for an original and 30¢ per page for each additional page. The latter also loans transcripts to parties upon request, sometimes without recovering them. The boards covered by the Administrative Procedures Act charge approximately \$1.35 per transcript page and 30¢ per page for each additional copy pursuant to Section 69950 of the Government Code. These rates have not been changed since 1972 and no longer reflect state or private court reporting costs which are a minimum of \$2.55 per page for an original and 50¢ per page for a copy.

Because none of the clients of the administrative and adjudicatory bodies are now paying their fair share of the costs of preparing transcripts, it is inappropriate to require only the ALRB clients to do so. We believe therefore, that the problem of transcript costs should be addressed on a statewide rather than an individual board basis. Legislation, at a minimum, should authorize the State Board of Control to establish uniform rates for the sale of state-produced transcripts to reflect state production costs not to exceed the prevailing rates charged for transcripts prepared by private court reporting services.

PUBLIC EMPLOYMENT RELATIONS BOARD

Items 348 and 348.1 from the
General Fund

Budget p. 965

Requested 1978-79	\$3,148,486
Estimated 1977-78.....	3,251,869
Actual 1976-77	2,057,682
Requested decrease \$103,383 (3.2 percent)	
Total recommended reduction	None

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

*Analysis
page*

1. *Workload Adjustments. Reduce Item 348 by \$408,050 and add Item 348.1 for \$408,050. Recommend separate item for workload adjustments to permit prior legislative review of expenditures.*

933

GENERAL PROGRAM STATEMENT

This three-member board was originally created as the Educational Employment Relations Board, by Chapter 961, Statutes of 1975, (SB 160). Chapter 961 established new procedures governing employment relations between public school employers and employees. Board functions pursuant to Chapter 961 include (1) administering secret ballot elections for determining negotiating representatives in school districts, (2) ruling on the appropriateness of bargaining units established by certificated or classified employees, (3) adjudicating unfair labor practices between employee and employer organizations and (4) establishing negotiating procedures and regulations.

The board was re-named the Public Employment Relations Board (PERB) by Chapter 1159, Statutes of 1977 (SB 839) which, effective July 1, 1978, establishes a good faith negotiating system for determining compensation increases for state civil service employees, with certain specified exceptions. Under Chapter 1159, most of the board's former duties and functions are to be extended to encompass employment relations relative to those state civil service employees covered by this system.

Table 1 presents total board expenditures for the three-year period ending June 30, 1979.

Table 1
Public Employment Relations Board Expenditures

<i>Elements</i>	<i>Actual 1976-77</i>	<i>Estimated 1977-78</i>	<i>Proposed 1978-79</i>
I. Board operations	\$680,306	\$787,036	\$817,273
II. Elections	725,963	1,075,788	803,516
III. General counsel	591,113	865,268	898,935
IV. Impasse proceedings.....	60,300	523,777	220,712
V. Administration	(637,901)	(475,531)	(711,134)
Workload adjustments	—	—	408,050
	<u>\$2,057,682</u>	<u>\$3,251,869</u>	<u>\$3,148,486</u>

ANALYSIS AND RECOMMENDATIONS

The board began full operations on July 1, 1976. The total authorized staff of 86 positions includes an executive director, three regional directors, 20 legal counsels, six employment representatives, 17 temporary help positions, and related professional and clerical personnel.

The budget requests 16.5 new positions (7 technical and 9.5 clerical) for providing technical and clerical support provided previously (1) by temporary staff or (2) on a contract basis. The new positions are to be funded from reductions in temporary help (the equivalent of 8.4 positions) and contractual services.

Table 1 shows total expenditures of \$3,148,486 in 1978-79, representing a decrease of \$103,383 (3.2 percent) below the total expenditures of \$3,251,869 for 1977-78. The reason for the decrease is that funding for mediation services (estimated to cost \$165,000 in 1978-79) provided to the PERB by the Department of Industrial Relations was included in the PERB's budget for 1977-78 but in Industrial Relations' budget for 1978-79.

Workload Adjustment Expenditures Should be Subject to Legislative Review

We recommend that a separate budget item be established for "workload adjustments" and that any expenditure therefrom be subject to prior review by the Department of Finance and the Legislature (add General Fund Item 348.1 in the amount of \$408,050 and reduce Item 348, General Fund, by \$408,050).

Last year the budget included a lump sum of \$250,000 for unspecified workload needs. To assure legislative review of the expenditures from this amount, it was included in a separate appropriation with control language requiring expenditures to be authorized by the Director of Finance with 30 days' notice to the Legislature under Section 28 type reporting procedures.

PUBLIC EMPLOYMENT RELATIONS BOARD—Continued

This year the budget contains a lump sum of \$408,050 for "workload adjustments" to enable the board to make changes necessary to administer the provisions of Chapter 1159. Workload needs and specific uses of these funds cannot be identified at this time. When these can be determined, we believe they should be subject to prior review by both the Department of Finance and the Legislature. However, the procedure used last year which provided for this type of review has been excluded from the Budget Bill. Therefore, we recommend that the \$408,050 budgeted for this purpose be deleted from Item 348 by eliminating category (d) of that item and, instead, be appropriated in a separate budget item as follows:

"348.1—For transfer, in augmentation of Item 348 for support of the Public Employment Relations Board, by the State Controller \$408,050
provided, that none of the funds appropriated by this item shall be transferred to Item 348 unless and until authorized in writing by the Director of Finance; provided further, that no such authorization may be given sooner than 30 days after the Director of Finance gives written notification to the Chairman of the Joint Legislative Budget Committee and the chairman of the committee of each house which considers appropriations, or not sooner than such lesser time as each chairman, or his designee, may in each instance determine."

DEPARTMENT OF FINANCE

Item 349 from the General

Fund

Budget p. 969

Requested 1978-79	\$10,612,015
Estimated 1977-78.....	11,094,229
Actual 1976-77	8,524,792
Requested decrease \$482,214 (4.4 percent)	
Total recommended reduction	\$336,978

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONSAnalysis
page

1. *Unsupported Equipment Request. Reduce \$106,000.* Recommend reduction in the absence of required justification. 937
2. *Overtime Underbudgeted.* Recommend overtime be increased by \$25,875 offset by an increase in salary saving to reflect past experience. 938
3. *Temporary Help.* Withhold recommendation pending receipt of additional information. 940
4. *Student Assistance Program. Reduce \$230,978.* Increase salary savings to correct for double budgeting and withhold recommendation for student assistants pending additional justification. 940

5. Federal Funds Identification. Recommend supplementary schedule of federal funds list projects by a state clearinghouse control number. 941
6. Federal Funds Identification. Recommend a supplementary schedule of reimbursements be required of all state agencies. 942
7. Federal Funds Overhead Allowances. Recommend identification of authorized federal overhead allowances in specified budget documents. 942
8. Federal Funds Report. Recommend report with recommendations on procedures to reflect all federal funds in the Budget Bill and verify agency reports of federal fund expenditures. 943
9. Special Deposit Fund Accounts. Recommend procedures to bring expenditures from specified special deposit fund accounts under traditional budget procedures. 943
10. Federal Funds Administration Report. Recommend cooperative three agency study and report on administrative procedures to improve requests for, information about, and reports on, federal funds. 944
11. Information System Study. Recommend department present consultant study conclusions to fiscal subcommittees. 945
12. State Data Processing Management Office. Recommend review of activities by Information Systems Implementation Committee. 947

GENERAL PROGRAM STATEMENT

The Department of Finance is responsible for (1) advising the Governor on the fiscal condition of the state, (2) assisting in preparation and enactment of the Governor's Budget and legislative programs, (3) evaluating state programs for efficiency and effectiveness and (4) providing economic, financial and demographic information.

ANALYSIS AND RECOMMENDATIONS

The proposed 1978-79 total budget for this department is \$13,375,517. This is \$672,453, or 5.3 percent, higher than the current year estimated

Table 1
Finance Budget Summary

Programs	Actual 1976-77	Estimated 1977-78	Budgeted 1978-79	Change	
				Amount	Percent
I. Budget preparation and enactment	\$2,801,420	\$3,160,658	\$3,254,462	\$93,804	3.0%
II. Budget support and direction	704,298	823,979	853,248	29,269	3.6
III. Assessment of state programs	4,530,632	7,414,154	7,903,954	489,800	6.6
IV. Supportive Information	1,085,356	1,304,273	1,363,853	59,580	4.6
V. Executive administration..	(249,658)	(318,079)	(329,261)	(11,182)	(3.5)
Totals	\$9,121,706	\$12,703,064	\$13,375,517	\$672,453	5.3%
<i>Funding Sources</i>					
General Fund	\$8,524,792	\$11,094,229	\$10,612,015	\$ -482,214	-4.4%
Reimbursements	596,914	1,608,835	2,763,502	1,154,667	71.8
Totals	\$9,121,706	\$12,703,064	\$13,375,517	\$672,453	5.3%

DEPARTMENT OF FINANCE—Continued

expenditure. Of the total, \$10,612,015 would be provided from General Fund sources and the balance of \$2,763,502 would be from reimbursements. The General Fund share declines in 1978-79 because (1) General Fund expenditures in the current year include a one-time \$825,000 appropriation for computer equipment acquisition, and (2) reimbursements are expected to increase in 1978-79.

Table 1, on the preceding page, sets forth programs, funding sources and proposed changes.

Requested New Positions

Table 2 shows 58 new positions by program and funding source for which legislative approval is requested.

Table 2
Proposed Personnel Increases

<i>Program/Element</i>	<i>Position Title</i>	<i>Funding Source</i>	<i>Number Requested</i>
Washington, D.C. Office.....	Office supervisor I	Reimbursed	1.0
Financial and Economic Research Unit	Research analyst I	Reimbursed	1.0
	Temporary help	Reimbursed	.5
Local Mandate Legislation Unit (SB 90).....	Staff services analyst	General Fund	1.0
	Clerk-typist	General Fund	1.0
	Temporary help	General Fund	1.0
Program Evaluation Unit	Assoc. programmer analyst	Reimbursed	1.0
(Bill tracking project)	Assistant program review analyst	Reimbursed	1.0
	Temporary help	Reimbursed	.5
Data Processing Management Unit.....	DP manager I	Reimbursed	1.0
Fiscal Audits Unit.....	Sr. management auditor	Reimbursed	2.0
	Staff management Auditor	Reimbursed	5.0
	Assoc. management Auditor	Reimbursed	18.0
	Assistant management Auditor	Reimbursed	18.0
	Clerk-typist	Reimbursed	5.0
Personnel Unit.....	Staff services analyst	Reimbursed	1.0
		Total	58.0

Most of the requested new positions are for fiscal audits and only three (out of 58) would be supported from General Funds. These General Fund positions result from new department responsibilities mandated by Chapter 1135, Statutes of 1977, (SB 90) and are workload related. This legislation included an appropriation of \$66,000 to meet anticipated workload during the current year. The budget would provide the same approximate position and funding support level for workload continuation in 1978-79.

Funding for 48 audit related positions would come from other state units that want to contract with the Department of Finance to perform required fiscal and compliance audits of federal funds. In addition to using these reimbursements to hire department audit staff, \$670,000 is budgeted to subcontract with private CPA auditors. We question whether sufficient CPA auditing capacity is available to meet state and local auditing require-

ments required by new federal regulations. (See Item 430, Federal Revenue Sharing Audits.)

Report on Demographic Research Unit Positions

The Legislature, by Budget Act supplemental language, requested an evaluation of the cost/benefit of three positions initially proposed last year for the Demographic Research Unit. This request was generated by our concern that workload justification did not support the establishment of these positions on a permanent basis. We have reviewed these positions and conclude that additional, ongoing workload requirements justifies their continuation.

Problems with Budget Detail Persist

Several years ago the Department of Finance reduced its review function for much of the line item budget detail and delegated this responsibility to the agency administrators and individual departments. Although the Department of Finance increased its emphasis on program review, the individual departments were expected to continue to develop and justify the budget request in the same detail as before. These requirements are specified in the State Administrative Manual (SAM).

Last year we reported specific examples where supporting budget detail schedules and justifications were either not prepared in accordance with SAM or were inadequately prepared. The department acknowledged some of these problems by instructing all departments in its annual budget preparation guidelines to submit budget change proposals with detailed information by line item of expenditure, and to prepare a supplementary schedule of operating expense (Schedule 11). There has been some improvement this year although this budget detail still was not submitted by all agencies.

This lack of follow-up is apparent in the department's own budget preparation. For example, the Schedule 11 is a standard printed form used to summarize the operating expense requirements as well as to report items of expense which vary with changes in population, workload, and price. The department did not provide these standard forms when requested and the level of detail which was provided fell short of that required of most other state agencies. We believe this should be corrected in future budgets.

Unsupported Equipment Request

We recommend a reduction of \$106,000 for equipment in the absence of required justification.

The proposed equipment request is \$116,000. Of this amount, \$106,000 is inadequately justified. The items in question consist of an optical character reader (\$25,000), medium volume copier (\$24,000), vehicle for Washington, D.C. office (\$8,000), telecopier system for Washington, D.C. office (\$16,000), legislative bill tracking and costing system (\$20,000), postage machine (\$3,000) and "other requests, replacements" (\$10,000). When requested, written justification on the need for and costing basis of these items was not available. SAM requires all departments to prepare, in advance of budgeting, sufficient information on the planned use and ne-

DEPARTMENT OF FINANCE—Continued

cessity of all requested equipment to justify clearly the proposed expenditure. In the absence of such required justification, we recommend deletion.

Inappropriate Budget Preparation Guidelines

The department prepares and publishes each year projected cost increase rates for many budget categories of expense. These cost rates, published in a Price Letter, are supplemented by cost increase information on other goods and services included in the Department of General Services' annual *Price Book and Directory of Services*. Traditionally, where expenditures are not covered by any of these specific instructions, an agency is allowed to apply a specified cost increase factor (6 percent for 1978-79) to its current year authorized budget level.

However, a budget preparation instruction promulgated this year by the department allows agencies either to (1) use the cost factors specifically included in the Price Letter and Price Book (traditional procedure) or (2) apply the 6 percent factor to the current year authorized level of all operating expense and equipment (new procedure). For example, the price letter advises agencies to budget telephone costs for 1978-79 at 5 percent above actual costs in 1976-77. Using the new procedure, agencies could have increased the telephone budget by 5 percent last year and another 6 percent this year for a total of 11 percent above actual costs in 1976-77.

Because the new optional procedure does not consider actual experience, we believe that it allows for authorized overbudgeting. This option should be eliminated in future instructions.

Salary Savings Underbudgeted

When budgeting for salaries and wages, funds are included in the budget on the basis that each position will be filled for a full 12 months. However, experience shows that savings will accrue due to vacant positions, leaves of absence, turnover, delays in filling positions and the refilling of positions at the minimum step of the salary range. Therefore, to prevent overbudgeting, an estimate of salary savings is included in each budget as a reduction to the gross salary and wage amount.

The department's budget includes \$160,000 for salary savings in 1978-79. This is low in relation to past experience. Historically, substantial excess savings have been used to augment other budgeted levels such as overtime, temporary help and student assistants (or have reverted to the General Fund). Table 3, on page 939, indicates the extent of these savings by comparing actual expenditures to the amount originally budgeted for these three items.

Overtime Underbudgeted

We recommend that overtime be budgeted at \$85,000, an increase of \$25,875, to be offset by an increase of \$25,875 in salary savings to reflect past experience.

Overtime needs in the department relate primarily to budget preparation in the fall of each year. The budget includes \$59,125 for this purpose

Table 3
Overtime, Temporary Help and Student Assistant Summary
(Budgets and Expenditures)

	<i>1974-75</i>		<i>1975-76</i>		<i>1976-77</i>		<i>1977-78</i>	<i>1978-79</i>
	<i>Budgeted</i>	<i>Actual</i>	<i>Budgeted</i>	<i>Actual</i>	<i>Budgeted</i>	<i>Actual</i>	<i>Budgeted</i>	<i>Budgeted</i>
Overtime	\$36,053	\$68,221	\$34,446	\$81,952	\$36,169	\$83,210	\$40,310	\$59,125
Temporary help	42,917	120,897	47,297	230,633	61,634	211,246	71,243	80,415
Student assistant	0	95,371	0	197,405	0	218,615	0 ^a	230,978
	<u>\$78,970</u>	<u>\$284,489</u>	<u>\$81,743</u>	<u>\$509,990</u>	<u>\$97,803</u>	<u>\$513,071</u>	<u>\$111,553</u>	<u>\$370,518</u>

^a Although nothing was included in the original 1977-78 budget, \$220,520 has been administratively added this year.

DEPARTMENT OF FINANCE—Continued

but we believe this is too low. Table 3 shows that actual expenditures have exceeded the budgeted amount in each of the past three years.

We recommend the budget reflect this experience.

Temporary Help Recommendation Pending

We withhold recommendation regarding the use of temporary help, pending receipt of additional information.

We are concerned with the magnitude of temporary help used by the department. In reviewing recent budgets, we found that actual temporary help used consistently exceeded the budgeted level by a significant amount, as shown in Table 3.

We have requested the department to provide information (1) reconciling the differences between temporary help budgeted and used, (2) identifying the nature and extent of all temporary help which the department expects to use in 1978-79, and (3) explaining why such work should not be performed by full-time employees. We will be prepared to recommend an appropriate amount of temporary help after we have an opportunity to evaluate the information requested.

Fund Shift for Student Assistant Program

We withhold recommendation on the \$230,978 budgeted for student assistants pending additional justification.

We further recommend that salary savings be increased to reflect past experience and correct for double budgeting for a General Fund savings of \$230,978.

Table 3 shows that for the three completed fiscal years beginning in 1974-75 a substantial amount was expended for student assistants although nothing was budgeted for this purpose. In 1976-77 expenditures totaled \$218,615. We have been informed that the source of funds for these unbudgeted expenditures was excess salary savings.

Again last year no funds were directly budgeted for student assistants although the salary and wage supplement estimated that \$204,632 would be expended for this purpose from salary savings.

In this year's budget \$220,520 for student assistants in 1977-78 has been added administratively without a corresponding increase in salary savings. The department has been unable to explain the source of these additional funds. This action results in an increase equivalent to 20 new positions over the position count authorized by the Legislature last year. These 20 positions and \$230,978 are continued into the 1978-79 fiscal year as permanently authorized and are not reported in the Governor's Budget as workload and administrative adjustments or proposed new positions. We are concerned with this method of bypassing legislative review.

Further, the 1978-79 request for \$230,978 in new General Fund monies is unsubstantiated. Before authorizing such a major program it is important for the Legislature to know how these students will be used to augment existing staff, how operating expense and equipment support will be provided and why an amount of \$230,978 is needed. Pending justification for this program we withhold recommendation.

Further, excess salary savings which were previously used to fund this program will no longer be needed for that purpose. However, based on past experience we believe savings will continue to accrue at the same rate. Therefore, we recommend salary savings be increased by the same amount for a General Fund savings of \$230,978.

Federal Fund Budgeting

Federal funds received by California are accounted for in a number of ways under existing procedures. For example, some federal funds are reflected in the budget items of the Budget Bill and therefore are reviewed by the Legislature through the annual budget process. Some federal funds are received directly by agencies and are not subject to the annual budgetary process. Such funds, however, are reported in the Governor's Budget and are required to be identified through the Budget Act Control Section 28 procedure.

We believe some technical modifications of these existing procedures are required to improve legislative oversight of federal fund expenditures. Six related recommendations follow. The first three can be implemented by the department with SAM instructions.

Schedule of Federal Funds

We recommend the Supplementary Schedule of Federal Funds list federal projects by a state clearinghouse control number and that subsequent changes be subject to Budget Act Control Section 28 provisions.

It is the current policy of the Department of Finance to report all federal funds received by California in the Governor's Budget. Much of this money is received directly by state agencies and is reported in each agency's budget under the title "Reconciliation With Appropriations." When these federal funds are shown in the Budget Bill they can be reviewed by the fiscal subcommittees in conjunction with state appropriations. Therefore, recurring federal grants (as well as nonrecurring grants that can be anticipated) may be reduced or eliminated as desired, and may be controlled by language in the Budget Act or supplemental language report. (Such control is subject to award conditions.)

In the past, supporting detail on the source, number of awards, and purposes of these federal funds has not been routinely prepared or provided by state agencies. Consequently, when the fiscal subcommittees discuss an agency's program total and its related Budget Bill items, frequently there are no bases for a detailed review of federal fund sources or purposes. In recognition of this, the Department of Finance now requires each agency to submit a Supplementary Schedule of Federal Funds showing, for each program in the Governor's Budget, a descriptive title, the federal catalog number and the related expenditures for past, current and budget years.

Because several separate awards for different projects may be made under the same federal catalog number we are recommending the state clearinghouse number be used. Currently, each federal award receives a unique state clearinghouse number and only this number will provide a ready reference to the specific award description and fiscal detail.

Existing Section 28 procedures require the Legislature to be notified at

DEPARTMENT OF FINANCE—Continued

least 30 days in advance of all unbudgeted expenditure authorizations, be they from federal, state or other funding sources. Consequently, Section 28 would apply to subsequent unbudgeted changes in the detail shown on the Supplementary Schedule of Federal Funds, thus providing an opportunity for review by the Legislature.

Schedule of Reimbursements

We recommend a supplementary schedule of reimbursements be required of all state agencies in the same format and for the same purposes as the supplementary schedule of federal funds.

When federal funds are received by one state agency and transferred to another, they usually show up in the receiving agency's budget as reimbursements. For example, approximately \$15.5 million was received in 1977-78 by the Office of Criminal Justice Planning from the federal law Enforcement Assistance Administration for funding state agency special projects. Over 20 state agencies received a portion of these funds for various criminal justice projects. These funds are generally combined with other non-General Fund monies and are shown on a single line for "Reimbursements." This is not conducive to effective legislative oversight at the program level.

Agencies are currently required to include reimbursements in their annual budget preparations. Our recommendation would ensure that a detailed schedule was available for analysis during the budget review process, with state clearinghouse numbers shown for follow-up on each federally funded project. Where appropriate, changes would be reported to the Legislature under Section 28 procedures. A Section 28 report could be initiated with the same detail either on behalf of the agency initially receiving the federal funds or for the agency spending the funds as reimbursements but would not be necessary for both.

Identification of Federal Overhead Allowances

We recommend all agency schedules of federal funds and schedules of reimbursements separately identify any authorized federal overhead allowances (indirect costs).

SAM requires state agencies to recover from the federal government the indirect costs of administering federal programs. Such allowances are frequently recovered by the application of an agreed upon "indirect cost rate" which is applied against the direct cost of grant programs. Consistent with this recovery policy we believe such allowances should be separately identified and applied to offset a portion of an agency's General Fund administrative costs. This is not now the case in all circumstances.

For example, in our analysis of Item 286 we show that the California Youth Authority recovers federal overhead allowances but the funds are not being used to offset related General Fund administrative costs as intended. In other agencies the amounts and applications of these overhead allowances are unclear. Our recommendation would require the separate identification of these federal allowances in every case. With this information the use of these funds to offset General Fund costs could be monitored.

Expenditure Control Verification

We recommend the department investigate and report its recommendations to the Joint Legislative Budget Committee by December 1, 1978 on procedures to (1) reflect in the Budget Bill all federal funds to be spent or allocated under state control and (2) verify agency reports of federal fund expenditures.

The State Treasurer receives and the State Controller accounts for some federal funds which are not reflected in the Budget Bill and therefore are not reviewed by the Legislature. This occurs where an agency or program is financed entirely with federal funds. Examples include the Office of Traffic Safety with a proposed budget of \$1.61 million and the Intergovernmental Personnel Act Advisory Council with a proposed budget of \$1.56 million. It is unclear also from existing procedures how the state's overhead allowances discussed in the previous recommendation are recovered in such cases.

Our recommendation would have the department consider alternatives as to how all anticipated federal expenditures which do not now come before the Legislature in the budget process could best be reflected in the Budget Bill.

The second part of our recommendation addresses a problem that arises where federal funds *are* being reported. Although state agencies report their federal expenditures to the Department of Finance annually for inclusion in the "Reconciliation with Appropriations" section, no attempt is made to verify these reported amounts as is made for state funds. Although the State Controller does maintain expenditure records on all deposited federal funds, this information is neither published nor used to verify agency budget reports. Consequently, it is possible under existing procedures for an agency to receive and expend federal funds which are not reflected in the Governor's Budget and therefore are not reviewed or appropriated by the Legislature.

Special Deposit Fund Accounts

We recommend the department develop and implement procedures designed to bring expenditures from specified Special Deposit Fund accounts into the traditional budget process or under Control Section 28 procedures.

Special Deposit Fund accounts are of two types: (1) for unclaimed trust funds and (2) for funds collected from federal or local governments or gifts where no other fund is specified for deposit. Our recommendation relates only to the second type.

Existing SAM procedures specify how a department applies for and receives permission from the Department of Finance to establish a special deposit fund. There are no specified procedures requiring subsequent Department of Finance approval of expenditures from these funds nor procedures insuring that such expenditures (past, current or anticipated) are reflected in the Governor's Budget. Although some special deposit funds are now administered in the manner recommended, not all are. We believe that agencies receiving and expending any funds should be subject to prior legislative review as part of the annual budget process and all

DEPARTMENT OF FINANCE—Continued

expenditures should be reflected in subsequent budgets.

This recommendation can also be implemented by the department with SAM instructions.

Requests for Federal Funds

We recommend the Department of Finance, in coordination with the State Controller and the State Clearinghouse, investigate and report its recommendations to the Joint Legislative Budget Committee by December 1, 1978 on administrative procedures designed to enhance oversight of requests for, information about, and reports on federal funds.

Legislative review which is limited to federal expenditures cannot resolve all of the problems with the use of federal funds. For example, it would be desirable to review from the outset federal funding requests which may (1) duplicate activities of state agencies, (2) be of lesser priority than other potential activities eligible for federal support, (3) be designed to fund projects which the Legislature has rejected in the past, (4) contain questionable components or conditions, (5) fail to contain appropriate evaluation, reporting and future funding components and (6) duplicate General Fund budget requests (for example, budget hedging).

The California Government Code currently assigns review, amendment and approval responsibility for all requests for federal funds to the Department of Finance and SAM assigns other coordinating and reporting responsibilities to the State Clearinghouse. (The latter agency is located within the Office of Planning and Research in the Governor's Office.) However, we found the increasing number of requests for federal funds (approximately 9,000 were processed in 1976-77 by the clearinghouse, of which 1,578 were from state agencies), staffing limitations, higher priorities within these two cognizant agencies, their uncoordinated administrative procedures and the marginal usefulness of current forms and reports all serve to confound increased or effective oversight of requests for federal funds.

We believe numerous opportunities exist for coordinating and improving current administrative procedures. For example, if a clearinghouse number were required before the State Controller established a special deposit fund account it would assure that all new, unbudgeted federal awards had been properly reported. If the same clearinghouse number were used for the project request, subsequent award and any amendments, the history of the project could be tracked easily. If the clearinghouse number reflected both the state's control number and the federal catalog number, reference to the federal program would be facilitated. If the current award request application were expanded to allow a more descriptive statement of project purpose, to include line-item expenditure detail for requested funds, both program review and subsequent audit would be enhanced. If the computer reports of requested and awarded grants now published by the clearinghouse were reorganized by agency, improved in format and periodically distributed to more appropriate review personnel, both executive and legislative oversight could be improved.

Our recommendation would have the involved agencies cooperatively review these and other reforms which should arise from their investigation of alternatives and development of recommendations to improve existing procedures.

Fiscal Information System Study

We recommend that the Department of Finance present the results of a consultant study on fiscal information system requirements and alternatives to the fiscal subcommittees during the budget hearings.

The Department of Finance has contracted with the accounting firm of Haskins and Sells to assist the department in (1) reexamining the state's fiscal reporting requirements, and (2) identifying alternative accounting systems which will be more responsive to the needs of decisionmakers.

There is a general dissatisfaction on the part of the Legislature with regard to the availability of timely fiscal information and the inability of state departments to account for expenditures on a programmatic basis. Section 13300 of the Government Code requires the Department of Finance to "... devise, install, supervise, and at its discretion revise and modify a modern and complete accounting system for each agency of the state ..." and provides for the inclusion of a program cost accounting system as necessary. Progress has been extremely slow in this area and recent criticism of the lack of such systems in the Departments of Motor Vehicles, Transportation and Health emphasizes the void which continues to exist. Similarly, the failure of the Budget Data System to meet its stated objectives leaves the state with no central automated system for monitoring the fiscal activities of state departments and programs.

The Haskins and Sells study was funded during the current year with \$177,800 in federal funds made available under Title II of the Public Works Employment Act of 1976. No state funds were provided for their study and the Governor's Budget makes no funding provision for any follow-up activities in the budget year.

At this time we cannot ascertain how interested Finance is in upgrading either the state's accounting systems or installing a comprehensive fiscal management system. We therefore recommend that the results of the consultant study be presented to the fiscal subcommittees by the department during budget hearings. The report is currently scheduled for completion by March 31, 1978. Specific recommendations by our office regarding the next steps the Legislature should take in this area cannot be made until after we review the work of the consultants and are apprised of the department's future plans.

STATEWIDE ELECTRONIC DATA PROCESSING

The Department of Finance is responsible for statewide coordination and control of electronic data processing (EDP) for all state agencies except the University of California, the State Compensation Insurance Fund, the community college districts, agencies provided for by Article VI of the Constitution, and the Legislature. Its responsibilities are prescribed in the Government Code and Section 4 of the Budget Act of 1977. The State Data Processing Management Office (SDPMO) in the Department of Finance consists of 16 authorized positions, primarily systems analysts.

DEPARTMENT OF FINANCE—Continued

The effort is under the direction of a state data processing officer, appointed by the Governor. It is estimated that the magnitude of the state's total EDP expenditure over which the department has specified responsibility is about \$150 million annually. The expenditure level for this unit in the 1978-79 fiscal year has been budgeted at \$446,550, an increase of 6.5 percent over estimated current year expenditures.

Importance and Versatility of the Computer

Modern computer technology has advanced to the point where it has the potential for significantly improving both the efficiency and effectiveness of numerous state programs. These improvements can come about by reducing overall program costs in labor intensive activities, improving the delivery of services and making better and more timely information available to governmental decisionmaking.

Today's computers are faster, more flexible, more powerful and significantly smaller in overall size. The costs of hardware (equipment) have dropped to the point where hardware now represents about 30 percent of the cost of EDP (in contrast to 90 percent in the early days). Performance in relation to cost has also improved dramatically.

Although the cost of hardware has dropped significantly, overall expenditures continue to rise because of the increased costs in personnel to design, program and manage modern EDP systems, and the development of new state data processing applications.

A Difficult Resource to Use Effectively

Effective use of EDP continues to depend on the ability of departments to identify sound application areas and the expertise of personnel to design and program the applications selected. We find a wide variance among state departments in ability to utilize the technology, a situation which has existed for some years. However, problems in this area have intensified as more systems are implemented and the number of technical personnel grows. We believe that these problems are being compounded by current policies which tend to emphasize control rather than the management and effective utilization of EDP.

Emphasis on Control

EDP control is vested in the SDPMO. This centralized authority was established initially to prevent the proliferation of costly independent computing systems in the absence of coordinated planning. The central control emphasis was increased further by the Legislature through Section 4 of the Budget Act when executive branch efforts to acquire new computers in 1973 resulted in a controversial procurement.

Since that time, the Legislature has gradually modified Section 4 to relax legislatively mandated control. However, there does not appear to have occurred a commensurate change in emphasis on the part of the SDPMO. If anything, control mechanisms appear to have grown more complex.

Given the highly technical nature of EDP and the relative capabilities of state agencies to use the technology effectively, some degree of control is desirable. The difficulty occurs in establishing an appropriate balance

between control and intelligent use of the resource. Appropriate uses of the technology should be facilitated, and the control applied to those proposals where adequate justification has not been established. Because SDPMO has a limited staff and the number of EDP activities continues to grow, the judicious exercise of control becomes essential.

Problem Transcends SDPMO

Although we believe that the SDPMO could do much to improve the current situation, we must point out that there are other problems external to the operation of the office. For example, under current procurement policies, the state apparently is not able to take advantage of the best financial plans available from computer vendors when acquiring computing equipment. Section 4 of the Budget Act specifies a number of requirements including use of a model contract for the lease of EDP equipment which has led to contract inflexibilities. This has resulted in the rejection of bids which would have provided savings to the state. Such inflexibilities have also limited competition according to some sources. Also, availability of a sufficient number of qualified technicians and the ability of departments to acquire needed skills at an appropriate level is dependent in part on the policies of the State Personnel Board.

Comprehensive Review of State Data Processing

We recommend that state data processing control activities be the subject of a comprehensive review by the California Information Systems Implementation Committee.

The issues we have raised are complex and should probably be the subject of a more comprehensive review than is possible during the course of the budget hearings by the fiscal subcommittees. Therefore, we recommend that the California Information Systems Implementation Committee (a joint legislative/executive committee established to provide EDP oversight) hold a series of hearings to review the existing statutes, policies and procedures relating to EDP and the role of the SDPMO. (A similar recommendation is made under Item 382, the support item for the committee).

We will be prepared to elaborate on these issues. It could be expected that state department executives, technical personnel, vendors and the State Data Processing Management Office would also provide input.

The state's use of EDP needs to be placed in a proper perspective. The State Administrative Manual contains over 240 single pages devoted to EDP policies and procedures, and regulations may now be far too cumbersome. Changes are in order, and the recommended hearing should offer a good basis to determine those changes which will enable the state to use computers where they offer a cost-effective solution and to do so in a timely manner. If the committee can schedule hearings early in the session, recommendations could be forwarded to the fiscal subcommittees for possible inclusion in the Budget Bill of 1978.

DEPARTMENT OF FOOD AND AGRICULTURE

Item 350 from the General
Fund and Items 351 and 352
from special funds

Budget p. 976

Requested 1978-79	\$39,320,564
Estimated 1977-78.....	48,864,623
Actual 1976-77	31,804,169
Requested decrease \$9,544,059 (19.5 percent)	
Total recommended reduction	\$69,687

1978-79 FUNDING BY ITEM AND SOURCE

Item	Description	Fund	Amount
350	Support	General	\$22,362,798
351	Support	Department of Agriculture	16,476,058
352	Division of Fairs and Expositions	Fair and Exposition	481,708
			<u>\$39,320,564</u>

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

Analysis
page

1. New Division of Pest Management. Recommend Legislature direct department to proceed with implementation of Statewide Pesticide Use Plan. 951
2. Problem Filing Positions. Recommend department and State Personnel Board prepare a priority list of actions needed to correct deficiencies 952
3. *Long-range Planning. Recommend Item 350 be reduced by \$69,687.* Recommend deletion of 2 long-range planning positions because of inadequate progress in the preparation of the program. 953

GENERAL PROGRAM STATEMENT

The Department of Food and Agriculture functions under the Food and Agricultural Code, to (1) promote and protect the agricultural industry of the state, (2) protect the public health, safety and welfare, and (3) assure producers, handlers, and consumers true weights and measures of commodities and services.

The department's activities are broad in scope, and vary from short-term crop forecasts and financial supervision of local fairs, to enforcement of quality, quantity, and safety standards of certain agricultural and consumer goods.

ANALYSIS AND RECOMMENDATIONS

The Department of Food and Agriculture is financed mainly by the General Fund and the Department of Agriculture Fund. For the most part, the General Fund supports activities which benefit the general public, while the Department of Agriculture Fund supports activities that serve identifiable interests. Where a segment of the agricultural industry has an impact on the broader agricultural industry or the general public

welfare, with consequent enforcement burdens, the programs are funded through fees paid by the responsible agriculture industry and deposited in the Agriculture Fund. Because of changing program conditions, the determination of benefits and costs is not static and has become increasingly difficult.

Total support expenditures for the department are \$49,041,240, a decrease of \$11,336,995 from the current year. The total amount appropriated by Items 350, 351, and 352 in the Budget Bill is \$39,320,564, a decrease of \$9,544,059 or 19.5 percent from the current year. General Fund decreases \$10,167,400 from \$32,530,198 in the current year to \$22,362,798 in the budget year. The decrease in each instance is due largely to the \$10 million livestock drought relief program enacted by Chapter 476, Statutes of 1977. The full amount of the appropriation is shown in the current year as having been expended. However, the department in early February estimates that the total claims for all applications under this program will result in expenditures of \$3.5 million to \$4.5 million. The small amount of the expenditure is due in part to inadequate administration of it by the department and the administration.

The Department of Agriculture Fund support appropriation (Item 351) increases from \$15,868,863 to \$16,476,058 if the current year figures are put on the same basis as the budget year. Federal funds remain nearly level at \$1,334,166 while reimbursements decline by almost one-half from \$4,740,467 to \$2,583,719. The Fair and Exposition Fund, whose revenues are derived from horseracing license charges, provides \$481,708 (Item 352) for support of the Division of Fairs and Expositions.

	<i>Personnel- years</i>	<i>Dollar (Source)</i>
1. Grapeleaf Skeletonizer Control Program	14.5	\$181,672 (PWEA Title II)
2. Pesticide Control Enforcement in Urban Areas	9	\$163,804 (Federal funds—EPA)
3. Statewide Pesticide Use Plan	-20	\$-607,194 (PWEA Title II)
4. Federal Meat Sample Laboratory Analysis	9	\$254,598 (Federal Funds—USDA)
5. Local Fairs Deferred Maintenance Project	—	\$215,000 (PWEA Title II)
6. Local Assistance—Unclaimed Gas Tax Increase	—	\$865,000 (Agriculture Fund)
7. Livestock Raisers Drought Relief Program	—	\$-10,000,000 (General Fund)
8. Eradication of the Plant Pest Hydrilla Verticillata	—	\$-925,000 (General Fund)
9. Fairs Deferred Maintenance	—	\$-1,360,000 (PWEA Title II)
10. Eradication of Branched Broomrape	—	\$-181,758 (Trust Fund Reimbursement)
11. Grain and Commodity Inspection—Federal Contractual Services	—	\$-160,000 (Agriculture Fund)

DEPARTMENT OF FOOD AND AGRICULTURE—Continued

The department also plans to collect and expend approximately \$13.3 million in industry fees for inspection services it performs at an industry's request. These programs are shown in the Governor's Budget for information purposes beginning on page 991. In addition, the department will handle approximately \$33 million under 33 marketing orders for programs established at industry request to aid in production, control and advertising of agricultural products. These marketing order expenditures are not scheduled in the Governor's Budget but are handled as special trust accounts in the Department of Agriculture Fund.

Significant Program Changes

The major program changes (\$100,000 and greater) between 1977-78 and 1978-79 are shown in the table on page 949.

Public Works Employment Act of 1976

The following projects have been scheduled for federal funding from the Public Works Employment Act of 1976 (Title II).

	1977-78	1978-79
1. Deferred maintenance projects for district, county and citrus fairs	\$1,575,000	\$215,000
2. Support for the Environmental Assessment Team (EAT) for preparation of a statewide pesticide use plan and programmatic EIR. Phase I (carryover from 1976-77)	619,831	—
3. Support for EAT, Phase II	284,248	296,885
4. Application of Integrated Pest Management to suppress populations of Western Grapeleaf Skeletonizer in Siskiyou and Tulare Counties	158,090	181,672
5. Application of biological control techniques to infestations of Western Grapeleaf Skeltonizer in 11 counties	34,833	35,057
	<u>\$2,672,002</u>	<u>\$728,614</u>

Statewide Pesticide Use Plan and Environmental Impact Report

The Department of Food and Agriculture is responsible, under existing state law and under delegation of authority by the federal Environmental Protection Agency (EPA), for registering all pesticides prior to sale for use in California and for their control during use. The department's pesticide control program is budgeted at \$5,425,886 in 1978-79, of which \$1,662,420 is General Fund money. The program employs a staff of 179. Under this program, approximately 14,400 products are evaluated and registered each year, approximately 380 experimental permits are issued, and approximately 1,500 pesticide-related illnesses are investigated. Other program activities include (1) developing regulations for the application of pesticides, (2) examining and licensing approximately 2,000 pest control operators and about 5,000 pest control advisors, (3) inspecting, sampling, testing and monitoring pesticide products and pesticide residue levels in farm commodities, (4) maintaining coordination with the U.S. Food and Drug Administration, EPA, and county agricultural commissioners, and (5) assisting county agricultural commissioners in the regulation of pesticide use. The department controls the use of pesticides in the field through the 54 county agricultural commissioners who issue pesticide use permits.

Attorney General's Opinion. In May 1976, the Attorney General issued

Opinion No. SO 75/16 which held that the granting of a use permit by a county agricultural commissioner for application of a restricted pesticide or herbicide may have a significant effect on the environment. He concluded that the preparation of an Environmental Impact Report (EIR) was required under the California Environmental Quality Act (CEQA) for each of the thousands of permits issued.

The Legislature delayed the effect of the opinion until July 1, 1978, in order to allow time for the preparation of a Pesticide Use Plan and a programmatic EIR. An Environmental Assessment Team (EAT) was formed in January 1977, by the Secretary for Agriculture and Services to prepare the EIR and the Pesticide Use Plan. A grant under the Public Works Employment Act of 1976, Title II, of \$718,336 was received by the secretary to support this work.

The purpose of a "programmatic EIR" is to avoid preparing an EIR on individual applications for permits which would be infeasible due to the large number of permits and the lengthy time required to prepare and process individual EIRs compared to the need for timely action when the use of pesticides is urgent. The programmatic EIR more generally addresses the environmental impacts of using restricted materials in advance of issuing permits.

Delays in Programmatic EIR. The draft of the EIR on the pesticide control program was originally expected to be available last fall but it will not be available for public review until June 1978. The nature of some major recommendations is already available in preliminary form and additional progress reports are expected. Preliminary indications are that the findings of EAT's study will include the following main points:

- (1) The present pesticide regulatory program does not comply with CEQA but compliance could be accomplished through administrative measures instituted over a period of time;

- (2) The present system does not provide sufficient information, much less a written record for public review, to determine whether environmental impacts, alternatives, and mitigation measures were adequately considered in either the registration process or the permit granting process; and

- (3) There is a need for additional research to fill data gaps relating to the impact of pesticides and the development of alternative and supplemental methods of pest control.

The New Division of Pest Management

We recommend that the Legislature direct the department to proceed immediately with the organization plans needed to implement the State-wide Pesticide Use Plan.

During hearings on the department's budget last year, the Legislature approved the outline of an organization plan and a statement of functions for a new Division of Pest Management, Environmental Protection and Worker Safety. The specifics of the organization and decision-making structure and the internal operations and procedures of the division, however, are still being worked out by the department.

In proposing the creation of the new division, the Department of Food

DEPARTMENT OF FOOD AND AGRICULTURE—Continued

and Agriculture pointed to the need for:

- “the Department to be more cohesive and responsive in its programming for 1) a strengthened and more visible enforcement activity to protect workers and the public from hazards of exposure to pesticides; 2) a new, expanding pest control technology utilizing biological and integrated pest management systems in production of agriculture; and 3) providing needed pest control methodology to agriculture but in balance with needs for environmental protection.”

This statement of the major objectives of the department's pesticide regulation program represents a significant reorientation from past work. Unfortunately, the department and the organization and procedures of the new division are not adequate to accomplish this bold reorientation.

The two main functions of the division are pesticide registration and enforcement. These functions were shifted relatively intact to the new division and they continue to function much the same as before the creation of the new division. Two other functions represent the new orientation of the pesticide work. These are worker health and safety, and environmental protection.

When the work of EAT on the pesticide use plan has been finished, some of the conclusions will need to be incorporated in the department's ongoing pesticide control work. The department currently intends to carry out the EAT recommendations through two positions designated as “field supervisors/environmental monitoring,” and by using other existing division positions to contribute wherever possible to the implementation.

This limited approach is unrealistic. We recognize that the details of the EAT recommendations cannot be fully known at this time but some are available in draft form as summarized above. Because of the inability to fill new positions, and also because the findings of the Environmental Assessment Team are expected by some to result in further reorganization of the program, the department appears to have deferred major attention to perfecting the organization of the new division. The department should begin to address the organizational questions in advance of receiving all details of the use plan. Accordingly, we recommend that the Legislature direct the department to proceed immediately with plans for implementing some of the more obvious recommendations of the EAT.

The Legislature directed the Legislative Analyst to prepare a report on the funding problems of the new pesticide division. This report was to analyze the operations of the new division with respect to the sources of the funds which support it: industry funds and General Fund money. Because the organization of the division is not complete, the report cannot be prepared as contemplated. In its place a report which generally discusses the *organization problem* in relation to funding sources is being prepared and will be available for the budget hearings.

Problems in Filling Positions

We recommend that the Legislature direct the Department of Food and Agriculture and the State Personnel Board to mutually establish personnel priorities for the Division of Pest Management, Environmental

Protection, and Worker Safety, as well as the personnel needs of the department, and prepare a mutually agreeable priority list of Personnel Board actions needed to correct the deficiencies.

As a result of continuing personnel difficulties, various segments of the Division of Pest Management, Environmental Protection and Worker Safety are unable to operate at their anticipated levels. In the pesticide registration unit, 7 of the 27 permanent positions are vacant. In the pesticide enforcement unit, 12 of the 56 permanent positions are vacant. Within the worker health and safety unit, 6 of the 10 permanent positions remain vacant, while 4 of the 15 permanent positions in the pest management and environmental monitoring unit are vacant. The division presently has 33 positions vacant (29 percent) out of a total of 113 permanent positions.

Several of these vacancies are in key positions and have a significant impact on the direction of the programs. For example, the medical coordinator position in the worker health and safety unit received legislative approval effective July 1, 1977. The position, however, was not approved by the State Personnel Board until January 24, 1978. Before this position can be filled it is necessary to prepare an examination, establish an examination date and provide a list of prospective candidates. None have been accomplished. Four months will elapse before the department begins to interview from the candidate list.

Another example of long delays involves the position of unit chief for pesticide enforcement. This position also received legislative approval effective July 1, 1977. However, it has not yet been set on the calendar before the State Personnel Board. The position has been vacant for eight months and may be lost due to Section 20 of the Budget Act if not filled by July 1978. Again, the Personnel Board must approve this new classification, prepare an examination, establish an examination date, and provide a list of candidates to the department before July 1, 1978.

Both the department and the Personnel Board believe that it would be advantageous if the two agencies were to mutually establish a priority list of Personnel Board actions which need to be expedited. However, this has not been done to achieve a mutual understanding and coordinated schedule of priority personnel transactions. We recommend that the Legislature direct the preparation of such a list.

Long-range Planning

We recommend deletion of \$69,687 for 2 long-range planning positions because of inadequate progress in the preparation of this program by the department.

Last year the Legislature approved a professional and clerical position for the initiation of a long-range departmental planning program. The purpose of this appropriation was to give the department the resources to prepare a planning proposal and to start work on a long-range planning program. The department has made available a copy of a memorandum to the director, which suggests an ambitious program to predict future food requirements, to determine food production potential, to comment on the need for water development, and study trends in agribusiness.

DEPARTMENT OF FOOD AND AGRICULTURE—Continued

The planning work would start by (1) establishing a data base containing information on land use, energy utilization, environmental factors, water supplies, staple food needs, marketing data, production costs, and the number of persons employed in agriculture, (2) to receive long-range projections from various specialized sectors of California agriculture, (3) to perform trend analyses in California agriculture utilizing the information in the data base, (4) to analyze and evaluate long-term projections received from various sectors of the state's agriculture, and (5) to develop a model for testing and evaluating long-term production alternative trends for California agriculture.

There are two difficulties with this proposal. The first is that none of the proposed actions have been defined in sufficient detail. The data that would make up the data base are unspecified except for broad categories such as environmental factors and energy utilization.

The second difficulty is that no indication is given of the resources which would be required to carry out this program, either in terms of staff or funding. There is no proposal for increased staffing or for funding for such items as computer time.

For several years we have supported the development of a long-range planning capability in the department. We are not convinced, however, that the objectives of this proposal have been outlined with the details necessary to produce useful results and recommend withholding financial support until an adequate program has been prepared.

Desert Native Plant Act

The Desert Native Plant Act, Chapter 1240, Statutes of 1977, provides for a system of permits and tags for controlling the harvesting of specified California native desert plants in 10 southern California counties. The Department of Food and Agriculture has budgeted \$20,700 in 1978-79 for one personnel-year to implement this act. However, because two bills (AB 268 and SB 84) were passed and signed by the Governor, the department is encountering difficulties in deciding how this program will proceed. At the time of this Analysis, there was a lack of specifics as to how this program would develop. The department should give more management attention to implementing the legislation.

SALARIES OF COUNTY AGRICULTURAL COMMISSIONERSItem 353 from the General
Fund

Budget p. 990

Requested 1978-79	\$368,816
Estimated 1977-78.....	174,900
Actual 1976-77	174,900
Requested increase \$193,916 (111 percent)	
Total recommended reduction	None

ANALYSIS AND RECOMMENDATIONS*We recommend approval.*

This item appropriates funds in accordance with Sections 2221-2224 of the Food and Agricultural Code, which provide for cost-sharing agreements on agricultural commissioners' salaries in order to provide adequate and uniform enforcement of applicable Agricultural Code provisions. Through agreements between the Director of Food and Agriculture and any county board of supervisors, this appropriation makes available a sum not to exceed \$6,600 per year or two-thirds of the salary of each commissioner. This figure represents a \$3,300 per year increase in the state's contribution towards the commissioners' salaries as provided by Chapter 874, Statutes of 1977.

The appropriation increase also reflects the addition of five northern counties which will be reimbursed for services they perform for the department. In fiscal year 1978-79 all 58 of California's counties will receive funding.

ENGINEERING SUPERVISION OF FAIR CONSTRUCTIONItem 354 from the Fair and Ex-
position Fund

Budget p. 989

Requested 1978-79	\$184,243
Estimated 1977-78.....	180,619
Actual 1976-77	140,040
Requested increase \$3,624 (2.0 percent)	
Total recommended reduction	None

ANALYSIS AND RECOMMENDATIONS*We recommend approval.*

This item appropriates the sum of \$184,243 from the \$2.25 million continuing statutory appropriation for construction purposes payable from the Fair and Exposition Fund to County and District Agriculture Fairs or Citrus Fruit Fairs. The money is used for engineering services performed by the Division of Fairs and Expositions of the Department of Food and Agriculture. The services cover construction supervision on local fair projects financed under Business and Professions Code, Section 19630, for

ENGINEERING SUPERVISION OF FAIR CONSTRUCTION—Continued

(1) permanent improvements, (2) purchase of equipment for fair purposes, and (3) acquisition or purchase of real property, including appraisal and incidental costs.

DEPARTMENT OF INDUSTRIAL RELATIONS

Items 355–359 from the General

Fund

Budget p. 1001

Requested 1978–79	\$87,601,919
Estimated 1977–78.....	76,116,881
Actual 1976–77	64,920,402
Requested increase \$11,485,038 (15.1 percent)	
Total recommended reduction	\$4,256,655

1978–79 FUNDING BY ITEM AND SOURCE

Item	Description	Fund	Amount
355	Departmental Support	General	\$55,293,780
356	Occupational Health	General	3,000,000
357	Increasing Apprenticeship Opportunities	General	1,000,000
358	Local Mandates	General	22,141,937
359	Uninsured Employers' Fund	General	6,166,202
			<u>\$87,601,919</u>

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONSAnalysis
page

1. Civil Service Appointment. Recommend legislation requiring appointment of division chiefs by Director of Industrial Relations, subject to civil service regulations, rather than by Governor. 964
2. *Unreported Position. Reduce Item 355 by \$36,518.* Recommend deletion of unreported position in legal unit. 964
3. Cal-OSHA Consultation. Recommend 75 new positions proposed for the Cal-OSHA consultation unit be limited to June 30, 1979, and department report on unit's accomplishment. 964
4. *Cal-OSHA Program Office overstuffed. Reduce Item 355 by \$56,000.* Recommend deletion of three positions in the Cal-OSHA program office. 965
5. *Occupational Health. Reduce Item 356 by \$3,000,000.* Recommend deletion of the item. 967
6. Cal-OSHA Complaints. Recommend Division of Indus- 968

trial Safety establish procedures for screening employee complaints.

7. *Mandatory Days Off. Reduce Item 355 by \$17,108.* Recommend deletion of proposed staff services analyst position in Division of Labor Standards Enforcement. 970

8. *New Initiatives in Apprenticeship. Reduce Item 357 by \$1,000,000.* Recommend deletion of the new program. 970

9. *Apprenticeship Standards. Reduce Item 355 by \$53,660.* Recommend deletion of two apprenticeship consultants in Division of Apprenticeship Standards. 971

10. *Division of Fair Employment Practices.* Withhold recommendation on 17 proposed new positions pending receipt of Department of Finance staffing study. 972

11. *Liquor Licensing. Reduce Item 355 by \$17,369.* Recommend deletion of two proposed special liquor license compliance positions. 972

12. *Uninsured Employers' Fund. Reduce Item 359 by \$76,000.* Recommend reduction to offset higher-than-anticipated revenues. 973

GENERAL PROGRAM STATEMENT

The purpose of the Department of Industrial Relations is to "foster, promote and develop the welfare of the wage earners of California, improve their working conditions and advance their opportunities for profitable employment." To fulfill these broad objectives, the department provides services through the following nine programs:

1. **Administrative Supporting Services.** Includes the Office of the Director, provides overall policy direction, legal and public information, management analysis, fiscal management, personnel and training and data processing services.
2. **The Self-Insurance Plans Unit.** Issues certificates of self-insurance to those enterprises demonstrating financial capability to compensate their workers fully for industrial injuries and monitors financial transactions involving such injuries.
3. **The State Conciliation Service.** Investigates and mediates labor disputes, promotes sound union-employer relationships for preventing disputes and arranges for the selection of boards of arbitration.
4. **The Division of Industrial Accidents and the Workers' Compensation Appeals Board.** Adjudicate disputed claims for compensating workers who suffer industrial injury in the course of their employment and offer rehabilitation services to disabled workers.
5. **The Division of Industrial Safety.** Administers the California Occupational Safety and Health Act (Cal-OSHA), enforces all laws and regulations concerning the safety of work places (including mines and tunnels), and inspects elevators, escalators, aerial tramways, radiation equipment and pressure vessels.
6. **The Division of Labor Standards Enforcement.** Enforces a total of 15 wage orders promulgated by the Industrial Welfare Commission

INDUSTRIAL RELATIONS—Continued

- and other state laws relating to wages, hours and working conditions, child labor and the licensing of artists' managers and farm labor contractors.
7. The Division of Apprenticeship Standards. Promotes apprenticeship programs and other "on-the-job" training for apprentices and journeymen, promotes equal opportunity practices in these programs and inspects, approves and monitors such programs for veterans under a contract with the U.S. Veterans Administration.
 8. The Division of Labor Statistics and Research. Gathers data regarding collective bargaining agreements, work stoppages, union membership and work-related injuries and illness as part of the Cal-OSHA plan for use, among other things, in identifying high-hazard industries for intensified safety enforcement efforts.
 9. The Division of Fair Employment Practices. Enforces laws promoting equal opportunity in housing and employment on the basis of race, religion, creed, national origin, ancestry, sex, marital status, age, physical handicaps, and medical conditions relating to cancer.

Legislative Mandated Local Costs

Under Section 2231 (a) of the Revenue and Taxation Code, the state reimburses local governmental agencies for increased costs imposed by state legislation enacted after January 1, 1973. The budget contains funding for Chapters 1021, 1022, 1023 and 1147, Statutes of 1973, Chapter 1494, Statutes of 1974, Chapters 1084 and 1086, Statutes of 1975, and Chapters 528 and 1017, Statutes of 1976, all of which increase workers' compensation benefits and affect local entities as employers.

Uninsured Employers' Fund

The Uninsured Employers' Fund was established by Chapter 1598, Statutes of 1971, for the purpose of providing workers' compensation benefits for employees injured in the course of employment, whose employers fail to provide compensation. Enforcement power is vested in the Director of Industrial Relations. Chapter 1036, Statutes of 1976, gave the director additional enforcement power, including the authority to shut down an employer who fails to obtain workers' compensation insurance, and increased civil penalties which can be assessed against an employer for failure to maintain insurance. These penalties, plus recoveries of awards by the Attorney General from uninsured employers, are used to offset the costs of the program. However, substantial support is required from the General Fund to keep the program solvent.

ANALYSIS AND RECOMMENDATIONS

The department's proposed General Fund appropriations totaling \$87,601,919 are \$11,485,038 or 15.1 percent above estimated General Fund expenditures for the current year. They consist of \$55,293,780 (Item 355) for support of the department, \$3.0 million (Item 356) for prevention of occupational diseases, \$1.0 million (Item 357) for increasing the number of apprenticeship opportunities, \$22,141,937 (Item 358) for legislative mandates and \$6,166,202 (Item 359) to augment the Uninsured Employ-

Table 1
Budget Summary
Department of Industrial Relations

	<i>Estimated 1977-78</i>	<i>Proposed 1978-79</i>	<i>Change from current year</i>	
			<i>Amount</i>	<i>Percent</i>
<i>Funding</i>				
General Fund	\$76,096,881	\$87,601,919	\$11,505,038	15.1%
Reimbursements	4,736,126	2,867,587	-1,868,539	-39.5
Uninsured Employers, revenue from penalties	20,000	20,000	-	-
Federal funds	10,989,158	13,513,535	2,524,377	23.0
Total	\$91,842,165	\$104,003,041	\$12,160,876	13.2%
<i>Programs</i>				
Administrative support distributed to other programs	(\$3,334,029)	(\$3,516,695)	(\$182,666)	(5.5%)
Administrative support undistributed (primarily Cal-OSHA consultation services)	1,356,738	3,452,214	2,095,476	154.5
Personnel-years	185.5	215.5	30	
Regulation of workers' compensation self-insurance plans	450,726	490,563	39,837	8.8
Personnel-years	15.5	17.5	2	
Conciliation of labor disputes (State Con- ciliation Service)	1,001,977	1,087,009	85,032	8.5
Personnel-years	29.2	30.2	1	
Adjudication of workers' compensation disputes (Division of Industrial Acci- dents)	19,973,452	21,211,929	1,238,477	6.2
Personnel-years	715.1	753.6	38.5	
Prevention of industrial injuries and deaths (Division of Industrial Safety)	20,850,899	25,035,287	4,184,388	20.1
Personnel-years	536.6	538.1	1.5	
Enforcement of laws relating to wages, hours and working conditions (Divi- sion of Labor Standards Enforce- ment)	11,171,205	12,042,299	871,094	7.8
Personnel-years	483.5	515.4	31.9	
Apprenticeship and other on-the-job training (Division of Apprenticeship Standards)	3,605,825	4,788,619	1,182,794	32.8
Personnel-years	128.3	133.3	5.0	
Labor force research and data dissemina- tion (Division of Labor Statistics and Research)	1,515,727	1,678,826	163,099	10.8
Personnel-years	59.1	63.1	4.0	
Prevention and elimination of discrimi- nation in employment and housing (Division of Fair Employment Prac- tices)	5,622,063	5,888,156	266,093	4.7
Personnel-years	229.6	229.6	-	
Subtotal	\$65,548,612	\$75,674,902	\$10,126,290	15.5%
Personnel-years	2,382.4	2,496.3	113.9	
Legislative mandates	22,154,913	22,141,937	-12,976	-0.1
Uninsured Employers' Fund	4,138,640	6,186,202	2,047,562	49.5
Grand total	\$91,842,165	\$104,003,041	\$12,160,876	13.2%

INDUSTRIAL RELATIONS—Continued

ers' Fund. The department's proposed expenditure program, including reimbursements and federal funds, totals \$104,003,041. Table 1 shows funding sources and expenditures by program.

The \$12,160,875 increase in the department's budget primarily reflects merit salary adjustments, price inflation, proposed new appropriations of \$3.0 million for occupational health and \$1.0 million for the apprenticeship program, a 49.5 percent General Fund support increase for the Uninsured Employers' Fund, and the net addition of 404 new positions. The decline in reimbursements is attributable primarily to a reduction in the number of federal Public Works Employment Act (PWEA) positions from 234 in the current year to 148 in the budget year. The rise in federal funding reflects expansion of the Cal-OSHA consultation services from 24 positions in the current year to 75 positions in the budget year. This program is funded by 90 percent federal and 10 percent General Fund monies.

Proposed New Positions

The department proposes a net increase of 404 new positions consisting of 400.5 new positions and workload and administrative adjustments of 3.5 positions. The 400.5 new positions may be divided into three groups: (a) 148 Public Works Employment Act positions shown in Table 2, (b) 92.5 positions to handle increased workload and (c) 160 positions proposed to increase the level of departmental services.

Table 2
Public Works Employment Act Funds
Department of Industrial Relations

	<i>Number of Positions</i>	<i>1978-79 Salary Costs</i>
<i>Division of Labor Standards Enforcement</i>		
a. Removing the economic advantage of employment of undocumented aliens	58	\$381,460
b. Enforcement of laws pertaining to construction contractors	12	97,894
c. Uninsured Employers' Fund administration and enforcement	24	185,658
<i>Division of Apprenticeship Standards</i>		
Apprenticeship linkage with CETA	5	51,804
<i>Division of Labor Statistics and Research</i>		
OSHA supplementary data system backlog	3	12,800
<i>Division of Fair Employment Practices backlog</i>	67	637,296
Subtotal	169	\$1,366,912
Minus positions proposed to be transferred to General Fund support December 31, 1978, for Uninsured Employers' Fund and Division of Fair Employment Practices workload.		
	-21	
Net total	148	

Workload Positions. The additional 92.5 positions requested because of increased workload are shown in Table 3. Included are 24 positions which the Division of Fair Employment Practices proposes to continue with federal funding to handle discrimination cases for the federal Equal Employment Opportunity Commission. Four of the five new positions

proposed for the State Conciliation Service are currently being funded by reimbursements under an interagency agreement with the Public Employment Relations Board (PERB) for providing mediation services to local school districts. The costs of these positions are being deleted from PERB's budget (Item 348) and added to the department's support budget (Item 355).

Table 3
New Workload Positions
Department of Industrial Relations

<i>Function</i>	<i>Number of Proposed New Positions</i>	<i>1978-79 Salary Costs</i>
<i>Administration</i>		
Fiscal and data processing	3	\$44,640
Self Insurance Plans.....	2	35,688
State Conciliation Service	5 ^a	120,720
<i>Division of Industrial Accidents</i>		
a. Adjudication of workers' compensation claims and benefit notices	22.5	421,944
b. Rehabilitation services.....	16	217,236
<i>Division of Industrial Safety</i>		
OSHA standards board per diem and pressure vessel inspection	0.5	12,708
Industrial Welfare Commission (Per diem and temporary help)	0.5	9,565
Division of Apprenticeship Standards.....	2	37,344
<i>Division of Fair Employment Practices</i>		
a. General workload increases	17	326,544
b. Federal Equal Employment Opportunity Commission contract	24 ^b	217,680
Total workload positions.....	92.5	\$1,444,069

^a Four of these positions are currently being funded by reimbursements from the Public Employment Relations Board.

^b Fully federally funded.

New Program Positions. The department proposes to add 160 new positions to improve its level of service. As reflected in Table 4 on page 962, many of these are needed to implement new legislation.

Among the new program positions detailed in Table 4, are 51 (in addition to 24 established in the current year) which are proposed to staff the greatly expanded Cal-OSHA consultation service under the department's administration program. Most of these costs are being paid by the federal government. The Division of Apprenticeship Standards is requesting continuation of three positions established with Office of Criminal Justice Planning funds in the current year to seek apprenticeship opportunities for prison inmates. The budget-year costs of these positions would be transferred to the General Fund.

The Division of Labor Standards Enforcement proposes to continue 28 current, limited-term positions until June 30, 1979, for a special outreach program, supported by the General Fund, to enforce labor laws in selected industries which are generally believed to disregard the minimum wage and other provisions of the Labor Code. Many of the new positions are discussed in greater detail later in this Analysis.

INDUSTRIAL RELATIONS—Continued

Table 4
New Proposed Program Positions
Department of Industrial Relations

<i>Function</i>	<i>Number of New Positions</i>	<i>1978-79 Salary Costs</i>
<i>Administration</i>		
Prevailing wages, Chapter 281, Statutes of 1976 (AB 2363)	2	\$33,744
Cal-OSHA consultation service	51 ^a	660,384
<i>Division of Industrial Safety</i>		
Revision of Cal-OSHA standards	2	37,344
Reporting of pesticide poisoning, Chapter 1016, Statutes of 1977 (AB 1307)	1	11,844
<i>Division of Labor Standards Enforcement</i>		
More formal hearings, Chapter 1190, Statutes of 1976 (AB 1522)	32	374,956
Overtime exemption, Chapter 462, Statutes of 1977 (AB 214)	1	11,844
Prevailing wages, Chapter 343, Statutes of 1977 (AB 114)	1	11,844
Outreach enforcement	28 ^b	396,720
Workers' compensation insurance enforcement (Uninsured Employ- ers' Fund)	31	276,206
<i>Division of Apprenticeship Standards</i>	3	45,768
<i>Division of Labor Research and Statistics</i>		
Special research projects and public sector collective bargaining re- search	2	37,344
Prevailing wage workload, Chapter 281, Statutes of 1976 (AB 2363), and Chapter 343, Statutes of 1977 (AB 114)	2	24,144
<i>Division of Fair Employment Practices</i>		
More formal hearings, Chapter 1188, Statutes of 1977 (AB 738)	2	48,288
Liquor licensing, Chapter 1044, Statutes of 1977 (AB 9)	2	27,288
Total	160.0	\$1,997,718
PWEA positions	148	1,366,912
Workload positions	92.5	\$1,444,069
Grand total	400.5	\$4,808,699

^a Supported by 90 percent funding.^b Limited to June 30, 1979.**Reconciliation of Proposed New Positions and Personnel-Years**

While the department proposes an increase of 404 new positions, the budget reflects an increased staff utilization of only 113.9 personnel-years as shown in Table 5, on page 963. This difference results principally from adjustments in salary savings between the current and budget years, and because most of the proposed new positions were established in the current year under different funding arrangements (primarily PWEA funds). Also included are 28 existing limited-term positions in the Division of Labor Standards Endorsement which are proposed as new positions in the budget year.

Table 5
Reconciliation of Proposed New Positions with Personnel-Years
Department of Industrial Relations

Total authorized positions (1978-79)	2,124.1
Workload and administrative adjustments	3.5
Proposed new positions	400.5
Minus salary savings	-31.8
Total proposed 1978-79 personnel-years	2,496.3
Minus budgeted 1977-78 personnel-years	2,382.4
Net proposed personnel-year increase	113.9

ADMINISTRATION

Bill Analysis Process Needs Improvement

The quality and reliability of the department's fiscal impact estimates for bills affecting its operations have deteriorated substantially during the last few years. For example, the department advised that Chapter 1190, Statutes of 1976 (creating formal procedures for hearing wage claims), would result in additional annual General Fund costs of approximately \$175,000 for eight personnel-years. The Governor's Budget now proposes an expenditure of \$544,511 for 32 new positions based on workload data resulting from the departments' experience with the measure. The department is unable to provide a convincing explanation of why it understated the cost impact by such a large amount.

The department also estimated that Chapter 281, Statutes of 1976, (relating to the establishment of prevailing wages for public works contracts), would result in General Fund costs of \$50,000 annually, when the measure was considered by the legislative fiscal committees. Accordingly, the Legislature approved 2.3 new positions for the current year at a total cost of approximately \$40,209. This year the Governor's Budget proposes \$103,988 and 5.3 positions to implement the bill.

As discussed more fully later is the Analysis we believe the department's proposal for two positions to implement Chapters 462 and 1044, Statutes of 1977, are unjustified on the basis of cost information supplied to the Legislature when these measures were under consideration.

INDUSTRIAL RELATIONS—Continued**Civil Service Appointment of Division Chiefs**

We recommend legislation requiring all future division chiefs to be appointed by the Director of Industrial Relations, subject to competitive examination under state civil service regulations, rather than by the Governor.

Under current law, all of the department's division chiefs, with the exception of the supervisor of the State Conciliation Service, are appointed by the Governor but serve at the pleasure of the director. Because of this, the department tends at times to resemble nine autonomous programs rather than a single unit. Moreover, because division chiefs generally change every four to eight years, it is difficult to develop and maintain consistent and uniform operating procedures and workload standards in the divisions.

This problem has been particularly acute in Division of Fair Employment Practices which has never established a reliable management information system as a basis for developing workload standards through which staff requirements can be evaluated. A similar deficiency exists in the Division of Industrial Safety which, among other functions, enforces the Cal-OSHA program. The division has had three chiefs in the last three years, and the program has suffered greatly from the lack of consistent policy direction. As exempt appointees, the chiefs tend to reflect either labor or business viewpoints rather than developing objective standards for program administration and demonstrating skills relevant to occupational safety and health enforcement.

Unreported Legal Position Not Needed

We recommend deletion of an unreported staff counsel I position in the director's office for General Fund savings of \$36,518 (Item 355).

In the current year, the department administratively established two legal counsel I positions in the director's office for a total of five such positions. One of the new positions, supported with federal PWEA funds, assists the director in making prevailing wage determinations for use by public agencies in determining appropriate wage levels for public works contracts pursuant to Chapter 281, Statutes of 1976. This position and a clerical support position are being requested for continuation in the budget year from the General Fund.

The other legal counsel I position was established through transfer of a vacant position from the Division of Industrial Accidents. This transaction is not reflected in the budget nor has the department justified the need for the position. Our review of the workload of the legal unit indicates that the position is unnecessary and should be deleted.

Cal-OSHA Consultation Service

We recommend that 75 new positions proposed for the Cal-OSHA Consultation Unit be limited to June 30, 1979, and that the department report on the accomplishments of the program to the Joint Legislative Budget Committee by December 1, 1978.

The department proposes 75 new positions (24 of which were estab-

lished in the current year) to expand the Cal-OSHA consultation service. These are in addition to 39 positions being added for this function in the Department of Health. The new positions constitute a new unit established in the director's office to permit separation of Cal-OSHA's consultation and enforcement functions. Previously, there were 24 consultation positions in the Division of Industrial Safety. Under a special grant, the federal government is funding 90 percent of the cost of the expanded service compared to 50 percent in prior years.

We believe these new positions should be limited to June 30, 1979, to allow the Legislature an opportunity to evaluate fully the program's effectiveness. In the past, industrial firms have been reluctant to utilize the consultation service for fear that in the process, they might be cited for violating Cal-OSHA standards. Consequently, the consultation unit spent an inordinate amount of time delivering speeches to various organizations and answering telephone inquiries rather than providing on-site consultation, which should be the most productive aspect of its program. Further, there is no guarantee that the federal government will continue providing 90-percent funding for the function beyond the budget year. Consequently, the Legislature may be asked in future years to commit additional General Fund resources to the program. This should not be done unless the department is able to demonstrate worthwhile accomplishments by the new unit.

To facilitate such evaluation, we recommend that the department report to the Joint Legislative Budget Committee on the accomplishments of the program by December 1, 1978. The report should evaluate the impact of the consultation service on reducing the incidence of violations discovered and cited by the enforcement component of Cal-OSHA. It should also include information on how the unit allocates its time between on-site consultations and formal appearances before various organizations.

Cal-OSHA Program Office Overstaffed

We recommend deletion of three positions (a CEA III, a CEA I and a senior stenographer) in the Cal-OSHA Program Office and transfer of a Safety Engineer position to the Division of Industrial Safety for a General Fund savings of \$56,000 (Item 355).

The federal government requires a single state agency to be responsible for development and implementation of the California Occupational Safety and Health program. As part of the Cal-OSHA plan, the Secretary for Agriculture and Services was originally given this responsibility by the Governor when the program began in 1973, and a Cal-OSHA coordinating unit was established to provide staff assistance to the secretary in fulfilling his role. The unit was staffed with a program manager (CEA III) and six support positions. The cost of these positions in the budget year is \$215,096, which is included in the support budget of the Department Industrial Relations. The original purpose of the unit was to:

1. Coordinate the administration of the Cal-OSHA plan between the Division of Industrial Relations, the Department of Health and the State Fire Marshal.

INDUSTRIAL RELATIONS—Continued

2. Develop and maintain the Cal-OSHA plan, secure approval from the federal government of program change proposals or modifications and ensure that the program meets federal minimum requirements.
3. Coordinate the comparison of new and revised federal and state standards to assure that state standards are at least as effective as federal standards as required by federal law.
4. Develop quarterly and annual reports as required by the federal government.
5. Coordinate state comments and responses to semi-annual evaluations of the Cal-OSHA program by the federal government.
6. Prepare the program's budget for submission to the federal government (which pays up to 50 percent of the costs of the program).
7. Analyze legislation affecting the Cal-OSHA program.

The name of the unit was changed to the Cal-OSHA Program Office in 1974 after the State Fire Marshal was removed from the program. The name change was appropriate because there is little evidence that the unit exercised a major coordinating role in the program. As we noted last year, the department's fiscal office, rather than the program office, prepares the Cal-OSHA budget for submission to the federal government, and the department duplicates the unit's bill analysis function. Last year we noted that the Secretary for Agricultural and Services could not perform the "designee" function as effectively as the Director of Industrial Relations whose office is contiguous to the office of the regional federal OSHA administration in San Francisco. Accordingly, Chapter 81, Statutes of 1977, (AB 421) made the Director of Industrial Relations the state designee for purposes of administering the Cal-OSHA program. However, the CEA III position which supervises the unit continues to be maintained in Sacramento, almost 100 miles from the unit's other six positions which along with the Director of Industrial Relations, the federal OSHA administration and the occupational health branch of the Department of Health (responsible for administering the health portion of the Cal-OSHA program) are in the San Francisco Bay Area.

Last year we recommended that the unit be abolished except for three positions to provide liaison, report preparation and change proposal clearance functions. After again reviewing the workload of the unit, we continue to believe that it is overstaffed.

Moreover, some of its positions are overpaid compared to other administrative positions in the department. The CEA III, who supervises the six employees in the unit, receives a salary of \$37,872 compared to \$33,732 for the Chief of the Division of Industrial Safety who has overall responsibility for enforcement of the Cal-OSHA program, administers a budget of more than \$25 million and supervises a staff of over 538 employees. The CEA I in the unit receives a salary of \$30,424.

We therefore again recommend that the staff of the unit be reduced by eliminating the CEA III, CEA I and senior stenographer positions for total program savings of \$112,000 and General Fund savings of \$56,000. We also recommend that the safety engineer position which assists with securing

federal approval of proposed Cal-OSHA standards be transferred to the Division of Industrial Safety where, organizationally, this function would be more appropriately performed.

DIVISION OF INDUSTRIAL SAFETY

Occupational Health

We recommend deletion of Item 356 for occupational health for General Fund savings of \$3.0 million.

The Governor's Budget proposes an appropriation of \$3.0 million for allocation to the Director of Industrial Relations to (1) develop a readily accessible repository of research information on hazardous chemicals for use by employers, unions, employees and governmental agencies and (2) upgrade and expand the teaching and related research functions of the University of California's schools of medicine and public health, including the establishment of occupational health centers. Approximately \$1.0 million would be spent to develop the repository and the remainder would be used by the university to upgrade and expand occupational health teaching and research.

While we recognize a potential need for additional resources in the occupational health area, the department has not yet developed a workplan for using the funds. We therefore have no information on how the broad objectives of the program would be met. We believe that the proposal should be eliminated unless the department is able to provide the following information to the satisfaction of the Legislature: (1) a rationale for the program's \$3.0 million cost estimate; (2) identification of where the repository will be located and how it will be staffed; (3) an explanation of how the technical language describing some 25,000 new chemicals which are introduced each year will be translated into language usable by the average employer, union and employee; (4) the degree to which the federal government is willing to participate in the program; (5) identification of the specific programs which the University of California will use to train occupational health personnel and the types and numbers of personnel who will be trained; (6) the specific kinds of research projects which will be undertaken; and (7) identification of the university staff who have sufficient skills to train occupational health personnel and to conduct occupational health research.

We also believe that it is more appropriate for the proposal to be submitted in the form of a bill, rather than as a budget item, to allow review by the appropriate legislative policy committees as well as by the fiscal committees.

Report on Last Year's Recommendations

Last year the Legislature adopted supplemental language requesting that the Division of Industrial Safety take steps to improve several Cal-OSHA procedures and report to the Legislature prior to January 1978. Several of these recommendations were also incorporated into resolutions which were adopted by the Legislature. The division's responses to these requests along with our comments are summarized below.

INDUSTRIAL RELATIONS—Continued**Cal-OSHA Standards Revision**

Supplemental language to the Budget Act of 1977 and SR 19 requested that the division, the OSHA Standards Board and the Department of Health (DOH) prepare a workplan for improving the organization and formatting of Cal-OSHA Standards, and for eliminating inconsistencies in standards as well as those standards which lack relevance to worker safety and health. The division was also requested to explore federal funding for a revision project.

The workplan, which was submitted in a timely manner, establishes criteria for reviewing and rewriting Title 8 of the California Administrative Code which contains 25,000 sections and subsections, most of which constitute separate Cal-OSHA standards. The workplan also identifies the following broad objectives: (1) to identify unnecessary standards and develop a new Title 8 format by January 1, 1979, (2) to propose to the OSHA Standards Board removal of all irrelevant standards identified in 1978 and to propose for revision an additional 1,500 subsections by January 1, 1980 and (3) to complete a comprehensive index of all standards and to propose for revision by January 1, 1981, an additional 1,500 subsections.

The work will be performed on a full-time basis by six existing professional positions, four in the division and two in the Department of Health. Six additional existing positions will work on the project on a part-time basis.

The division reports that the federal government has agreed to treat the project as a unit of the state's Cal-OSHA Plan, thereby making it eligible for federal cost participation of up to 50 percent.

Over 16 years will be required to revise completely the standards under the workplan. Acceleration of the process would require additional resources. We do not believe that additional funding should be provided until it is demonstrated that the division's recommended revisions produce simplified standards acceptable to both the OSHA Standards Board and the federal government.

The division reports that it will have several revisions of standards, including the notorious "step ladder" standards, ready for presentation to the board in the current year even though the workplan indicates that current-year efforts are to be confined to the identification of standards needing revision. We will monitor this project closely and report next year on its progress.

Screening of Cal-OSHA Complaints

We recommend that the Division of Industrial Safety establish procedures for screening employee complaints by professional rather than clerical staff and report to the Joint Legislative Budget Committee by November 1, 1978.

Supplemental language to the Budget Act of 1977 and Senate Resolution 18 requested that the division establish a formal procedure for screening employee complaints which are accepted in writing or over the telephone. The division continues to disagree with our suggestion, made in the Analysis last year, that all complaints be screened by a district manager or

a professional compliance officer rather than by clerical personnel. The division states that compliance positions are not available for this purpose. It proposes, instead, to improve the screening process by providing additional training to the clerical personnel who receive the complaints and by revising the complaint form to include additional data to aid the district manager in deciding whether the complaint should be investigated.

We believe that these proposals inadequately address the problem of frivolous complaints which waste staff time and inflate travel costs. In 1976-77 the division conducted 6,673 inspections resulting from employee complaints, or an average of about five per week per district office. The Los Angeles office had the most complaint inspections during the year with 451 or an average of about nine per week. District compliance officers report to us that up to 40 percent of these complaints, which require an average of 11 hours each to inspect, are frivolous. Division statistics indicate that 25 percent of the compliance officers' time is allocated to writing reports on safety inspections. Thus, one or more compliance officers should be available in the office at almost all times for complaint screening purposes.

Most of the standards, which are covered by 25,000 sections and subsections in Title 8 of the California Administrative Code, are highly technical in nature and not easily understood by anyone other than a compliance officer. Consequently, we do not believe that the clerical staff can adequately determine whether a complaint constitutes harassment of an employer, is covered by the Cal-OSHA standards or is in fact a violation of the standards.

Occupational Health Referrals

The Legislature also adopted supplemental language and Senate Concurrent Resolution No. 37 last year requesting the division and the Department of Health (DOH) to develop procedures for improving the quality of referrals which are sent to DOH for investigation. The two agencies report that steps are being taken to train safety compliance officers more fully in the recognition of health hazards and to handle basic health problems which do not require the use of highly sophisticated testing equipment or extensive samples for laboratory testing. The department's budget-year equipment request contains additional items for this purpose, such as devices which measure noise levels to enable compliance officers to evaluate potential health problems. In addition, the division has tightened its procedures for securing the assistance of health hygienists in field investigations. All requests for such assistance must now be signed by a district manager of the division.

Layman's Guide to the Standards

Supplemental language to the Budget Act of 1977 and Senate Concurrent Resolution No. 38 requested that the division, in conjunction with the Department of Health, develop a layman's guide to the Cal-OSHA standards, concentrating on those standards which are most often violated and most relevant to worker safety and health. The division has allocated three professional positions to this project and plans to issue several such guides following generally the three-digit, standard industrial classifications de-

INDUSTRIAL RELATIONS—Continued

veloped by the federal government. The division has not yet determined the number of guides which will be issued, but estimates it might be as high as 135. Four such guides are expected to be published in the current year and one per month thereafter at current levels of funding. Priority will be given to developing guides for industries having the highest preventable injury rates.

Information Reporting System

Supplemental language to the Budget Act of 1977 also requested the division to employ outside experts for the purposing of simplifying its information reporting system and report to the Joint Legislative Budget Committee by November 1, 1977. The division has employed the Management Services Office of the Department of General Services to perform the study, which will probably not be completed until February 1978.

DIVISION OF LABOR STANDARDS ENFORCEMENT**Mandatory Days Off**

We recommend deletion of a proposed staff services analyst in the Division of Labor Standards Enforcement for workload arising from limited-term legislation relating to employee time-off, for General Fund savings of \$17,108 (Item 355).

Chapter 462, Statutes of 1977, (AB 214) which became operative September 2, 1977 as an urgency measure, empowers the Chief of the Division of Labor Standards Enforcement to exempt an employer from giving his employees one day of rest per week as otherwise required by the orders of the Industrial Welfare Commission, when he believes that the provision would result in a hardship. The measure is limited to June 30, 1979. When the bill was considered by the fiscal committees, the department reported that any additional workload arising from it could be absorbed within existing budgeted resources. The bill has not generated sufficient workload in its first four months of operation to justify the position. Moreover, the position is not limited to June 30, 1979, as is Chapter 462.

DIVISION OF APPRENTICESHIP STANDARDS**New Initiatives in Apprenticeship**

We recommend deletion of funding for the new-initiatives-in-apprenticeship program for General Fund savings of \$1 million (Item 357).

The Governor's Budget proposes an appropriation of \$1.0 million (Item 357) to be expended in the discretion of the Director of Industrial Relations for the purpose of increasing the number of apprenticeship opportunities in the state by 15,000. According to the department, the appropriation is to be used in conjunction with Federal Comprehensive Employment and Training Act (CETA), Youth Employment Demonstration Project Act and state Youth Employment Development Act of 1977 funds to:

- (1) "Vastly expand apprenticeship training to occupations which lend themselves to cost-effective methods of integrating progressive skill development on the job with classroom training in community col-

leges and other vocational education centers;"

- (2) "Focus on breaking down barriers between dead-end, low-paid and unstable jobs in so-called secondary labor markets and entry in primary markets;"
- (3) "Eliminate the need to terminate employment and return to school in order to pursue career ladders in a given occupational field or industry; and"
- (4) "Combine subsidized training for entry occupations with sequential development of apprenticeable skills (through coordinated on-the-job and classroom training) in order to achieve greater upward mobility in the operation of labor markets which are internal to a firm, a group of firms, or an industry."

The department reports that it is unable at this time to provide any further details regarding how the funds will be spent to accomplish these very broad objectives. As yet, it has no workplan and is unable to identify even the recipients of the funds. It is unable to demonstrate how the 15,000 additional apprenticeship opportunities will be created or how the effectiveness of the program will be evaluated. Nor is it able to say how the apprenticeship program would be related to other employment and training programs that, together, will serve Californians in the budget year.

We believe it is more appropriate for this proposal to be presented in the form of a bill (rather than as a Budget Act appropriation) to allow greater review of the proposal by the appropriate legislative policy committees as well as by the fiscal committees.

Apprenticeship Standards Positions Unjustified

We recommend deletion of two apprenticeship consultants in the Division of Apprenticeship Standards for General Fund savings of \$53,660 (Item 355).

The Division of Apprenticeship Standards proposes two new positions to handle workload resulting from federal grant programs administered by the U.S. Bureau of Apprenticeship and Training for the purpose of increasing apprenticeship opportunities throughout the nation. A federal grant has been awarded to the National Automobile Dealers' Association to allow it to employ staff to promote the apprenticeship program among its members. In California alone, it hopes to develop 2,000 automobile mechanic apprenticeship opportunities.

Additional federal grants are being given to other organizations in an attempt to create 3,000 apprenticeship opportunities in nonconstruction fields, such as in the emergency medical care, law enforcement, computer programming and vending machine repair industries. Altogether, 6 or 7 people have been employed by these organizations to date in California. Although the U.S. Department of Labor is making these grants, it has not increased the staffing of its Bureau of Apprenticeship and Training to handle the additional workload being generated by the grants. The bureau coexists with and performs the same types of functions as the state Division of Apprenticeship Standards and has a staff of seven professionals in California.

We believe that it is premature to add staff for this function because

INDUSTRIAL RELATIONS—Continued

there is no evidence that the federal grant project will create the number of new apprenticeship openings estimated by the department in the budget year. Further, we believe that this increased workload is a federal rather than a state responsibility. Accordingly, we recommend deletion of the state positions.

DIVISION OF FAIR EMPLOYMENT PRACTICES**Workload Positions**

We withhold recommendation on 17 proposed new workload positions for the Division of Fair Employment Practices pending receipt of a Department of Finance staffing study.

The Division of Fair Employment Practices proposes 17 positions (two senior consultants, 14 consultants and a staff counsel) to handle additional workload. We question the reliability of the division's workload data submitted to justify this staff increase because the division has never established an adequate management information system. We understand that the request is based on a special study conducted by the program evaluation unit of the Department of Finance which will be released in February. We are therefore withholding our recommendation until we have the opportunity to review the study.

Liquor Licensing Positions Not Needed

We recommend deletion of two new positions (a consultant and a clerical position) for special liquor licensing compliance for General Fund savings of \$17,369 (Item 355).

The Division of Fair Employment Practices requests one consultant and a clerical position to implement Chapter 1044, Statutes of 1977, (AB 9) at a cost of \$17,369 in the budget year. (This proposal contains first-year, offsetting salary savings of \$19,962 because the division expects the positions to be filled only for part of the year.) Chapter 1044 permits certain entities which produce and sell wine in areas outside of the United States to obtain an interest in a firm holding an on-sale alcoholic beverage license. Such ownership combinations are normally prohibited by existing provisions of the Alcoholic Beverage Control Act. Chapter 1044 also requires any on-sale license granted pursuant to its provisions "where feasible", to (1) be located in areas of high unemployment, (2) provide employment and management training to low-income individuals, especially to minority groups which have an unemployment rate significantly higher than the statewide average and (3) promote minority ownership of the on-sale licensed premises pursuant to a franchise agreement.

The Department of Alcoholic Beverage Control (ABC) is required to adopt rules for administration of the act after consulting with the Secretary for Business and Transportation, the Department of Business and Economic Development, the Chief of the Division of Fair Employment Practices and the Director of Employment Development. Chapter 1044 mandates no additional duties or responsibilities on the Division of Fair Employment Practices except to advise the ABC on the writing of regulations. Although ABC has not yet drafted the regulations, it reports that it

intends to administer the act through its own personnel and outside consultants. ABC is requesting \$40,000 in the budget year to administer the program. Consequently, there is no major role in the program for FEPC to justify the two proposed new positions.

Uninsured Employers' Fund

We recommend that Item 359, which augments the Uninsured Employers' Fund, be reduced by \$76,000 to offset higher-than-anticipated revenues from penalties.

The Department of Industrial Relations has not had sufficient experience with the Uninsured Employers' Fund program to validate its budget-year estimate of funding requirements as reflected in Item 359. However, the department has collected \$47,983 in penalties during the first six months of the current year from two penalty provisions of the Labor Code which prescribe penalties of (1) \$100 per employee limited to \$10,000 for employers who are found to be illegally without workers' compensation insurance where no injury has occurred, and (2) \$50 when an employer fails to respond within 10 days to an inquiry by the department on the status of his workers' compensation insurance. Based on this trend, the department should collect at least \$96,000 in the current and budget years, an increase of \$76,000 over the amount estimated in the Governor's Budget.

We believe that a \$96,000 revenue estimate is conservative because the fund has additional sources of revenue which are not reflected in the budget. These include (1) recoveries of awards from uninsured employers whose employees have suffered a disabling work-related injury and (2) an additional penalty of \$500 per employee (limited to \$10,000) which may also be imposed on uninsured employers whose employees suffer disabling injuries. The department only recently began referring such cases to the Attorney General for collection. We will monitor this process carefully and report on the department's progress during the fiscal subcommittee hearings.

WORKERS' COMPENSATION BENEFITS FOR SUBSEQUENT INJURIES

Item 360 from the General
Fund

Budget p. 1019

Requested 1978-79	\$2,900,000
Estimated 1977-78.....	2,314,400
Actual 1976-77	1,747,334
Requested increase \$585,600 (25.3 percent)	
Total recommended reduction	None

WORKERS' COMPENSATION BENEFITS FOR SUBSEQUENT INJURIES—Continued**GENERAL PROGRAM STATEMENT**

Existing law provides that when a worker with a preexisting permanent disability or impairment suffers a subsequent industrial injury resulting in a combined permanent disability of 70 percent or more, the employer is responsible only for that degree of permanent disability arising from the subsequent injury. The balance of the disability benefit obligation is assumed by the state. The purpose of this program is to provide an incentive for employers to hire persons who have a permanent (but partial) disability or impairment.

The cost of this program is paid by an annual budget appropriation and by revenue from Chapter 1334, Statutes of 1972 (as amended by Chapter 21, Statutes of 1973), which implemented Proposition 13 of that year. This legislation requires employers or their insurance carriers to pay to the state, in a lump sum, workers' compensation benefits in cases of industrial deaths where there are no surviving heirs. These payments are collected by the Department of Industrial Relations, placed in the General Fund and used to offset the cost of the subsequent injury program. Subsequent injury payments are awarded by the Workers' Compensation Appeals Board and administered by the State Compensation Insurance Fund (a public enterprise). The money appropriated by this item includes the service charges of that agency and the Attorney General, who represents the state's interests in the hearings before the appeals board or court.

The Waiting Period and Attorney Fees

Under current law, the state-paid benefits from the Subsequent Injury Fund do not commence immediately. Where injured workers have already received compensation for a disability from other sources (such as social security or insurance settlements), there is a waiting period before subsequent injury benefits can be received. This period is determined by dividing the total amount of such previous compensation by the weekly rate at which the injured employee is entitled to permanent disability payments. The weekly payment rate, which depends on his average weekly wage, ranges from \$30 to \$70 per week for permanent partial disability and from \$49 to \$154 for permanent total disability, under provisions of Chapter 1017, Statutes of 1976, and Chapter 1018, Statutes of 1977.

The attorney's fee constitutes the first lien on the benefits which are payable to the employee and begin to accrue after the waiting period. After sufficient funds have accumulated, the State Compensation Insurance Fund mails a check to the attorney. The disabled worker receives no benefits whatsoever until the expiration of the waiting period and until after the attorney fee is paid.

ANALYSIS AND RECOMMENDATIONS*We recommend approval.*

The General Fund appropriation of \$2,900,000 represents an increase of 25.3 percent over current-year estimated expenditures consisting of \$1,500,000 appropriated by the Budget Act of 1977 and a proposed deficiency appropriation of \$184,400. As reflected in Table 1, total expenditures under

the program are expected to increase by \$585,600 or 15.4 percent in the budget year, due primarily to increases in both medical costs and Workers' Compensation benefits.

Table 1
Budget Summary

	<i>Estimated 1977-78</i>	<i>Proposed 1978-79</i>	<i>Change from current year</i>	
			<i>Amount</i>	<i>Percent</i>
<i>Funding</i>				
General Fund				
Appropriation (Item 360).....	\$1,500,000	\$2,900,000	\$1,400,000	-
Proposed deficiency bill	814,400	-	-814,400	-
Chapter 1334, Statutes of 1972 (death payments).....	1,500,000	1,500,000	-	-
Total	\$3,814,400	\$4,400,000	\$585,600	15.4%
<i>Program</i>				
Benefit payments	\$2,980,000	\$3,431,200	\$451,200	15.1%
State Compensation Insurance Fund service charges	149,000	173,000	24,000	16.1
Attorney General	685,400	795,800	110,400	16.1
Total	\$3,814,400	\$4,400,000	\$585,600	15.4%

The increase in this program is consistent with increases in workers' compensation costs generally which have been substantial in recent years. Revenues generated by Chapter 1334, Statutes of 1972, are not expected to increase beyond the current-year estimate of \$1.5 million. The proposed funding and expenditures for the subsequent injury program are based on estimates prepared by the State Compensation Insurance Fund which administers the payments for the program.

Program Needs Additional Study

Last year we questioned whether the program was fulfilling its policy objectives because of the delay in benefit payments resulting from the waiting period and attorney fee provisions described earlier. As a result, the Legislature adopted supplemental budget language requesting the Department of Justice to complete a brief statistical analysis of the subsequent injury program to enable the Legislature to evaluate its effectiveness.

The department complied by analyzing cases over a six-month period resulting in the following case profile. Each case has a total potential workers' compensation liability of approximately \$19,840. Previous credits average \$4,157 for social security, union or disability pensions, third-party judgments, other workers' compensation benefit or prior subsequent-injury awards. Subsequent Injury Fund payment delays, reflecting the waiting period, range up to 45.5 years. The average waiting period in this sample was 3.25 years for purposes of offsetting previous compensation awards and allowing attorney's fees to accrue. The latter, representing about 21.5 weeks of the 3.25-year period, average \$926.

The waiting period for most subsequent injury cases is probably much longer than the 3.25 years identified in the sample. The latter contained

WORKERS' COMPENSATION BENEFITS FOR SUBSEQUENT INJURIES—Continued

an unusually high number (almost one-half) of policemen and firemen who are not usually members of the social security system and therefore do not have social security benefits to offset their awards. These policemen and firemen were awaiting a court decision to determine whether such claims qualified for the 1972 rate increases provided by law. In the sample, the waiting period averaged 1.6 years for policemen and firemen and 4.2 years for other types of employees.

The average Subsequent Injury Fund applicant is 51.5 years of age at the time of his subsequent injury, 53.75 years of age when filing for benefits, and 60.5 years of age when he begins receiving benefits. The department's study did not identify the length of time during which the employee received workers' compensation benefits from his employer prior to becoming eligible for subsequent injury benefits. It also is not possible to identify from departmental data the amounts of the subsequent injury award payments actually collected by applicants. A number of applicants die before such payments actually commence. The State Compensation Insurance Fund has agreed to conduct a six-month study of cases to answer such questions, which would be germane to any proposal to restructure the subsequent injury program.

Several of the statistical elements of the study, especially the long waiting period and the advanced age of the average applicant when payments commence, raise questions regarding the effectiveness of this program. We also intend to survey a sample of employers in the state to determine the extent to which the program encourages the hiring of handicapped persons. We will report on this as well as the data developed by the State Compensation Insurance Fund next year.

WORKERS' COMPENSATION FOR DISASTER SERVICE WORKERS

Item 361 from the General
Fund

Budget p. 1020

Requested 1978-79	\$200,000
Estimated 1977-78.....	184,500
Actual 1976-77	160,132
Requested increase \$15,500 (8.4 percent)	
Total recommended reduction	None

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This item provides funds for the payment of workers' compensation benefits to volunteer personnel (or their dependents) who are injured or killed while providing community disaster services. The total amount of compensation paid fluctuates with the volume of both training exercises and actual emergencies such as fire, flood or earthquakes. Past experience

indicates that cost estimates prepared by the State Compensation Insurance Fund, which administers the programs, have been realistic.

COMMISSION ON CALIFORNIA STATE GOVERNMENT ORGANIZATION AND ECONOMY

Item 362 from the General
Fund

Budget p. 1021

Requested 1978-79	\$152,727
Estimated 1977-78.....	142,982
Actual 1976-77	130,252
Requested increase \$9,745 (6.8 percent)	
Total recommended reduction	None

GENERAL PROGRAM STATEMENT

The Commission on California State Government Organization and Economy conducts studies to promote economy and efficiency in state government. Commission members are reimbursed for related expenses but receive no salary. Of the 13 commissioners, nine are public members appointed by the Governor and Legislature, two are members of the Senate and two are members of the Assembly. The commission's permanent staff consists of an executive secretary, a junior staff services analyst and a secretary. Additional staff is obtained as needed from other agencies or by contract with outside consultants.

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

The commission is requesting an increase of \$2,495 for increased rent on the existing office space. The commission is also requesting \$2,200 to increase the temporary help budget which provides for the intermittent preparation and production of the commission's reports. The balance of the increase is for minor cost adjustments.

The commission has recently completed studies of (1) local school district facility utilization, (2) Department of Motor Vehicles, and (3) the reorganization of the Health Department. In 1978-79, the commission intends to initiate studies on (1) regulatory commissions, (2) staff services agencies, and (3) health delivery agencies.

COMMISSION ON INTERSTATE COOPERATIONItem 363 from the General
Fund

Budget p. 1022

Requested 1978-79	\$88,265
Estimated 1977-78.....	69,895
Actual 1976-77	81,320
Requested increase \$18,370 (26.3 percent)	
Total recommended reduction	None

ANALYSIS AND RECOMMENDATIONS*We recommend approval.*

The Commission on Interstate Cooperation provides for the state's participation as a member of the Council of State Governments, a national association whose goal is to strengthen the role of state government in the federal system and promote interaction among the states. Through organizations affiliated with the national body, the state commission has opportunities to confer with officers of other states and of the federal government and formulate proposals for interstate cooperation.

This item provides the state's membership fee for the Council of State Governments. The council's assessments are based on a population formula which provides a pro rata distribution of the costs of the organization, and are estimated at \$129,100 in 1978-79. Other components include \$33,550 for the National Governor's Conference contained in the budget of the Governor's Office, \$5,020 for the National Association of Budget Officers in the Department of Finance budget, and \$2,265 for the National Planning Officers Association in the Office of Planning and Research budget.

The amount budgeted is based on estimated costs which will be adjusted when actual assessments are levied. Although \$81,595 was budgeted for the current year, actual charges are now estimated at \$69,895 allowing the Governor's Budget to reflect savings of \$11,700.

CALIFORNIA ARTS COUNCIL

Item 364 from the General
Fund

Budget p. 1023

Requested 1978-79	\$3,479,909
Estimated 1977-78.....	3,408,001
Actual 1976-77	1,386,660
Requested increase \$71,908 (2.1 percent)	
Total recommended reduction	\$2,093,249

*Analysis
page*

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

- | | |
|--|-----|
| 1. Management Controls. Recommend Arts Council adopt, by regulation, formal grant application and review criteria. | 985 |
| 2. Staff Services. Recommend legislation to (a) enable Arts Council to appoint its own executive director and (b) reduce the number of Governor-appointed deputy directors. | 986 |
| 3. Accounting Procedures. Recommend Department of Finance conduct follow-up study of council accounting procedures and report to Joint Legislative Budget Committee and appropriate policy and fiscal subcommittees by November 1, 1978. | 987 |
| 4. Budget Submission. Recommend Arts Council submit its budget proposals to the Joint Legislative Budget Committee by December 15 of each year. | 988 |
| 5. Discretionary Fund. Recommend existing fund be abolished and the council prohibited from reestablishing such a fund. | 989 |
| 6. Public Broadcasting. Recommend deletion of Artistic Productions for Public Broadcasting element. | 990 |
| 7. <i>Reduced Funding Level. Reduce Item 364 by \$2,093,249.</i> Recommend reduction to actual 1976-77 state expenditure level. | 990 |
| 8. Follow-up Evaluation. Recommend Department of Finance Program Evaluation Unit conduct follow-up study of Arts Council programs and management and report to Joint Legislative Budget Committee and appropriate policy and fiscal subcommittees by November 1, 1978. | 990 |

GENERAL PROGRAM STATEMENT

The California Arts Council, successor to the California Arts Commission, began operation in January 1976. The legislation creating the Arts Council, the Dixon-Zenovich-Maddy California Arts Act of 1975, directed the Arts Council to (a) encourage artistic awareness and expression, (b) assist local groups in the development of art programs, (c) promote the employment of artists in both the public and private sector, (d) provide for the exhibition of artworks in public buildings, and (e) ensure the fullest

CALIFORNIA ARTS COUNCIL—Continued

expression of artistic potential.

In carrying out this mandate, the Arts Council has focused its efforts on the development of a grants program to support artists in various disciplines. The program contains five categories: (1) Cultural Participation, (2) Organizational and Group Support, (3) Direct Support and Training for Artists, (4) Statewide Projects, and (5) Administration. Each of these categories and its components is discussed below.

CULTURAL PARTICIPATION**Artists in Schools and Communities**

This element is designed to integrate the artist, the community, and the school through the employment of resident artists in various arts disciplines.

Artists in Social Institutions

Designed to make art available in social institutions such as hospitals, prisons, and mental health facilities, this element employs resident artists and supports arts classes and workshops involving residents and patients of institutions.

Alternatives in Education

This element, a three-year research/demonstration project initiated in 1976, tests innovative methods of teaching conventional subjects in schools through the use of art.

ORGANIZATIONAL AND GROUP SUPPORT**Local Organization and Group Development**

Designed to strengthen programs of nonprofit arts organizations, this element provides grants to these groups to enable employment of management and artistic personnel.

Expanding Public Participation

This element provides support to nonprofit arts organizations for activities, such as publicity, "ticket vouchers" (subsidy of ticket prices), and special adaptations for the handicapped, which seek to develop and expand public participation in the arts.

Touring Programs

Local and regional nonprofit touring companies receive assistance with travel and related expenses for presentations and performances throughout the state. This element includes tours in dance (funded by the National Endowment for the Arts), theater, music, visual arts, and solo performances by bards, minstrels, and poets.

DIRECT SUPPORT AND TRAINING FOR ARTISTS**Special Innovative Projects**

This element, discontinued in the budget year, provides one-time grants to individuals or groups of artists working together for innovative and interdisciplinary projects in all art forms.

Maestro-Apprentice

Experienced master artists and craftsmen provide apprenticeship training to developing young artists. These grants, discontinued in the budget year to allow for evaluation, provide a living allowance for both the master and the apprentice.

STATEWIDE PROJECTS**Grants Evaluation and Public Arts Program Documentation**

This element provides evaluative information to the Arts Council and others for monitoring and planning.

Information and Services Division and Grants

This service, successor to the Cultural News Service, coordinates a statewide federation of local cultural organizations and provides access to information, resources, and channels of communication for artists and art organizations.

The Cultural News Service (CNS) formerly coordinated information activities under contract for the council. As discussed more fully later in this analysis, CNS was found to be inappropriately funded as a grant program by the State Personnel Board and was transferred in the current year to the council's support budget.

Statewide Arts Service Organizations

This element supports such groups as statewide associations of symphony orchestras, theaters, and community arts agencies through grants for conferences, research, and information services.

Incentive Award

Federally supported, this element annually provides a grant to a non-profit organization to support a major arts development project.

Artistic Production for Public Broadcasting

This element, new in the budget year, provides support to independent media artists for production, broadcast and distribution of their works.

ADMINISTRATION

This program provides staff support to the council through budgeting, personnel and accounting functions, evaluative studies, and administration of grant programs.

ANALYSIS AND RECOMMENDATIONS

The council proposes a state appropriation of \$3,479,909, an increase of \$71,908 or 2.1 percent over estimated current-year expenditures. This increase primarily is attributable to \$26,300 for new facility expenses which the council will incur after the expiration of its current lease at the conclusion of the 1978 calendar year, and increased General Fund support for a new theater tour component. Table 1, which summarizes the proposed budget, reflects a total expenditure program of \$4,131,193, including federal funds. Federal support for individual council programs is summarized by source and dollar amount in Table 2.

CALIFORNIA ARTS COUNCIL—Continued

Table 1
Budget Summary
California Arts Council

	<i>Current Year^a</i> <i>1977-78</i>	<i>Budget Year^a</i> <i>1978-79</i>	<i>Change From</i> <i>Current Year</i>	
			<i>Amount</i>	<i>Percent</i>
<i>Funding</i>				
General Fund	\$3,408,001	\$3,479,909	\$71,908	2.1%
Federal funds	620,995	651,284	30,289	4.9
Total	\$4,028,996	\$4,131,193	\$102,197	2.5%
<i>Program</i>				
Personal Services	\$356,787	\$613,632	\$256,845	72.0%
Personnel-years	24	35	11	45.8
Operating Expenses and Equip- ment	331,636	909,748	578,112	174.3
Grants Program	3,340,573	2,607,813	-732,760	-21.9
State	(\$2,743,098)	(\$2,109,560)	(\$-633,538)	(-23.1)
Federal	(\$597,475)	(\$498,253)	(\$-99,222)	(-16.6)
Total	\$4,028,996	\$4,131,193	\$102,197	2.5%

^a Amounts in parentheses are nonadd items and are so shown to avoid double-counting.

Table 2
California Arts Council
Federal Funding
National Endowment for the Arts (NEA)^a
American Correctional Association (ACA)^b
1978-79

<i>Funding Source</i>	<i>Amount</i>	<i>Affected Program Element</i>
ACA	\$30,000	Artists in Social Institutions
NEA	128,300	Artists in Schools and Communities
NEA	125,984	Information and Services Division and Grants
NEA	50,000	Incentive Award
NEA	250,000	Touring Programs (Dance)
NEA	67,000	Administration
Total	\$651,284	

^a NEA grants may not exceed 50 percent of the total cost of a project.

^b This grant required a \$5,200 state match during the current year. Budget year state matching requirements are as yet undetermined.

Program Changes

The council's grant program is detailed on a category basis in Table 3. The council proposes to reduce total grant funding by \$732,760 in the budget year and utilize these monies for personal services, operating expenses and equipment. It intends to utilize a portion of these monies to strengthen its monitoring, management, and evaluation capabilities. In addition, the council proposes to utilize \$33,000 of these funds, plus federal support, to conduct a two-year pilot project on the feasibility of decentralizing grants processing to the local level.

The council also has reduced funding in the budget year for individual grant elements such as Artists in Schools and Communities, Local Organi-

zation and Group Development, Special Innovative Projects and Maestro-apprentice, and utilized a portion of these funds in other program areas deemed to be of higher priority. This reflects a change in council emphasis from support of individual artistic endeavors, such as Special Innovative Projects, to support of programs having potential for broader public impact such as Artistic Productions for Public Broadcasting.

As also shown in Table 3, touring programs is the largest single grant element, while Artistic Productions for Public Broadcasting is the only new grants element to be added in the budget year. The council's Organization and Group Support program receives 45.6 percent of total grants funding.

Phase-Out of Cultural News Service

The Cultural News Service (CNS) began operation in the 1976-77 fiscal year as a council grant recipient. It was designed to coordinate a statewide federation of local cultural organizations and provide access to information, resources, and channels of communication for artists and arts organizations. Our 1977-78 Analysis expressed concern about funding an

Table 3
Grant Funding
California Arts Council

	Current Year 1977-78	Budget Year 1978-79	Change From Current Year	
			Amount	Percent
<i>Cultural Participation</i>				
Artists in schools and communities	\$831,200	\$634,839	\$-196,361	-23.6%
Artists in social institutions	150,000	150,000	—	—
Alternatives in education	200,000	200,000	—	—
Subtotal	\$1,181,200	\$984,839	\$-196,361	-16.6%
<i>Organizational and Group Support</i>				
Local organization and group development	\$597,413	\$350,000	\$-247,413	-41.4%
Expanding public participation	191,842	191,842	—	—
Touring programs	561,175	647,413	86,238	15.4
Subtotal	\$1,350,430	\$1,189,255	\$-161,175	-11.9%
<i>Direct Support and Training for Artists</i>				
Special innovative projects	\$335,000	—	\$-335,000	-100%
Maestro-apprentice ^a	100,000	—	-100,000	-100
Subtotal	\$435,000	—	\$-435,000	-100%
<i>Statewide Projects</i>				
Grants evaluation and documentation ^b	\$45,000	—	\$-45,000	-100%
Information and services division	89,305	\$129,258	39,953	44.7
Cultural news and services ^c	135,893	—	-135,893	-100
Statewide arts services organizations	53,745	53,745	—	—
Incentive award	50,000	50,000	—	—
Artistic productions for public broadcasting	—	200,000	200,000	—
Operating expenses	—	716	716	—
Subtotal	\$373,943	\$433,719	\$59,776	16.0%
Total	\$3,340,573	\$2,607,813	\$-732,760	-21.9%

^a Grant funding terminated to allow this program to be evaluated in the budget year.

^b Grant program in the current year, shown as operating expense in the budget year.

^c Grant funding terminated during current year. Program components transferred to Information and Services Division.

CALIFORNIA ARTS COUNCIL—Continued

essentially ongoing administrative responsibility as a grant program. An evaluation report was prepared on the Arts Council's programs by the Program Evaluation Unit of the Department of Finance pursuant to the supplemental language report of the Budget Act of 1977. It concluded that CNS functions should be performed directly by the Arts Council's staff or through limited-term contracts in cases requiring special expertise.

Based on a State Personnel Board ruling, the Cultural News Service was discontinued effective December 1, 1977. Its staff, activities and functions have been assumed by the Arts Council's Information and Services Division.

New Positions

The council is proposing an increase of 20 positions, including two limited-term, federally-supported positions for the Information and Services Division as shown in Table 4. Effective August 1, 1977, the council exercised its constitutional authority to establish an exempt staff position (assistant executive director) of the council's choosing. The deletion of an arts program developer reflects this decision and results in a net increase of 19 positions. These positions are requested to enable the council to (1) manage its programs more effectively, and (2) provide staff for the Information and Services Division, formerly CNS.

Table 4
Summary of Proposed Positions
California Arts Council
1978-79

<i>Position</i>	<i>Number</i>	<i>Program Assignment</i>	<i>Salary Costs</i>	<i>Source of Funding</i>
Arts Program Developer	5	Artists in schools/com- munities Artists in Social Insti- tutions Local Org. and Group Development Expanding Public Par- ticipation Touring	\$63,000	General Fund
Clerk Typist	3	Artists in schools/com- munities Org. and Group Support Administration	28,188	General Fund
Arts Tour Coordinator	3	Dance Tour Theater Tour Pilot Arts	59,760	General Fund
Arts Tour Assistant	1	Dance Tour	12,600	General Fund
Division Coordinator	1	Info. and Services	20,928	General Fund
Media Specialist	1	Info. and Services	17,016	General Fund
Editorial Specialist	1	Info. and Services	14,436	General Fund
Arts Information Specialist	1	Info. and Services	15,096	General Fund
Arts Service Analyst	1	Info. and Services	12,024	General Fund
Community Development Specialist	1	Info. and Services	15,528	Federal funds
Public Information Officer	1	Info. and Services	16,800	Federal funds
Assistant Executive Director	1	Administration	21,564	General Fund
Total	20		\$296,940	

PROGRAM ADMINISTRATION**Overview**

The Legislature, in creating the California Arts Council recognized that life in California is enriched by art. The council has attempted to develop an arts program responsive to the various arts groups in the state. This has not been a simple task, especially for a new agency lacking management background in administering public monies and in the regulatory procedures relating thereto. In the course of this process, the council's total budget has increased from \$1,949,362 (actual expenditures from all funds) in fiscal year 1976-77 to the proposed 1978-79 level of \$4,131,193, an increase of 112 percent. Throughout this period, our office has expressed concern that the council has not developed a workable budget proposal to achieve its goals. Unfortunately, for the third consecutive year, the council has not been able to articulate, with any degree of detail, how individual dollar components of each proposed grant element are to be spent, the criteria that will be utilized in making grant decisions, and how council staff will supervise and administer various programs. Council decisions on these matters are not made within the time frame of the Legislature's review of the budget. In addition, council programs have been in almost constant flux with changes in names, components, and reporting requirements since early 1976.

Despite these continuing difficulties, some improvements have been made. Output indicators, such as the number of artists receiving grants and number of institutions involved in programs, are included in the council's budget for the first time this year. Elements have been grouped into new programs for the budget year, which more accurately reflect the council's objectives. These are positive steps.

Poor Management Controls

We recommend the Arts Council adopt regulations specifying uniform grant application criteria and review procedures and award grants in accordance with such regulations.

We believe that the council's programs and funding have outpaced the development of management controls, including program objectives, grant application criteria and procedures. While generalized criteria and objectives have been developed at times, they have not remained in effect sufficiently long to enable analysis of their impact. The council is mandated in its enabling legislation to (1) adopt regulations necessary for proper execution of its powers and duties, (2) establish grant application criteria and procedures, and (3) award prizes or direct grants in accordance with such regulations. As of this writing, two years after the effective date of the council's enabling legislation, this mandate has not been fulfilled. We therefore recommend that the council comply with its enabling legislation by adopting and utilizing uniform grant application criteria and review procedures.

CALIFORNIA ARTS COUNCIL—Continued**Staff Services**

We recommend legislation to (a) enable the Arts Council to appoint its own executive director, as is the practice with most plural state bodies and (b) reduce the number of Governor-appointed deputy directors.

The 1977 Department of Finance report evaluating council programs concluded that "the performance of CAC staff, including consultants, reflects inadequate attention to basic management principles. After more than 18 months of operation, the critical functions of planning, directing, organizing, and controlling are not systematically exercised." As evidence of this situation, the report cites:

1. Inadequate or nonexistent duty statements for civil service and exempt positions,
2. Inadequate justifications and duty statements for special consultancies for Special Projects Documentation and the Museums and Galleries program,
3. Inadequate or nonexistent documentation of services rendered by Special Consultants and contract personnel whose agreements have expired,
4. Persistent intervention by individual CAC members in the assignment of tasks to staff members and the selection of consultants,
5. Inadequate provision for evaluation of and data development on continuing CAC program components,
6. Failure to consistently initiate effective communication with state control and service agencies when administrative difficulties arise, and
7. Excessive delegation of program management responsibilities to subordinate personnel, and failure to direct the effective utilization of clerical personnel and graduate student assistants in response to overall priorities.

The council has begun to recognize some of these problems and is proposing twelve new positions in the budget year, including three clerk typists, to assist in program management and administration.

In last year's Analysis we discussed the council's staffing problems with regard to the high ratio of exempt to civil service positions. The Governor has the authority to appoint the director and two deputies of the council's staff, in addition to the nine-member council. The State Constitution provides that each staff member appointed by the Governor may, in turn, appoint an exempt assistant and the council may, in turn, collectively appoint a staff member. As the Department of Finance study noted, for practical purposes, the entire existing professional staff consists of exempt appointees, contract staff, or special consultants. The study further noted that staff turnover during the first 20 months of the council's existence has been nearly 100 percent. Since the November 1977 publication of this report, two new vacancies have occurred in the executive director and deputy director positions.

We believe that the present appointment basis of staff selection gives little incentive to council and staff to work cooperatively because most of

the staff and all of the council members are accountable directly to the Governor. This is complicated further by the council's own appointee at the deputy director level. We believe that the high number of exempt appointments, currently totaling seven, is unwarranted for an agency of this size. As we noted last year, other state agencies do not have such a high ratio of exempt positions. For instance, the California Highway Patrol has a total of two exempt positions (the commissioner and the deputy commissioner) for a program with 7,658.1 personnel-years in the current year and a total budget of \$221,841,212. Similarly, the Department of the Youth Authority has two exempt positions (the director and executive assistant) for a total program of \$143,076,151 and 4,128.9 personnel-years in the current year. We therefore recommend legislation to (a) enable the Arts Council to appoint its own executive director, as is the practice with most plural state bodies, and (b) reduce the number of Governor-appointed deputy directors.

Accounting Procedures

We recommend the Department of Finance Fiscal Systems and Consulting Unit conduct a follow-up study of the Arts Council's accounting procedures and report to the Joint Legislative Budget Committee and appropriate policy and fiscal subcommittees by November 1, 1978.

During the current year, the Department of Finance Fiscal Systems and Consulting Unit was requested by the department's Program Evaluation Unit to review the council's cost accounting system and assist in establishing better accounting controls. Several problems came to light during the course of this review:

1. Council travel costs have not been controlled. The council budgeted \$18,400 for in-state travel during 1976-77 but actually expended \$58,298.
2. Communication costs for 1976-77 ran substantially over the budget allotment. The 1976-77 budget included \$20,000 for communications, but actual expenditures were \$27,316, an increase of 36.6 percent over the budgeted level. Of the total expenditure, 64.6 percent was used for credit card telephone calls.
3. Individual projects approved by the council for grants/contracts are poorly controlled. The Fiscal Systems and Consulting Unit was unable to ascertain how much money was approved or remained available for the programs of the council.
4. There are no procedures for encumbering executed grants/contracts.
5. Lengthy delays have arisen in paying grantees for their services. A number of grantees have worked several months under contract in the current year without receiving payment.

The council advises that the recommendations resulting from the Fiscal Systems and Consulting Unit's study have been implemented. We believe that the council's implementation of procedures developed by the unit should be monitored for compliance. We therefore recommend that this unit conduct a follow-up study of council accounting procedures and report its findings to the Joint Legislative Budget Committee and appropri-

CALIFORNIA ARTS COUNCIL—Continued

ate policy and fiscal subcommittees by November 1, 1978.

Proposed Operating Expenses

We recommend the Legislature direct the Arts Council to submit its budget proposals, with supporting documentation, to the Joint Legislative Budget Committee by December 15 of each year.

In a letter to the council dated January 4, 1978, we requested a detailed breakdown of each item listed under the council's Operating Expenses and Equipment schedule in the 1978-79 Governor's Budget. In a reply, dated January 20, 1978, the council stated that this information was contained in a supplementary schedule of operating expenses which had been supplied to our office on January 11, 1978, the day after the Budget was transmitted. However, as noted in Table 5, there are major discrepancies between the Governor's Budget and the breakdown provided in that schedule.

Table 5
California Arts Council
Inconsistencies in Operating Expenses and Equipment Expenditures
1978-79

	<i>Governor's Budget</i>	<i>Supplementary schedule</i>	<i>Difference Budget minus schedule</i>
General expenses.....	\$117,152	\$79,227	\$37,925
Printing	68,800	10,000	58,800
Communications	44,000	25,000	19,000
Travel-in-state.....	49,300	36,895	12,405
Travel-out-of-state	7,200	5,200	2,000
Consultant and professional services ^a	442,284	51,570	390,714
Contractual services	100,000	-	100,000
Facilities operations	51,120	8,500	42,620
Data processing	10,000	-	10,000
Equipment	19,892	-	19,892
Total	\$909,748	\$216,392	\$693,356

^a Of these funds, \$183,000 is detailed in program items.

We are unable to make a recommendation on the appropriateness of the council's proposed operating expenses and equipment budget because of the \$693,356 discrepancy shown in Table 5 and the lack of detailed explanatory information.

We believe that these discrepancies reflect continued difficulty by the council in developing a complete and understandable budget proposal. In addition, the delayed availability of budget support documents (budget change proposals were not received by our office until January 13 this year) prevents us from identifying and obtaining the information needed to make our analysis of this item useful to the Legislature. We therefore recommend that the Arts Council submit its budget proposals, with supporting documentation, to the Joint Legislative Budget Committee by December 15 of each year.

GRANTS PROGRAM

Council Discretionary Fund

We recommend the Arts Council's discretionary fund be abolished and that the council be prohibited from reestablishing such a fund.

At its public meeting on May 21, 1977, the council approved the formation of an executive committee which was authorized to allocate and spend up to 3 percent of available program money by a simple majority vote. According to the council's minutes, these funds were to be held in reserve from each program grant area for "out-of-phase situations" (occasions when regular funding cycles do not coincide with artists' needs). In addition, the council authorized the transfer of money to other program areas with the approval of the executive committee. The council agreed that a grant request must demonstrate a uniqueness of need, timing or merit to be eligible for executive committee funding.

Our review of council minutes reveals that the council has approved eighteen out-of-phase grants totaling \$57,030. These grants include \$5,500, approved on October 28, 1977, to an artist from New York to pay six California artists to do drawings for billboards on the west coast, and \$2,200 approved on September 23, 1977, to enable an artist to implement her program following the Legislature's deletion of the visiting artist component from the Artist in Schools and Communities program. This last grant, in particular, appears to be in violation of legislative intent because the council approved an expenditure for which the Legislature had deleted funding.

It is inappropriate for 3 percent of the council's grant funds to be earmarked in a discretionary fund for expenditure without legislative review. Therefore, we recommend that the council's discretionary fund be abolished and that the council be prohibited from reestablishing such a fund.

Pilot Touring Program

The council proposes increased emphasis on its touring program element in the budget year. In addition to its federally-funded dance tour and state-funded theater tour, the council proposes a new pilot tour to include, separately or in combination, (1) music, (2) visual arts, or (3) bards, minstrels, and poets. The council advises that it plans to study these alternatives and indicate by the end of March what form these tours will take. We recommend that the Legislature not appropriate \$143,970 for this new touring program when the council has yet to decide what is to be offered.

Information and Services Division

The council currently is reappraising the scope and content of the information function because of the discontinuance of the Cultural News Service. We believe that assumption of this function by the council should result in staff and operating economies in the budget year. However, such economies are not identifiable in the budget, perhaps in part because of the receipt of federal support totaling \$23,520 in the current year and \$125,984 in the budget year. Because of the evolutionary nature of this program element, we are unable to recommend it for legislative approval.

CALIFORNIA ARTS COUNCIL—Continued**Artistic Productions for Public Broadcasting**

We recommend the Artistic Productions for Public Broadcasting element be deleted.

The budget request contains \$200,000 for a new grant category to provide support to independent media artists through the broadcast and distribution of their works. The council proposes to coordinate this project with the California Public Broadcasting Commission (Item 365). Ten to 24 grants are contemplated, ranging from \$5,000 to \$20,000 per project. Selection criteria are as yet undeveloped, but the council indicates that emphasis will be placed on literary, visual, or performance work which promises to be of broadcast quality and general audience interest.

In 1975–76 the council sponsored a “State of the Arts Documentation” grant category to support the work of independent filmmakers, producers, and publishers. Twenty-four grants were awarded totaling \$134,500. Among the criteria used to select these grantees were the following: (1) “Is this a joint venture between an artist and a media organization?” and (2) “Has an adequate system of distribution of the final product been provided?”

In our letter to the council dated January 4, 1978, we asked for detailed information regarding dates, times, and radio/TV stations on which independent media work funded by the council was broadcast. In its reply, the council was unable to list one instance when such works were broadcast. Thus, despite selection criteria emphasizing media broadcast and distribution, grantees apparently were unsuccessful in meeting this objective.

The council maintains that these prior program difficulties have been taken into account in the current budget proposal because the council plans to work jointly with the Public Broadcasting Commission. We do not believe that the past broadcast and distribution problem would be solved merely by maintaining liaison with the Public Broadcasting Commission. Past experience has shown that public broadcasting stations prefer to utilize their own productions rather than the works of independent media artists. Because the current proposal appears to have the same broadcast problems of previous grants we recommend the Artistic Productions for Public Broadcasting element be deleted.

Reduced Funding Level

We recommend a reduction of \$2,093,249 in state support thereby returning the council to its actual 1976–77 funding level until the council has demonstrated sustained effective management and administration of state funds.

We further recommend the Department of Finance Program Evaluation Unit conduct a follow-up study of Arts Council programs and management and report its findings to the Joint Legislative Budget Committee and appropriate policy and fiscal subcommittees by November 1, 1978.

As discussed earlier, we believe the council’s rapid growth has outpaced the development of an effective management and control system to administer state funds. The 1978–79 budget request, although showing improved documentation, still lacks sufficient detail and clarity to warrant

approval. Based on our review of council programs and budget documents, we recommend that the budget be reduced to \$1,386,660, which represents the 1976-77 actual state expenditure level. This results in a reduction of \$2,093,249 in General Fund support. Because we have no basis for recommending specific staffing levels for a reduced program, we recommend that the Department of Finance assist the council in making necessary staffing adjustments, consistent with the reduced level of state support.

The reduced budget would give the council the opportunity to demonstrate a sustained effort of effective management and administration of state funds on a reasonable scale. Absent such a demonstration, we believe it is inappropriate to continue the current and proposed funding levels, or to authorize a staffing increase of 19 positions. Table 6 summarizes the proposed program components at the 1976-77 funding levels.

Table 6
Legislative Analyst's
Proposed Program at 1976-77 Funding Level
California Arts Council

<i>Program Elements</i>	<i>Proposed State Funding, 1978-79</i>	<i>Percent of Total Proposed State Funding</i>	<i>Budget at 1976-77 Funding Level^a</i>
1. Artists in Schools and Committees.....	\$609,539	17.51%	\$257,642
2. Artists in Social Institutions	120,000	3.45	50,752
3. Alternatives in Education	200,000	5.75	84,586
4. Local Organizations and Group Development	380,000	10.92	160,575
5. Expanding Public Participation.....	191,842	5.51	81,120
6. Touring	397,413	11.42	168,063
7. Maestro Evaluation.....	50,000	1.44	21,077
8. Grants Evaluation.....	200,000	5.75	84,586
9. Information Services	313,500	9.01	132,565
10. Statewide Arts	53,745	1.54	22,741
11. Artistic Productions for Public Broadcasting.....	200,000	5.75	—
12. Administration	763,870	21.95	322,953
	<u>\$3,479,909</u>	<u>100%</u>	<u>\$1,386,660</u>

^a Based on adoption of recommendation to delete support of Artistic Productions for Public Broadcasting discussed on page 990.

We further recommend the Department of Finance Program Evaluation Unit conduct a follow-up study of Arts Council programs and management to document the council's progress in sustaining an effectively managed and administered program. The Program Evaluation Unit should report its findings to the Joint Legislative Budget Committee and appropriate policy and fiscal subcommittees by November 1, 1978.

CALIFORNIA PUBLIC BROADCASTING COMMISSION

Item 365 from the General
Fund

Budget p. 1030

Requested 1978-79	\$841,906
Estimated 1977-78.....	848,203
Actual 1976-77	325,358
Requested decrease \$6,297 (0.7 percent)	
Total recommended reduction	6,373

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

*Analysis
page*

1. *Consultant and Professional Services. Reduce by \$6,373.* 993
Recommend deletion of consultant and professional services based on prior legislative intent.
2. *Budget Act Appropriation Needed. Recommend expenditures from California Public Broadcasting Fund be appropriated in the Budget Bill.* 993
3. *Effectiveness and Financial Information. Recommend annual report include specified information on composition of the audience and financial data.* 993

GENERAL PROGRAM STATEMENT

The California Public Broadcasting Commission (CPBC) was established effective January 1, 1976, by Chapter 1227, Statutes of 1975, as an independent entity in state government in order to encourage the growth and development of public broadcasting. Specified duties and powers of the commission include (1) making grants to public broadcasting stations, (2) facilitating statewide distribution of public television and radio programs, (3) applying for, receiving and distributing funds, (4) conducting research and demonstration activities, (5) promulgating regulations, (6) supporting systems of interconnection between stations, and (7) reporting annually to the Governor and Legislature.

The 11-member commission is composed of (1) the Superintendent of Public Instruction, (2) the Director of the Postsecondary Education Commission, (3) two appointees of the Senate Rules Committee, (4) two appointees of the Speaker of the Assembly and (5) five appointees of the Governor.

CPBC has an authorized staff of three; the executive director, an associate governmental program analyst (administratively reclassified from a staff services analyst level during the current year) and a senior stenographer.

ANALYSIS AND RECOMMENDATIONS

The proposed 1978-79 CPBC budget is \$841,906 from the General Fund. This is a decrease of \$6,297 from the estimated expenditure level for the current year. However, the amount budgeted for 1978-79 exceeds the amount originally authorized in the budget for the current year by \$46,484 or 5.8 percent. The difference results from the current year availability of

\$52,781 from a prior year appropriation. These carry-over funds will be used to augment grants to public broadcasting stations.

In addition to normal price increases the budget adds two permanent positions. One would perform field audits for compliance with CPBC grant conditions and increase the commission's capacity to generate additional grant funds. The second is a workload related clerical position.

Eliminate Consultant and Professional Service Funds

We recommend a reduction of \$6,373 budgeted for consultant and professional services based on prior legislative intent and lack of justification.

Last year the Legislature approved \$15,000 for contract services. However, language was included in the supplemental report limiting this approval to 1977-78. The purpose of this language was to insure the 1978-79 budget request for contract services would be reviewed as a zero-base expenditure item.

This year an amount of \$6,373 is proposed for consultant and professional services, which is simply a title change from the former account. No justification is available identifying any new project or proposal for the expenditure of this amount. Without specific justification and based on previous legislative intent, we recommend deletion of this element for a General Fund savings of \$6,373.

Budget Act Appropriation Needed

We recommend that proposed budgeted expenditures from the California Public Broadcasting Fund be appropriated in the Budget Bill.

The Public Broadcasting Act of 1975, which created this commission, also created the California Public Broadcasting Fund. This fund receives annual lump sum appropriations from the General Fund. After deducting necessary operating expense, the commission allocates the remaining funds to grants for either public television stations or public radio stations in accordance with a specific formula established by the act.

Expenditures from the California Public Broadcasting Fund have not previously been appropriated in the Budget Act. This allows the commission to expend these funds without the normal object of expenditure controls and without regard to fiscal year. As a result, savings from budgeted personnel services or operating expense have been carried over to the next fiscal year to expand the grant program.

We believe that expenditures from this fund should be subject to the same legislative oversight that is applied to other state special funds. Our recommendation would provide for a scheduled appropriation with category control over (a) personnel services, (b) operating expense and equipment and (c) grants to public broadcasting stations.

Effectiveness and Financial Information

We recommend the currently required annual report include information on (1) the extent of and changes in the composition of the California public broadcasting audience, (2) audience preferences, (3) the extent of and changes in public broadcasting and (4) financial data on station operations.

Implementing legislation requires the commission to submit an annual

CALIFORNIA PUBLIC BROADCASTING COMMISSION—Continued

report to the Governor and the Legislature on its activities, financial condition, accomplishments and recommendations. We believe this information should be supplemented with program impact and effectiveness data.

Impact could be measured by information on the extent of and changes in the composition of the California public broadcasting audience. Effectiveness could be measured by information which compares audience preferences with state supported program grants. With information on the number of public broadcasting stations and areas served, the effectiveness of new station support and interconnection activities also could be evaluated on an annual basis.

The following financial table, extracted from a recent CPBC monthly news letter, exemplifies the type of information for California we believe the Legislature should have when reviewing the annual expenditure plan for CPBC broadcast station grants.

**U.S. Public Television
(Funding Sources—Fiscal Year 1976)**

<i>Source</i>	<i>Amount</i>	<i>Percent</i>
Federal	\$97,802,000	26.2%
State	88,434,000	23.6
State Colleges	29,000,000	7.7
Subscribers	38,000,000	10.2
Auctions	11,500,000	3.1
Local Government	29,500,000	7.9
Other Colleges	29,300,000	7.8
Foundations	22,200,000	5.9
Business	28,300,000	7.6
TOTALS	\$374,036,000	100.0%

The table indicates this financial information is already being collected from all stations by the federal government. Analysis of such financial information will provide a convenient yardstick to measure changes in the financial health of public broadcasting and the relative importance of our state-funded CPBC grant programs.

We believe the commission already possesses the budgeted resources to collect, in cooperation with the federal government and local stations, the recommended program impact and effectiveness data for inclusion in its required annual report.

COMMISSION FOR ECONOMIC DEVELOPMENT

Item 366 from the General
Fund

Budget p. 1032

Requested 1978-79	\$328,390
Estimated 1977-78.....	314,854
Actual 1976-77	151,347
Requested increase \$13,536 (4.3 percent)	
Total recommended reduction	Pending

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

*Analysis
page*

- | | |
|--|-----|
| 1. Budget Support. Withhold recommendation on commission's budget pending submission of required supporting documents. | 996 |
|--|-----|

ANALYSIS AND RECOMMENDATIONS

The commission was established in 1972 to provide guidance for state-wide economic development. It is composed of legislative and private sector members and chaired by the Lieutenant Governor. Its statutory responsibilities include considering and recommending economic development programs and annually reporting its activities and findings with recommendations to the Legislature and the Governor. Chapter 168, Statutes of 1977, (AB 297) extends indefinitely the statutory life of the commission which otherwise would have expired June 30, 1977. The commission's staffing and expenditures for the past, current and budget year are summarized in Table 1.

Table 1
Budget of the Commission for Economic Development

	<i>Personnel-years</i>			<i>Expenditures (thousands)</i>		
	1976-77	1977-78	1978-79	1976-77	1977-78	1978-79
Personal services	3	9	9	\$96.5	\$164.6	\$169.1
Operating expenses				55.2	150.2	159.3
Total General Fund cost				\$151.7	\$314.8	\$328.4

Expansion of Commission Activity

In each of the last four years, we have questioned the ability of the commission to meet, effectively, its statutory responsibility of providing economic development guidance for California. In past years, the commission has maintained that a limited budget was the main reason that it had not been effective. On this basis, the Legislature increased the 1977-78 budget from \$177,313 to \$307,267, an increase of \$129,954 or 73.3 percent.

Using its enlarged budget, the commission is in the process of tripling its staff so that it can provide economic research and analysis capability. In addition, the commission's ongoing and future research projects will address rural economic problems, the needs and problems of California ports, obstacles to economic development and the economic impact of current and projected energy limitations.

COMMISSION FOR ECONOMIC DEVELOPMENT—Continued

The legislative intent expressed in continuing the commission's life and expanding its budget carries an inherent mandate, recognized by the commission, to begin effective implementation of its statutory responsibilities.

Potential Duplication Should be Avoided

Chapter 345, Statutes of 1977, (SB 28) replaced the Department of Commerce with a new Department of Economic and Business Development. The Commission for Economic Development had a statutory responsibility to advise the Department of Commerce, but does not have the same responsibility for the new department. That responsibility is assigned to a newly-created 21-member Advisory Council with specified membership. The chairman of the commission has the authority to appoint one member to the new council, but there is no other statutory connection between the new council and the commission. This raises the potential for duplication of efforts and expenditures. The two bodies should coordinate their activities and cooperate to avoid such duplication.

Budget Supporting Documents Lacking

We withhold recommendation on the commission's proposed budget pending submission of required supporting documents.

The commission's budget request lacks several detailed schedules which are required by Sections 6120-6126 of the State Administrative Manual. These schedules should provide detailed information for the amounts requested for each expenditure element under the operating expenses and equipment category. The commission has expressed a willingness to provide this detailed information. Because the data to be supplied are necessary for a meaningful budget analysis, we withhold recommendation on the commission's budget, pending receipt and analysis of the supporting documents.

MILITARY DEPARTMENT

Item 367 from the General

Fund	Budget p. 1033
Requested 1978-79	\$8,252,000
Estimated 1977-78.....	7,654,883
Actual 1976-77	6,874,744
Requested increase \$597,117 (7.8 percent)	
Total recommended reduction	\$52,735

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

- | | |
|--|---------------------------------|
| 1. <i>Community Affairs. Reduce by \$52,735. Recommend deletion of two proposed positions.</i> | <i>Analysis
page</i>
999 |
|--|---------------------------------|

GENERAL PROGRAM STATEMENT

The purpose of the Military Department is to provide a military organization in California capable of: (1) protecting the lives and property of the people in the state during periods of natural disaster and civil disturbances, (2) performing other functions required by the California Military and Veterans' Code or as directed by the Governor, and (3) providing military units ready for federal mobilization. The Military Department consists of three major units: the Army National Guard, Air National Guard, and the Office of the Commanding General.

Army National Guard

The troop strength of the Army National Guard is determined by the Department of the Army to meet the current contingency plans of the United States as developed by the Joint Chiefs of Staff with concurrence of the Governor. The Army National Guard currently consists of 20,300 officers and enlisted personnel in 168 company-sized units.

Air National Guard

The Air Guard consists of four flying bases providing tactical airlift, tactical air support, air rescue and recovery, and air defense capabilities as well as communications units at six locations in the state. The Department of the Air Force allocates the units and the 5,270 authorized personnel throughout the state with the concurrence of the Governor.

Office of the Commanding General

The Office of the Commanding General is composed of state active-duty personnel and state civil service employees. The office has two elements: (a) command management and (b) military support to civil authority. Command management determines overall policies and exercises general supervision over those activities necessary to accomplish departmental objectives. The military support element collects data and prepares plans, procedures, and orders for the deployment of California National Guard personnel and resources to assist state and local authorities in responding to natural or man-caused emergencies. Also included in this activity is the California Specialized Training Institute (CSTI) at Camp San Luis Obispo, which provides training courses in civil disturbance management, officer survival and internal security, and school security offered to civilian and military personnel.

ANALYSIS AND RECOMMENDATIONS

The total proposed budget for the Military Department is \$140,732,412, including state and federal funds. Of this amount, approximately 92.9 percent is federally funded, 0.4 percent is from reimbursements and 6.7 percent is from the General Fund. The proposed General Fund appropriation of \$8,252,000 for departmental support, (excluding military retirement and the California Cadet Corps) is \$597,117 or 7.8 percent above the current year. Table 1 shows the General Fund support by program area.

The budget-year increase in General Fund support primarily reflects salary adjustments, price increases and 12 proposed new positions at a General Fund cost of \$96,637. Eight of these positions are supported 75 percent by the federal government. In addition, workload adjustments reflect a net increase of 43.3 positions which are totally federally funded.

MILITARY DEPARTMENT—Continued

Table 1
Military Department
Budget Summary ^a

Program	Estimated 1977-78	Proposed 1978-79	Change From Current Year	
			Amount	Percent
I. Army National Guard	\$4,860,044	\$5,216,631	\$356,587	7.3%
II. Air National Guard.....	748,953	799,177	50,224	6.7
III. Office of the Commanding General	2,045,886	2,236,192	190,306	9.3
Total.....	\$7,654,883	\$8,252,000	\$597,117	7.8%
Personnel-years	676.3	688.5	12.2	1.8

^a Excluding Military Retirement and the California Cadet Corps.

State authorized positions in this department are funded either (1) entirely by the state, (2) by federal reimbursements, or (3) by a combination of state and federal funds. Positions which are financed *directly* by the federal government do not appear in the Governor's Budget.

Skills Training and Recruitment

Among the 43.3 federally funded positions is a staff unit of eight (two majors, one captain and five sergeants) administratively established in the current year as a pilot project to provide job skills and opportunities for unemployed youth in Oakland and to increase enlistments in the National Guard.

This project is limited to September 30, 1978, and its total salary cost of \$134,103 for the one year operation spanning parts of the current and budget years is being financed by federal CETA and Title I and II funds. Under this project, the Employment Development Department (EDD) refers unskilled job seekers to the National Guard. The Guard administers various aptitude tests, provides counseling and other services to ascertain the skill needs and service school choices of those referrals eligible for and who agree to enlist in the National Guard. Following basic and service school training, job placement services will be provided by EDD.

Other Staff Changes

The Army National Guard is requesting 22 support personnel at various training sites, 14 of which are fully funded by the federal government and eight security guards funded 75 percent federal and 25 percent state. These eight positions will provide security to the Stockton and Long Beach training bases which now receive only limited security from periodic patrols by local police. The facilities include equipment maintenance installations at Long Beach and Stockton and an army aviation support operation at Stockton. The positions are needed to (a) reduce acts of vandalism that could hamper equipment readiness and capability as well as result in monetary loss, and (b) prevent theft of automatic weapons and small arms.

Data Processing Evaluation

On the recommendation of the State Data Processing Management Office, the department is requesting an associate data processing analyst (\$17,364) and a programmer (\$11,028) for one year only to evaluate its EDP needs. The department is currently utilizing an obsolete punch card accounting machine system which is no longer cost effective. The equipment has limited programming capacity, is not meeting department needs and is not susceptible to being expanded or upgraded economically.

Community Affairs Positions

We recommend deletion of one lieutenant colonel and one sergeant for community affairs for a reduction of \$52,735.

The remaining two of the 12 proposed positions consist of one lieutenant colonel-community affairs officer (\$32,751) and one sergeant community affairs specialist (\$11,658) to provide direction to an augmented community relations program and to supervise the State Military Reserve. Including provision of staff benefits and adjustments for estimated salary savings, the total personnel services cost of these positions is \$52,735.

In an effort to reduce the loss of guardsmen and improve recruitment levels, the department proposes to utilize these positions to alert local government and community leaders, service clubs, fraternal organizations, business groups, etc., of the manpower problems of the National Guard and seek their assistance in encouraging more enlistments. Further, the department desires to make the public aware of the community services it now performs on a limited basis and also expand participation of Guard units in community service projects. The department states that community service expansion could improve the public image of the Guard and thereby encourage more enlistments as well as aid in retention of current guard personnel.

The department also plans to activate the State Military Reserve (SMR) authorized by Section 550, Military and Veterans Code. The proposed community affairs positions would provide direct supervision over the SMR. The SMR initially would be limited to 100 officer and enlisted personnel but eventually would be expanded to include 1,000 medical personnel of various classifications who would be available in the event of a major earthquake or other disaster. Membership in SMR would be voluntary and without compensation except when ordered into state active service. No full-time SMR personnel are to be authorized and no funds are sought to uniform, supply or equip members of the SMR.

We believe that these public relations and SMR supervision functions should be handled by the existing high level positions within the department and by the local guard commanders. The Commanding General already has a chief of staff, a deputy chief of staff, two assistant chiefs of staff, a public affairs officer, a commanding sergeant major and a personal staff aide. In addition, there are five deputy chiefs of staff responsible for personnel and administration, army operations and training, air operations and training, logistics, and resources management. Most of the actual public contacts will have to be made by local guard commanders. The positions requested are primarily for overall supervision and direction and

MILITARY DEPARTMENT—Continued

we believe that there are sufficient administrative personnel in the guard to provide these services.

Last year the department requested a lieutenant colonel-policy and liaison officer to handle, among other duties, requests for information about the National Guard from the public, private organizations and governmental officials and to maintain liaison with public and private groups interested in National Guard programs. The Legislature deleted the position on our recommendation.

Military Department
MILITARY RETIREMENT

Item 368 from the General
Fund

Budget p. 1035

Requested 1978-79	\$888,454
Estimated 1977-78.....	854,928
Actual 1976-77	761,065
Requested increase \$33,526 (3.9 percent)	
Total recommended reduction	None

ANALYSIS AND RECOMMENDATIONS*We recommend approval.*

This program applies only to military personnel ordered to state active duty prior to October 1, 1961, who have served 20 or more years, at least 10 of which have been on active duty. The benefits under this program are similar to those of the federal military retirement system. The law provides that persons ordered to active duty subsequent to October 1, 1961, are members of the Public Employees' Retirement System (PERS).

Currently, 47 people are retired under this program. No additional retirements are anticipated during the budget year. The requested increase is for an annual cost-of-living improvement for retirees of the system, expected to be granted effective March 1, 1978. Nine more people will be eligible to retire under this program in future years.

Military Department CALIFORNIA CADET CORPS

Item 369 from the General
Fund

Budget p. 1036

Requested 1978-79	\$346,193
Estimated 1977-78.....	325,441
Actual 1976-77	242,483
Requested increase \$20,752 (6.4 percent)	
Total recommended reduction	None

GENERAL PROGRAM STATEMENT

The objective of the California Cadet Corps is to develop in youth the qualities of leadership, patriotism, and citizenship under conditions of military discipline. The program provides training in basic military subjects, first aid, survival and marksmanship, using credentialed instructors through the regular educational system. Approximately 100 junior and senior high schools participate in the program, with an estimated total enrollment of 5,000 cadets.

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

The Military Department is requesting \$346,193 for this program in the budget year, an increase of \$20,752 or 6.4 percent over estimated expenditures of \$325,441 in the current year. The increase reflects merit salary adjustments and price increases.

PUBLIC UTILITIES COMMISSION

Item 370 from the General
Fund and Items 371-372 from
the Transportation Rate Fund

Budget p. 1040

Requested 1978-79	\$25,742,213
Estimated 1977-78.....	24,913,550
Actual 1976-77	20,438,212
Requested increase \$828,663 (3.3 percent)	
Total recommended reduction	\$2,297,950

1978-79 FUNDING BY ITEM AND SOURCE

Item	Description	Fund	Amount	Analysis page
370	Public Utilities Commission	General	\$16,376,937	1004
371	Public Utilities Commission	Transportation Rate	9,365,276	1005
372	Public Utilities Commission	Transportation Rate	(215,861)	1005
		Total	\$25,742,213	

PUBLIC UTILITIES COMMISSION—Continued

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

Analysis
page

1. *Regulatory Lag Positions. Reduce Item 370 by \$2,332,200. Recommend 84.5 temporary regulatory lag positions be eliminated.* 1004
2. *BART Safety Positions. Augment Item 370 by \$34,250 and reduce reimbursements by \$68,501. Recommend staffing and funding changes as recommended in a special report requested by the Legislature.* 1004

GENERAL PROGRAM STATEMENT

The Public Utilities Commission (PUC), created by constitutional amendment in 1911, is responsible for the regulation of privately owned public utilities. The term "public utility" includes such entities as electric, telephone, gas, warehouse, truck, bus, airline companies and pipeline corporations. For operating purposes, however, the PUC distinguishes between regulation of "transportation" companies and regulation of the remaining "utilities." The commission's primary objective is to insure adequate facilities and services for the public at reasonable and equitable rates consistent with a fair return to the utility on its investment.

The commission is composed of five members appointed to staggered six-year terms by the Governor with the advice and consent of the Senate. The commissioners annually elect one of their members as president. The executive director serves as the administrative head of the commission.

The commission has approval authority on all changes in operating methods and rate schedules proposed by regulated utilities and transportation companies. It investigates complaints registered against utilities and may also initiate investigations of utility companies on its own volition. In all such cases, data are accumulated by the staff, hearings are held, decisions rendered, and compliance secured through enforcement procedures. Appeal of commission decisions may be made only to the California Supreme Court, whose review power is limited to questions of law.

The commission is headquartered in San Francisco with an area office in Los Angeles and some staff located in 14 transportation division field offices throughout the state.

ANALYSIS AND RECOMMENDATIONS

Table 1, extracted from the Governor's Budget, sets forth program expenditures, funding sources, positions and proposed changes. The table shows a reduction in personnel-years for 1978-79. However, a substantial number of temporary positions were established administratively in the current year which require legislative approval to continue. Consequently, 163.5 *new positions* in 1978-79 are subject to legislative review for the first time.

Decreases in program expenditures shown in Table 1 result from a decline in reimbursed activities. A gas pilot turn-off program will be terminated (\$-76,776) and substantial decreases are expected in reimbursements from activities related to liquified natural gas terminal siting (\$-2,122,491) and a load management project (\$-64,234).

Table 1
PUC BUDGET SUMMARY

	<i>Actual</i> 1976-77	<i>Estimated</i> 1977-78	<i>Proposed</i> 1978-79	<i>Change</i>	
				<i>Amount</i>	<i>Percent</i>
<i>Programs</i>					
Regulation of utilities	\$9,580,236	\$16,151,401	\$14,321,023	\$-1,830,378	-11.3%
Regulation of transportation.....	12,385,477	12,246,193	12,802,497	556,304	4.5
Administration (distributed).....	(4,033,275)	(4,360,873)	(4,645,208)	(284,335)	6.5
TOTALS.....	\$21,965,713	\$28,397,594	\$27,123,520	\$-1,274,074	-4.5%
<i>Funding Sources</i>					
General Fund	\$11,962,356	\$15,736,571	\$16,376,937	\$640,366	4.1%
Transportation rate fund	8,475,856	9,176,979	9,365,276	188,297	2.1
Reimbursements	1,462,725	3,436,548	1,321,565	-2,114,983	-61.5
Federal funds	64,776	47,496	59,742	12,246	25.8
TOTALS.....	\$21,965,713	\$28,397,594	\$27,123,520	\$-1,274,074	-4.5%
<i>Personnel-years</i>	<i>871.5</i>	<i>993.7</i>	<i>970.3</i>	<i>-23.4</i>	<i>-2.4%</i>

Proposed New Positions

Table 2 lists the 163.5 new positions for legislative review. The table indicates also the purpose, funding source and whether the positions are for a limited term.

Table 2
PUC Proposed New Positions

<i>Purpose</i>	<i>Number</i>	<i>Funding Source</i>
Regulatory Lag (Ch. 180)	84.5	General Fund
Energy Consultants.....	5.0 ^a	General Fund
Electric Demonstration	3.0 ^b	Reimbursed
Federal Regulatory Hearings	5.0	General Fund
Environment Impact Reports	7.0	Reimbursed
Liquefied Natural Gas Terminal (Ch. 855)	41.0 ^c	Reimbursed
Gas Pipeline Safety	2.0 ^d	Multiple ^e
BART Safety	4.0	General Fund
BART Safety	2.0	Reimbursed
Consumer Relations	3.0	General Fund
Policy/Program Development	2.0	General Fund
Personnel Office	2.0 ^e	General Fund
Career Development	3.0 ^f	Reimbursed
Total	163.5	

^a Temporary help positions.

^b Temporary help positions terminate 8-31-78.

^c Temporary help positions terminate 7-31-78.

^d Limited term positions terminate 12-31-80.

^e One clerical position to terminate 6-30-80.

^f Temporary help positions terminate 9-30-78.

^g General Fund \$11,352; federal funds \$34,057.

PUBLIC UTILITIES COMMISSION—Continued**Regulatory Lag Positions (Item 370)**

We recommend the 84.5 positions administratively established in the current year with funds appropriated by Chapter 180, Statutes of 1977, be terminated June 30, 1978 for a General Fund savings of \$2,332,200.

The Governor's Budget would continue on a permanent basis and with General Fund monies 84.5 positions administratively established during the current year with \$2 million provided by Chapter 180, Statutes of 1977. The appropriation was for the purpose of reducing the time needed for processing utility rate applications. We believe these temporary positions should not be continued for the following reasons:

First, changes in the PUC's procedures appear to have more promise as a solution to the regulatory lag problem than increased funding or personnel. A major management study conducted by a consultant firm under contract with the Senate Committee on Public Utilities, Transit and Energy, concluded that "regulatory lag" in major rate cases could be reduced from the current average time of 17 months to 12 months or less at minimal cost. This study attributed much of the current lag to three questionable premises upon which the commission operates: (1) the commission should arrive at an optimum solution for the company and the public in each rate case; (2) the commission should utilize a legalistic, adversary process which considers each case as a new problem and takes whatever time is necessary to weigh all the facts, and (3) the commission should avoid any commitment to develop and apply a generic body of policy in lieu of a case by case approach.

The net personnel increase recommended by the consultant was four professional positions and related clerical staff.

Second we believe the regulatory lag problem has been overestimated. For example, only six major utility rate cases are now anticipated for 1978-79, this does not represent any increase over the number of such cases in recent years. In fact, we believe the commission is experiencing difficulty in justifying and spending its current-year emergency \$2 million augmentation. For example, of the 84.5 temporary positions authorized, 30.5 remained unfilled as of January 18, 1978. Of the 54 that have been filled, 32 have been used to promote existing staff to higher levels.

Third, the 84.5 positions were added under an "experimental plan" and there is no evidence that the experiment has been successful.

Rapid Transit Safety Positions (Item 370)

We recommend (1) a General Fund augmentation of \$34,250, (2) reduction of one proposed position, and (3) limited terms for two of the other requested Rapid Transit Systems Section positions in accordance with recommendations in a special report requested by the Legislature. (Augment Item 370 by \$34,250 and reduce reimbursements by \$68,501.)

The Rapid Transit Systems Section (primarily concerned with BART) is supported by the General Fund, and is currently authorized two permanent and six temporary positions. The Governor's Budget proposes the six temporary positions be made permanent with four to be supported from the General Fund and two from BART reimbursements (budgeted at

\$68,501).

The Legislature last year, by supplemental budget language, requested us to report (1) our assessment of the role which PUC performs with respect to regulating BART safety, (2) current and anticipated expenditures for safety, both by the PUC and by BART and (3) recommendations on staffing and funding for future performance of the safety function for all local rapid transit districts.

Our report 77-31, published in December, contains ten recommendations. One recommends General Fund money be used to support the entire Rapid Transit Systems Section because it is responsible for safety surveillance of all rail rapid transit systems within the state and the level of such surveillance should not depend upon reimbursements from the monitored agencies. Our recommendation would eliminate the proposed BART reimbursement (\$-68,501) and fund all necessary staff with General Fund money (\$+34,250).

The difference of \$34,251 between the reduction in proposed reimbursements and our recommended General Fund augmentation results from another report recommendation which indicates that one currently authorized, but vacant, position is unnecessary and should be eliminated.

Based on current workload our report recommends five permanent staff: a working manager, an electronic systems specialist, a maintenance/reliability specialist, a railroad operations specialist and a secretary. In addition, one staff specialist position should be continued through 1978-79 to meet the analysis workload of several major equipment changes which should be completed by July 1, 1979. A computer systems specialist position is also recommended to accommodate the workload arising from BART's replacement of its various computer systems. This replacement process will extend through 1980-81 and we recommend this position be terminated at that time.

Transportation Rate Fund (Item 371)

We recommend approval.

This item appropriates \$9,365,276 from the Transportation Rate Fund for transfer to Item 370 (the PUC operating budget appropriation) for purposes of offsetting budgeted transportation-related costs of regulation.

Transportation Rate Fund (Item 372)

We recommend approval.

The Budget Act of 1976 transferred \$950,000 of expenditure authority from the Transportation Rate Fund (TRF) to the General Fund. This was done because of an anticipated workload shift from TRF activities to General Fund activities. This shift did not occur at the anticipated level.

Attempts to offset the deficit by revising the cost allocation process during 1976-77 failed. By the time this situation was recognized, it was too late to include the shortage in the 1977-78 deficiency appropriation bill. This item in the Budget Bill technically corrects this deficiency by authorizing a transfer of \$215,861 from the TRF surplus to a prior year appropriation.

COMMISSION ON THE STATUS OF WOMENItem 373 from the General
Fund

Budget p. 1049

Requested 1978-79	\$281,459
Estimated 1977-78.....	249,044
Actual 1976-77	202,001
Requested increase \$32,415 (13.0 percent)	
Total recommended reduction	\$26,505

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS*Analysis
page*

1. *Clerical positions. Reduce by \$26,505. Recommend deletion of proposed senior clerk typist, stenographer and related expenses.* 1007

GENERAL PROGRAM STATEMENT

The Commission on the Status of Women, successor to a limited-term agency established in 1965, is a 17-member body consisting of two statutory members (the Superintendent of Public Instruction and the Chief of the Division of Labor Standards Enforcement), one public member and three members of the Assembly appointed by the Speaker, one public member and three Senators appointed by the Senate Committee on Rules, and seven public members appointed by the Governor. The public members have staggered, four-year terms of office.

The commission's program focuses on legislation, education, employment and counseling. It includes the following activities:

- (1) Examination of all bills in the Legislature which affect women's rights.
- (2) Maintenance of an information center on the current needs of women.
- (3) Consultation to organizations working to assist women.
- (4) Study of women's educational and employment opportunities, civil and political rights, and factors shaping the roles assumed by women in society.
- (5) Development of action projects which respond to the unique needs of particular groups of women, including women in county jails, minority women, and women employed in agriculture.

ANALYSIS AND RECOMMENDATIONS

The commission is proposing a General Fund expenditure of \$281,459, which is \$32,415 or 13.0 percent above the current General Fund support level. This increase reflects the addition of two new clerical positions and a one-time expenditure of \$9,820 for five commission-sponsored conferences focusing on monitoring the implementation of equal rights laws and regulations.

In the current year, the commission will be completing a study entitled "Women in the California Agricultural Labor Force" initiated in the 1976-

77 fiscal year with federal (CETA) funding. Completion of this study will result in the deletion of 1.6 limited-term positions.

A reduction in grant support accounts for the significant decrease in reimbursements from \$166,460 to zero in the budget year. However, the commission advises that additional project grant support is being sought.

Staffing Increases

We recommend deletion of one senior clerk typist and one stenographer proposed to meet workload increases, for a savings of \$26,505 in salary, benefits, facilities and equipment.

The commission proposes to add two new clerical positions in the budget year, a senior clerk typist to support the legislative function and a stenographer for general clerical workload. The Legislature authorized the commission one additional professional position in both 1975-76 and 1976-77, bringing the staffing total to four professional and four clerical positions in the 1976-77 budget year. Effective July 1, 1977, the commission reclassified a clerical position to a staff services analyst, thus changing the commission's staff composition to five professional and three clerical positions. This change is not reflected in the Governor's Budget due to the timing of the transaction.

The commission is essentially an informational, advisory, and promotional body. It has no regulatory power. Its major workload and statutory responsibility consist largely of reviewing legislation, gathering data, disseminating information and coordinating the advocacy of programs to promote women's rights. Various other agencies, both federal and state, have regulatory power with respect to promoting and enforcing equal rights for women in employment and in other sectors of our society. Because so much of the commission's workload is essentially discretionary, we believe the commission should be encouraged to prioritize and tailor its activities to existing staff levels. In view of the demands on the state's resources, we believe that continued growth in commission staff is not warranted. We therefore recommend deletion of the two proposed clerical positions for a savings of \$26,505.

INTERGOVERNMENTAL BOARD ON ELECTRONIC DATA PROCESSING

Item 374 from the General
Fund

Budget p. 1050

Requested 1978-79	\$127,216
Estimated 1977-78.....	122,998
Actual 1976-77	107,295
Requested increase \$4,218 (3.4 percent)	
Total recommended reduction	\$127,216

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

*Analysis
page*

1. *Value Not Evident. Reduce by \$127,216. Recommend deletion of item.* 1009

GENERAL PROGRAM STATEMENT

The primary statutory responsibilities of the Intergovernmental Board on Electronic Data Processing include the establishment of policies, goals and objectives relative to intergovernmental information systems, and the development of a methodology to achieve appropriate coordination and review of such systems. Also under its statutory authority, the board may recommend legislation to insure the protection of individual privacy and the confidentiality of information contained in intergovernmental information systems.

The board consists of 14 members appointed by the Governor. It elects its own chairman. Members serve without compensation except the chairman who is reimbursed for expenses incurred in the performance of his duties.

A technical advisory committee consisting of volunteer representatives of state and local government provides substantial staff assistance to the board.

ANALYSIS AND RECOMMENDATIONS

The Governor's Budget request of \$127,216 represents a 3.4 percent increase (\$4,218) over estimated current year expenditures. This expenditure level provides support for an executive director, two technical positions and clerical support.

Although the objectives of the board are worthwhile, the board's performance in achieving these objectives has not been satisfactory in terms of demonstrable benefit to state government. The board's accomplishments include publication of various guidelines and position papers, consulting to local government agencies, participation in state-local information systems committee efforts, and privacy legislation. With the exception of privacy legislation, we are unaware of any significant development at the state level resulting from board activities.

So as to provide an opportunity for the board to demonstrate its ability to improve local-state information systems, the Legislature approved additional staff and doubled the budget in the fiscal year 1976-77. In last year's

analysis we stressed the need for the board to become involved in specific projects to demonstrate its ability to have enough impact on specific local-state information systems to warrant continued state funding.

Value to State Not Evident

We recommend deletion of Item 374 for a savings of \$127,216.

In reviewing the board's activities of the past year, we find few that directly benefit the state. Most of the activities of the staff and technical advisory committee have centered around either specific services to local governments in improving the effectiveness of local information systems or upgrading the electronic data processing capabilities and procedures of local government agencies.

We do not believe that continued state support of this activity can be justified. Because local government is the primary beneficiary of board activities, funding of the board by local government entities could sustain the priority projects now in progress, and illustrate the degree of local interest in continuing the function. We encourage the continued voluntary participation of state personnel in various board activities where state government interests are involved. In this manner, state personnel could continue to serve as board members and alternates, and also serve on the board's Technical Advisory Committee and other special committees formed to address specific state and local government information system interfaces. This type of investment of state resources can be at the discretion of the state and in our judgment is more appropriate than a fixed state funding commitment. Even if both state and local funding are withdrawn, we believe that other mechanisms exist to permit coordination of related state and local information system efforts. For example, the State Administrative Manual now provides for the coordination of state activities with the board. This policy could be modified to ensure continued coordination through the formation of state-local committees, with reporting requirements as appropriate.

Private Sector Information Reporting Requirements

The 1977 Supplemental Report of the Committee on Conference requested our office to review the possibility of having the board examine information reporting requirements imposed on the private sector by state agencies. Based on the composition of the board and its statutory charter, we believe the board is not the proper entity to perform such an examination. Should the Legislature decide that the information reporting requirements imposed on the private sector need further study, we believe an approach similar to that taken recently by the federal government in establishing the Commission on Federal Paperwork should be considered. The commission, a joint congressional/executive body, expended approximately \$9.5 million over two years to develop 799 recommendations for reducing the costs of federal paperwork. The savings would be shared by the federal government and those who must comply with federal information reporting requirements. It has been reported that about 50 percent of the commission's recommendations are being implemented, with a potential cost reduction of \$3.5 billion. This suggests that a similar effort at the state level might produce substantial savings.

NATIVE AMERICAN HERITAGE COMMISSIONItem 375 from the General
Fund

Budget p. 1051

Requested 1978-79	\$163,031
Estimated 1977-78.....	111,447
Actual 1976-77	8,219
Requested increase \$51,584 (46.3 percent)	
Total recommended reduction	None

GENERAL PROGRAM STATEMENT

The nine member Native American Heritage Commission was established on January 1, 1977, by Chapter 1332, Statutes of 1976. Commission members are appointed by the Governor and serve without compensation but are reimbursed for actual and necessary expenses. The commission's responsibilities and powers are directed toward the identification, cataloging and preservation of places of special religious or social significance to Native Americans in order to ensure the free expression of Native American religion. The commission is required to review current and administrative statutory protections for Native American sacred places located on public lands and report its findings to the Legislature by January 1, 1979.

ANALYSIS AND RECOMMENDATIONS*We recommend approval.*

The Governor's Budget request of \$163,031 reflects an increase of \$51,584 over estimated current year expenditures. This expenditure level provides support for an executive secretary, two staff personnel, one clerical position and temporary help. The proposed budget increase would add one archeological specialist position to assist in verification and cataloging of sites (\$12,912) temporary help (\$6,700), increased in-state travel (\$10,000), and funds for one-time expenditures to acquire office equipment (\$1,450) and print a cultural resources handbook (\$8,750). The handbook will be a guide for governmental agencies, community and other groups with respect to the protecting of California Indian historic sites. The overall budget appears reasonable and should provide the resources required for the commission to meet its legislative mandate.

Initial Progress

Policies and procedures have been developed by the commission, and liaison with various federal, state and local government agencies and Indian groups has been established. The commission is becoming an active participant in efforts to protect historic Indian sites and provide access to those for whom the sites hold meaning. Meetings are scheduled approximately every six weeks and 450 requests for assistance have been received from governmental agencies and Indian groups.

MOTION PICTURE DEVELOPMENT COUNCILItem 376 from the General
Fund

Budget p. 1053

Requested 1978-79	\$40,000
Estimated 1977-78.....	62,299
Actual 1976-77	73,042
Requested decrease \$22,229 (35.8 percent)	
Total recommended reduction	\$40,000

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS*Analysis
page*

1. *General Fund Support. Reduce by \$40,000.* Recommend 1012
state support be eliminated as unnecessary.
2. *Administrative Oversight. Recommend legislation to* 1012
place this agency within the Department of Economic and
Business Development to clarify existing law and correct
administrative problems.

GENERAL PROGRAM STATEMENT

The Motion Picture Development Council (MPDC) was created by Chapter 1226, Statutes of 1974, to serve as an advisory body to the Division of Economic Development in the former Department of Commerce. The council consists of 12 members of which 10 are public members with specific qualifications and two are members of the Legislature, one appointed by the Senate Rules Committee and one by the Speaker of the Assembly. The council's functions include: (1) preparing and distributing materials promoting the production of motion picture films within California, (2) assisting film companies secure locations and related permits, (3) establishing fees and granting permits for the use of state-owned property in making commercial motion pictures, (4) coordinating the activities of any city or county groups performing similar functions and (5) accepting federal funds, and other private or public funds for authorized activities.

ANALYSIS AND RECOMMENDATIONS

During the current year the council established 3.3 temporary help positions and for the budget year it proposes to establish three permanent positions and 1.3 temporary help positions. A General Fund appropriation of \$40,000 is proposed in 1978-79. This is \$22,229 less than the 1977-78 appropriation. The need for General Fund support is declining because the council is receiving an increasing level of reimbursements from the motion picture industry to support its functions. Total expenditures in the 1978-79 budget, including reimbursements, increase \$27,701, or 22.7 percent, from \$122,299 to \$150,000.

MOTION PICTURE DEVELOPMENT COUNCIL—Continued**General Fund Support Unnecessary**

We recommend the General Fund support appropriation be eliminated as unnecessary for a savings of \$40,000.

Chapter 1395, Statutes of 1976, required the council to establish fees for the use of state-owned property in making commercial motion pictures. Fees collected were to be used to (1) "reimburse the operating departments for their actual additional costs" and (2) "for the support of the council."

For three years the Governor's Budget has endorsed a plan to make the council self-supporting by the following year. We can find no reason to delay further the implementation of this policy.

The council's workload is based on services to the motion picture industry and the council has the power to adjust either this level of service or the fees charged to reimburse the cost of these services. Therefore, we believe continued General Fund support is unwarranted.

Administrative Problems

Last year we did not make a budget recommendation for this agency in our Analysis because the required worksheets and summary schedules for substantiating major categories of operating expense and equipment were not available. Again this year, neither the Department of Finance nor the agency has been able to provide us with the required substantiating detail.

In addition, the Legislature, through supplemental budget language, directed that the council submit some six months ago "(a) its permit fee schedule policy, (b) its estimated future reimbursements and (c) its timing to reach self-funding." The council has not responded to this directive.

Council Should be Transferred to the New Department

We recommend legislation to place this agency within the Department of Economic and Business Development to clarify existing law and correct persistent administrative problems.

Existing law states the council shall serve as an advisory body to the Department of Commerce and places the council administratively within the department's Division of Economic Development.

Chapter 345, Statutes of 1977, officially eliminated the Department of Commerce (which had not been funded since the 1974-75 fiscal year). Although Chapter 345 established a Department of Economic and Business Development which assumed some of the responsibilities of the former Department of Commerce, the role of the MPDC was not addressed. Consequently, MPDC remains a part of a nonexistent administrative unit and advises a nonexistent department.

We believe the council's lack of administratively trained staff, its distant location (Hollywood) from administrative assistance, the small staff, the independence from higher administrative control or supervision and the relative inactivity of the council (only three council meetings were held in 1977) have served to reduce whatever effectiveness, efficiency and legitimacy this agency may have had.

We believe all of the current administrative problems would be reduced if the council administratively functioned through a larger state department in the manner the Legislature originally intended. We note that the objectives of the Office of Business and Industrial Development within the Department of Economic and Business Affairs would encompass the objectives of the council. Legislation is required to make this change.

CALIFORNIA HORSE RACING BOARD

Item 377 from the Fair and Exposition Fund

Budget p. 1055

Requested 1978-79	\$982,319
Estimated 1977-78.....	858,849
Actual 1976-77	695,285
Requested increase \$123,470 (14.4 percent)	
Total recommended reduction	\$43,500

SUMMARY MAJOR ISSUES AND RECOMMENDATIONS

Analysis
page

1. *Investigator Positions.* Reduce by \$43,500. Delete two of five proposed positions. 1014

GENERAL PROGRAM STATEMENT

The California Horse Racing Board regulates all horserace meetings in the state where pari-mutuel wagering is allowed. Chapter 1080, Statutes of 1977, increased the board from three to five members as of January 1, 1978. The purposes of the board and the staff, proposed to be 50.2 personnel-years in the budget year, are to promote horseracing, to regulate wagering, and to maximize the tax revenues of the state. To these ends, the board's activities consist of (1) licensing all participants in horseracing, (2) contracting with stewards to officiate at all races, (3) enforcing the

Table 1
California Horse Racing Board
Summary of Program Expenditures
and Source of Funds

	1976-77	1977-78	1978-79
Licensing.....	\$152,048	\$170,461	\$202,393
Enforcement	333,105	398,245	515,301
State stewards	-	387,362	717,987
Standardbred sires stakes	2,565	50,000	50,000
Administration.....	210,132	290,143	264,625
Total program	\$697,850	\$1,296,211	\$1,750,306
Less reimbursements.....	-	387,362	717,987
Net total	\$697,850	\$908,849	\$1,032,319
California standardbred sires stake General Fund account	\$25,650	\$50,000	\$50,000
Fair and Exposition Fund	\$695,285	\$858,849	\$982,319

CALIFORNIA HORSE RACING BOARD—Continued

regulations and laws under which racing is conducted, and (4) collecting the state revenue from horseracing. Table 1, on page 1012, shows the program expenditures and source of funds for the board.

ANALYSIS AND RECOMMENDATIONS

The primary determinant of board workload is the number of racing days and nights. Table 2 shows the workload increases and the increased activity in the major elements for several past years.

Table 2
California Horse Racing Board
Workload and Output Indicators

	<i>Actual</i> <i>1974-75</i>	<i>Actual</i> <i>1975-76</i>	<i>Actual</i> <i>1976-77</i>	<i>Estimated</i> <i>1977-78</i>	<i>Proposed</i> <i>1978-79</i>
Nights of racing	410	410	420	420	422
Days of racing	491	458	513	526	528
Total	901	868 ^a	933	946	950
Meets (calendar year basis)	24	24	23	25	25
Licenses issued	17,834	17,922	19,563	21,000	22,500 ^b
License fees collected	\$402,000	\$406,500	\$571,000	\$625,000	\$700,000 ^b
Licensing personnel-years	9.3	9.0	9.0	9.2	11.2
Disciplinary hearings	133	121	97	115	125
Enforcement personnel-years	10.5	10.5	10.5	11	16

^a Reflects effect of strikes.

^b This has been increased by the board from those shown in the Governor's Budget.

Licensing Activity Increases

The board requests two additional clerical positions due to increases in workload resulting from an increased number of licenses, increased number of race meets, increased six-day meets and increased night meets. The costs of these positions would be recovered from license fees. We believe such positions are justified by workload and should help to free investigators from routine office duties.

Growth in Investigating Staff Unjustified

We recommend that two proposed investigator positions be deleted, for a savings of \$43,500 and that three positions be approved.

The budget requests five additional investigator positions to deal with increased workload and to raise the general level of enforcement. The request would result in two new positions each for the southern and northern regional offices plus one new investigator in the headquarters office.

The board cites several reasons for increasing the number of investigators. Among these are (1) scheduling problems due to the number of concurrent meets, (2) demands on investigators due to lack of clerical staff in the field, (3) use of auxiliary stabling areas which spread investigators more thinly, and (4) increased number of investigations.

We believe that three investigator positions should be adequate to meet the needs of the board. These positions would be used in the field.

We do not find the board's reasons for proposing the additional inves-

tigators convincing. First, there has not been a large increase in the total number of racing days and nights. The 1978-79 estimated racing days and nights total 950, which represents a 5.4 percent increase over the 1973-75 level. Although the board suggests that overlapping meets create scheduling problems, the 1978 racing schedule shows only three weeks when five meets are operating concurrently in the state. With 14 inspectors this would allow, on an average, 3.5 inspectors per meet for most of the racing season.

Second, with the additional clerical staff provided in the licensing activity, related demands on investigator time should be reduced. Third, only two of the 25 meets currently are using auxiliary stabling areas. Three additional investigators should alleviate this problem.

Fourth, the increased number of investigations, by itself, does not necessarily indicate more workload, but rather may indicate only increased effort on the part of the enforcement staff. The board reports a sharp increase in the number of investigations from 397 to 589 in the 1976-77 fiscal year. Seven of these investigations involved horses which tested positive for prohibited drugs. One hundred and eighty-three (183) cases (31 percent) involved questions of licensing and 79 cases (13 percent) involved questions of financial responsibility. These investigations do not indicate any increase in the type of problems which threaten the fairness of horseraces.

In summary, we believe that the six new positions which we recommend for board activities in the current year, including three new investigators, would provide substantial increase to the board's overall enforcement efforts, and further additions to staffing are not warranted at this time.

The board has recently expanded its program of post race testing for prohibited drugs, and is considering programs of pre-race testing of horses. Such programs appear to be a more efficient means of detecting problems which might affect the fairness of horse races, and a better means of assuring the integrity of horse races. In contrast, investigatory activity has a less direct effect on these concerns in that investigations appear to deal substantially with rules and regulations of the board rather than illegal activities aimed at undermining the fairness and equity of horseracing. Further increases in investigation should be deferred until the board considers other efforts, such as testing, which might more directly address problems in horseracing.

Stewards Now Paid by Board

This year's budget shows 13 new positions for stewards. Chapter 1080 requires that the board contract with stewards who officiate at racing meets. Each racing association pays the board the wage costs and fringe benefits of stewards who officiate at the race meets. The board also will collect from the associations for the new administrative costs due to this activity. Previously, stewards were employees of the racing associations who operated the race meets. The board has long recommended that stewards should be accountable to and employees of the board rather than of the racing associations.

CALIFORNIA HORSE RACING BOARD—Continued**Administration Workload Grows**

The board also requests an additional accountant position in the headquarters office. This position is needed because of workload increases resulting from stewards' contracts and the responsibility of the board for issuing payroll and billing racing associations. The board is also finding that "Sires Stakes" program is requiring more work than anticipated. Lastly, this position will allow the administrative services manager to spend additional time in the field acting as referee in resolving disputes, and to observe the auditing activities carried out at the board's direction.

BOARD OF OSTEOPATHIC EXAMINERS

Item 378-379 from the Contingent Fund of the Board of Osteopathic Examiners

Budget p. 1058

Requested 1978-79	\$240,771
Estimated 1977-78.....	149,463
Actual 1976-77	126,647
Requested increase \$91,308 (61.1 percent)	
Total recommended reduction	\$94,838

1978-79 FUNDING BY ITEM AND SOURCE

Item	Description	Fund	Amount
378	Board of Osteopathic Examiners	General	\$(61,000)
379	Board of Osteopathic Examiners	Contingent Fund of the Board of Osteopathic Examiners	240,771
			<hr/> \$240,771 ^a

^a The \$61,000 in Item 378 is transferred to (and included in) the \$240,771 in Item 379.

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

Analysis
page

1. *Operating Expenses. Reduce Item 379 by \$21,276.* Recommend reduction to reflect the board's revised operating expense schedule. 1017
2. *Legal Position. Reduce Item 379 by \$26,143.* Recommend reduction of requested legal position. 1017
3. *General Fund Loan. Reduce Item 378 by \$47,419.* Recommend reduction in loan request to reflect reduced program expenditures. 1017

GENERAL PROGRAM STATEMENT

The five-member Board of Osteopathic Examiners was established in 1922, for the purpose of regulating the practice of osteopathy. The board licenses osteopaths through an examination process and takes appropriate disciplinary action for violations of laws, rules or regulations. The board's

office is in Sacramento and is staffed by one executive secretary and two clerical positions. Support services are provided by the Department of General Services.

ANALYSIS AND RECOMMENDATIONS

The board proposes an expenditure of \$240,771 which is an increase of \$91,308 or 61.1 percent above estimated current year expenditures.

This amount includes \$23,517 to cover anticipated expenses of pending litigation and \$6,579 to implement a continuing education program.

Operating Expenses

We recommend that Item 379 be reduced by \$21,276 to reflect a revised estimate of operating expenses.

In the Governor's Budget the operating expenses for the board are budgeted at \$132,683. In early January the board revised its schedule of expenses after we identified possible budgeting errors. The board now estimates that \$111,407 will be needed in the budget year. We therefore recommend that Item 379 be reduced to reflect this revision.

Legal Position

We recommend that the requested legal counsel position be funded as a half-time position at entry level salary, thus reducing Item 379 by \$26,143.

In August 1976, the Attorney General formally rejected the board's legal work and advised the board to obtain counsel through the state civil service examination process. In April 1977, the State Personnel Board approved the new class of General Counsel for the Board of Osteopathic Examiners. Although sufficient funds were available, appropriate spending authority had not been included in the budget.

The board is requesting funds for the General Counsel position in the budget year. The board indicates the counsel's time will be split between legal work and legislative matters. Although the board has incurred unusually high legal costs during the past year and one-half, this is not expected to continue. Also, legislative matters are usually part of the responsibility of the executive officer for licensing boards of comparable size. At this time, we do not see the need for a full-time counsel position for a board of this size.

Additionally, it should be noted that the board has budgeted this position at the maximum salary. The State Administrative Manual (Section 6112-C-3) states that new positions are to be budgeted at the bottom of the range. For these reasons, we recommend that the position be reduced to one-half time and budgeted at entry level for a reduction in Item 379 of \$26,143.

General Fund Loan

We recommend that the General Fund loan, Item 378, be reduced by \$47,419 to reflect reduced program expenditures.

The board is requesting a \$61,000 loan from the General Fund to eliminate a short-term cash flow problem. The new fee schedule for license renewals will enable the board to repay the loan by the due date of June 30, 1983. If the previous recommendations are approved, we would recom-

BOARD OF OSTEOPATHIC EXAMINERS—Continued

mend that the General Fund Loan be reduced by an equal amount. This would enable the board to maintain a budget year surplus of \$89,829 which is equal to the amount displayed in the Governor's Budget.

BOARD OF CHIROPRACTIC EXAMINERS

Item 380 from the Board of
Chiropractic Examiners' Fund

Budget p. 1060

Requested 1978-79	\$249,411
Estimated 1977-78.....	236,782
Actual 1976-77	230,447
Requested increase \$12,629 (5.3 percent)	
Total recommended reduction	None

GENERAL PROGRAM STATEMENT

The Chiropractic Act of California, an initiative adopted in 1922, established the Board of Chiropractic Examiners. The primary responsibility of the board is to protect the users of chiropractic services by assuring adequate training and minimum performance standards for chiropractors practicing in California. The board seeks to accomplish its goals through licensing and continuing education, and enforcement of the Chiropractic Act.

The board is an independent agency directly supervised by the Governor's office. Data processing and investigative services are contracted from the Department of Consumer Affairs. All other support services are provided by the Department of General Services.

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

In fiscal year 1978-79, the board proposes to expend \$249,411 which is \$12,629, or 5.3 percent, above estimated expenditures for the current year. This increase reflects rising operating expenses.

BOARD OF PILOT COMMISSIONERS FOR THE BAYS OF SAN FRANCISCO, SAN PABLO AND SUISUN

Item 381 from the Board of Pilot
Commissioner's Special Fund

Budget p. 1062

Requested 1978-79	\$50,159
Estimated 1977-78.....	48,517
Actual 1976-77	42,556
Requested increase \$1,642 (3.4 percent)	
Total recommended reduction	None

GENERAL PROGRAM STATEMENT

The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun is responsible for supplying qualified pilots for vessels entering or leaving those bays. The three-member board (appointed by the Governor) administers a single program of licensing and regulating pilots by conducting pilot examinations and acting on disciplinary complaints. The board maintains an office in San Francisco staffed by one full-time secretary to provide support for the board and the Pilotage Rate Committee. This committee is composed of five members appointed by the Governor. Its function is to prepare recommendations on pilotage rates for the Legislature.

Both the board and committee are supported by the Board of Pilot Commissioners' Special Fund. Revenue for this fund is derived from a percentage assessment on pilot fees which are collected directly by the pilots from ships they serve. The law provides that a maximum assessment of 5 percent on pilotage fees be paid into the fund. The current assessment is 2 percent.

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

The board proposes to expend \$50,159 which is \$1,642 or 3.4 percent above estimated expenditure for the current year. This increase reflects rising operating costs.

CALIFORNIA INFORMATION SYSTEMS IMPLEMENTATION COMMITTEE

Item 382 from the General
Fund

Budget p. 1064

Requested 1978-79	\$44,833
Estimated 1977-78	43,651
Actual 1976-77	34,107
Requested increase \$1,182 (2.7 percent)	
Total recommended reduction	None

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

*Analysis
page*

1. Review Hearings. Recommend committee conduct hearings on the statutes, policies and practices regarding the uses of electronic data processing, including equipment procurement.

1020

GENERAL PROGRAM STATEMENT

The California Information Systems Implementation Committee is a statutory body comprised of 12 designated members of the Legislature and the executive branch. It is responsible for recommending specific legislative and executive actions necessary to implement the state's electronic data processing (EDP) policies. These policies are set forth in Government Code Chapter 7 (commencing with Section 11700), and Chapter 8 (commencing with Section 11775).

ANALYSIS AND RECOMMENDATIONS

The \$44,833 requested for the 1978-79 fiscal year will provide for the continuation of one committee consultant and associated operating expenses. The consultant assists the committee in its efforts to review the use of EDP by state agencies and to prepare the committee's reports to the Governor and the Legislature due February 1 of each year.

During the current year the committee has received testimony regarding a number of state electronic data processing activities including plans for consolidating data processing in the Health and Welfare Agency, productivity measurement at the Department of Motor Vehicles and executive branch efforts with respect to computer-based state accounting systems.

Need for Review of State EDP Control

We recommend that the committee conduct hearings to review statutes, policies and practices regarding the state's uses of electronic data processing (EDP), including the procurement of EDP equipment.

In our analysis of the Department of Finance budget (Item 349) we express concern with factors which tend to limit the state's effective use of modern data processing techniques. In our judgment, the current environment is marked by a tendency to overcontrol efforts to use this tech-

nology. As a result, both the development of new systems and the procurement of data processing equipment to support these systems have become unnecessarily costly for state agencies.

The purpose of a comprehensive review is to ascertain changes necessary to facilitate the most effective and efficient use of modern data processing technology to support state programs. The review is most appropriate in light of the problems cited above and the rapid technological advances in computing. The President has directed the federal government to undertake a major study of data processing organizations management and policies. Comments from the public, all government agencies and the private sector have been solicited. This rather comprehensive effort will require 10 to 12 months to complete. Within California, the President of the University of California has recently assembled a "blue ribbon panel" (pursuant to a legislative recommendation) which is performing a comprehensive review of the plans and policies associated with the University's use of computers.

We believe that the California Information Systems Implementation Committee is the appropriate forum for a review of the kind recommended. Because of the urgent need for improvement and redirection in this area, we would suggest that the committee begin at once to conduct such hearings. To the extent possible, findings and recommendations developed during the remainder of this fiscal year should be made available to the fiscal committees for their consideration prior to final action on the 1978-79 Budget Bill.

We are prepared to provide information to the committee as required. Other participants in this process should include state department management personnel, staff of the control agencies and the private vendors who market EDP equipment and related products to the state.

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Items 383-384 from the Peace
Officers' Training Fund

Budget p. 1065

Requested 1978-79	\$13,579,683
Estimated 1977-78	13,631,724
Actual 1976-77	10,931,056
Requested decrease \$52,041 (0.4 percent)	
Total recommended reduction	None

1978-79 FUNDING BY ITEM AND SOURCE

Item	Description	Fund	Amount
383	Commission on Peace Officer Standards and Training (Support)	Peace Officers' Training	\$2,416,962
384	Assistance to Cities and Counties for Peace Officers Training	Peace Officers' Training	11,152,392
	Chapter 987, Statutes of 1977	Peace Officers' Training	10,329
			<u>\$13,579,683</u>

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING—Continued**GENERAL PROGRAM STATEMENT**

The Commission on Peace Officer Standards and Training (POST) is a 10-member body appointed by the Governor with the Attorney General serving as an ex-officio member. The commission is responsible for raising the level of professional competence of city, county and special-district peace officers by establishing minimum recruitment and training standards and by providing management counseling services to local law enforcement agencies.

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

The commission and its local assistance program are supported by the Peace Officers' Training Fund, which derives its revenues from a penalty assessment of \$5 for each \$20 (or fraction thereof) of *criminal* fines and from 25 percent of the penalty assessment of \$5 for each \$20 (or fraction thereof) of *traffic* fines levied by municipal and justice courts. The remaining 75 percent of the penalty assessment on traffic fines is deposited in the Driver Training Penalty Assessment Fund. Table 1 shows commission revenues from all sources.

Table 1
Peace Officers' Training Fund Revenues

	<i>Penalties on Criminal Fines</i>	<i>Penalties on Traffic Fines</i>	<i>Other Income^a</i>	<i>Total</i>
1975-76.....	\$3,496,584	\$8,312,945	\$1,123	\$11,810,652
1976-77.....	3,780,521	8,018,736	308,058	12,107,315
1977-78 (estimated)	3,800,000	8,800,000	353,500	12,953,500
1978-79 (estimated)	3,800,000	8,800,000	353,500	12,953,500

^a Earnings from surplus money investment fund commencing July 1, 1976 and miscellaneous income.

Program Reorganization

The commission, which in past years was structured on the basis of five programs, reorganized itself in December 1976 and now operates through four programs. It proposes to restructure its activities again by consolidating them into three programs effective July 1, 1978. The three proposed programs are Field Operations, Administration, and Assistance to Cities and Counties. Essentially, the reorganization will merge the former Standards and Training and the Law Enforcement Management services programs into the Field Operations program. Additionally, there is an executive staff under the executive director for overall administration of the staff of the commission.

The reorganization will result in elimination of 10 currently authorized positions and the addition of six new positions (essentially reclassifications) for a net reduction of four positions. The six new positions include four word processing technicians and one clerk II for the administrative program and one senior law enforcement consultant II for the executive staff. The salary cost of these six positions is \$74,472 compared to \$175,042

for the 10 positions eliminated for a salary savings of \$100,570. The salary savings more than offsets the \$38,978 requested in the budget for word processing equipment. One law enforcement consultant II and one clerk typist II were added in the current year and are proposed for continuation in the field operations program to implement Chapter 987, Statutes of 1977, (AB 641) which directed POST to establish and administer recruitment and training standards for reserve officers.

I. Field Operations

This program consists of the following elements:

- a. **Education and training.** This unit establishes the basic criteria for commission certification of police training courses at police academies, community colleges, state colleges and universities, and other institutions. It gives advice and assistance to instructors in the preparation of courses and training programs, and conducts periodic field inspections to monitor instructional standards. Failure to meet established standards can lead to course decertification. The reorganization will provide increased emphasis on this program element.
- b. **Personnel Standards.** This unit inspects local law enforcement agencies receiving state reimbursements to ascertain compliance with standards for selection and training of peace officers. Where needed, assistance is provided to help local agencies meet the required standards and resolve specific administrative and operational problems (in conjunction with the management services element).
- c. **Management Services.** This unit helps local law enforcement agencies resolve specific administrative or operational problems. It conducts special surveys and studies at the request of the local agency and provides counseling and staff assistance to implement recommended improvements.

Resources devoted to this program are summarized in Table 2.

Table 2
Field Operations
Program Requirements
Commission on Peace Officer Standards and Training

	<i>Estimated 1977-78</i>	<i>Proposed 1978-79</i>	<i>Change From Current Year</i>	
			<i>Amount</i>	<i>Percent</i>
Program Elements				
Education and Training	\$573,119	\$947,745	\$374,626	65.4%
Personnel-years	16	22	6	37.5
Personnel Standards	215,565	220,000	4,435	2.1
Personnel-years	7	7	—	—
Management Services	654,461	171,270	-483,191	-73.8
Personnel-years	18	6	-12	-66.7
Totals	\$1,443,145	\$1,339,015	\$-104,130	-7.2%
Personnel-years	41	35	-6	-14.6

Table 2 reflects an increase of six positions in the education and training element and a reduction of 12 positions in the management services element resulting in a net reduction of six positions for this program. These position changes are primarily attributable to the proposed program reor-

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING—Continued

ganization. Both fiscal years include the law enforcement consultant II and a clerk typist II for Chapter 987.

II. Administration

This program provides staff services to the commission and other organizational units, processes claims for reimbursement of local training costs under prescribed rules and regulations, and issues professional law enforcement certificates to qualified applicants. Under the proposed reorganization, this program will be expanded to include the library and graphic arts functions to be transferred from the existing Law Enforcement Management Services Division. The Internal Support Bureau and Special Projects Unit are also to be placed in this program.

A total of \$1,088,276 is proposed for this program in the budget year, an increase of \$52,089 or 5 percent over current-year estimated expenditures.

While the proposed budget does not reflect any change in personnel-year utilization between the current and budget years, there are five new positions requested as discussed under program reorganization. The total personnel-years reflect the net effect of these additional positions, offset by transfers of positions to other programs.

III. Assistance to Cities and Counties

This program provides reimbursements through the Peace Officers' Training Fund to local governments qualifying for assistance for law enforcement training. Reimbursements are proposed to total \$11,152,392 for the current and budget years, which represents an increase of \$2,600,000 or 30.4 percent over actual reimbursements of \$8,552,392 in the 1976-77 fiscal year. The Governor's Budget estimates that the Peace Officers' Training Fund will have a surplus of approximately \$2.2 million at the end of the budget year. The fund's June 30, 1977 surplus was \$3,476,711.

OFFICE OF CRIMINAL JUSTICE PLANNING

Item 385-388 from the General
Fund

Budget p. 1069

Requested 1978-79	\$8,073,021
Estimated 1977-78.....	5,407,727
Actual 1976-77	3,396,365
Requested increase \$2,665,294 (49.3 percent)	
Total recommended reduction	\$2,015,000

1978-79 FUNDING BY ITEM AND SOURCE

Item	Description	Fund	Amount
385	Office of Criminal Justice Planning-Support	General	\$653,849
386	State Operations-Cash Match	General	1,058,887
387	State Operations-Deobligated Block Grant Match	General	100,000
388	Local Assistance-Cash Match, Career Criminal and Community Oriented Policing	General	6,260,285

\$8,073,021

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONSAnalysis
page

1. *Community Oriented Policing.* Reduce Item 385 by \$100,000 and Item 388 by \$1,915,000. (Total reduction of \$2,015,000). Recommend deletion of funding pending governing legislation. 1029

GENERAL PROGRAM STATEMENT

Chapter 1047, Statutes of 1973, created out of the staff arm of the California Council on Criminal Justice (CCCJ) the Office of Criminal Justice Planning (OCJP) to be administered by an executive director appointed by the Governor. The council, which remains as a separate entity and acts as the supervisory board to OCJP, consists of 37 members: the Attorney General, the Administrative Director of the Courts, 19 members appointed by the Governor and 16 members appointed by the Legislature.

The Office of Criminal Justice Planning is designated the state planning agency for administering the federal block grant programs authorized under the Federal Omnibus Crime Control and Safe Streets Act of 1968, as amended in 1976. Its statutory responsibilities are to (1) develop, with the advice and approval of the council, a comprehensive statewide plan for the improvement of criminal justice and delinquency prevention throughout the state; (2) define, develop and correlate programs and projects for the state criminal justice agencies; (3) receive and disburse federal funds and perform all necessary staff services required by the council; (4) develop comprehensive procedures to insure that all local plans and all state and local projects are in accord with the state plan; (5) render technical assistance to the Legislature, state agencies and units of local government on matters relating to criminal justice; and (6) conduct evaluation studies of the programs.

Recent Legislation Expands OCJP's Responsibilities

Prior to the 1977 legislative session, OCJP's primary function was to administer federal Safe Streets Act funds. Last session the Legislature enacted three bills which place other functions with OCJP. Each of these is discussed below.

Youth and Family Programs. Chapter 1103, Statutes of 1977, (AB 965) established a program to reduce the administrative complexity confronting joint-funded, multi-service youth and family programs involving at least three federal grant sources and two or more state agencies. Under this legislation, OCJP will coordinate the processing of grants for such activities. The act contained a \$62,500 General Fund appropriation for 1977-78 which was reduced to \$30,000 by the Governor. The budget-year request for this program is \$69,283.

Victim and Witness Assistance Centers. Chapter 1256, Statutes of 1977, (AB 1434) established a program within OCJP through which public or

OFFICE OF CRIMINAL JUSTICE PLANNING—Continued

private nonprofit agencies, in concert with local governments, can help crime victims and witnesses relate more effectively to the criminal justice system. It defines procedures for evaluating grant applications from participating agencies, prescribes services to be provided and establishes a funding schedule which gradually reduces state support for the program by transferring increasing percentages of costs to local governments over a period of years. The legislation appropriated \$1,000,000 from the General Fund for 1977-78 and 1978-79 but was vetoed by the Governor. The budget does not reflect any funding for this program.

Career Criminal Prosecution Programs. Chapter 1151, Statutes of 1977, (SB 683) established through OCJP a program to aid district attorneys' offices in prosecuting career criminal cases. The act appropriated \$1,500,000 to OCJP without regard to fiscal year. The Governor's Budget indicates that the appropriation will be expended in 1977-78 and \$3,000,000 is requested for 1978-79.

Support for Criminal Justice Planning

Funding for the traditional OCJP planning operations and state agency and local projects is derived largely from an annual federal block grant consisting of planning and "action" funds (designated Part B funds and Part C funds, respectively) which is awarded to the state by the federal Law Enforcement Assistance Administration (LEAA). OCJP will use about one-third of federal planning grant (Part B) funds in the current and budget years. The remaining two-thirds will be distributed to the 21 criminal justice planning regions.

LEAA has not yet advised OCJP of the minimum required allocation of action funds to local governments for the current and budget years. However, in 1976-77 the federal government required that at least 73.4 percent of action grants be allocated to local agencies. For the current year, CCCJ tentatively has allocated 75 percent as the local share.

Special Federal Funding

Two additional categories of federal monies are available to the state through LEAA. One category (Part E action grants) is for improvements in state and local correctional facility and institutional programs and is not divided between the state and localities under a set formula. The federal funds pay 90 percent of all Part E project costs. The state pays 10 percent, if applicable to a state project. In the case of local grants, the local project proponent pays 10 percent.

The second additional category of federal funds is available under the Juvenile Justice and Delinquency Prevention Act of 1974 (identified as Part JJ in the Governor's Budget). These funds are available to finance improvements in the juvenile justice system. At least two-thirds of Part JJ funds must be allocated to local agencies with the balance available to the state agencies.

Construction projects funded from Part C or JJ block grants require a 50/50 state or local/federal match. The state pays 50 percent, if it's a state project. In the case of local Part C grants the state pays 25 percent and the local project proponent pays 25 percent. For Part JJ funds the local project

proponent is required to pay the entire nonfederal share.

Organization

OCJP is divided into five program areas:

1. *Planning and Operations (Item 385)*. This program, through a staff of 13.9 personnel-years, administers four main activities: (1) planning, which analyzes crime data and the criminal justice system and prepares the annual state comprehensive plan for submission to the federal Law Enforcement Assistance Administration; (2) evaluation, which analyzes grant programs and projects to determine whether a causal relationship exists between grant-funded activities and the reduction or control of crime; (3) monitoring, which seeks to insure that projects are being performed within the terms of the grant contract; and (4) technical assistance, which provides staff to assist grantee agencies in carrying out funded projects and encourage the use of proven methods.

2. *Administration (Item 385)*. This program, which utilizes 29 authorized personnel-years, provides executive and management services, including CCCJ liaison, personnel, accounting, business services and budgeting. It also provides technical guidance on legal, fiscal and affirmative action questions to grantees. The grant audit function, required by federal law, is being performed under an interagency agreement by the Department of Finance.

3. *Crime Resistance Task Force (Item 385)*. This program, through a staff of one, provides support for the Crime Resistance Task Force which was created by executive order. The objectives of the task force are to encourage citizen involvement with police in local crime prevention programs. Current-year funding consists of a \$182,114 grant from CCCJ.

4. *State and Private Agency Awards (Items 386 and 387)*. This program provides for grants of Safe Streets Act funds to state and private agencies to stimulate improvements within the criminal justice system.

5. *Local Project Allocation (Item 388)*. This program provides grants for regional criminal justice planning and action projects undertaken by local jurisdictions with the aim of improving law enforcement and the criminal justice system. It also includes local assistance funds for the Career Criminal Prosecution and Community Oriented Policing programs.

Table 1 shows the proposed funding, by source, for each of these five programs.

Table 1
Office of Criminal Justice Planning
Program Expenditures
1978-79

<i>Program</i>	<i>Federal Funds</i>	<i>State General Fund</i>	<i>Total</i>
Planning and operations	\$731,228	\$372,213	\$1,103,441
Administration	758,598	163,416	922,014
Crime resistance task force	163,894	118,220	282,114
State and private agency grants	9,333,112	1,158,887	10,491,999
Local project grants	27,695,781	6,260,285	33,956,066
Total	\$38,682,613	\$8,073,021	\$46,755,634

OFFICE OF CRIMINAL JUSTICE PLANNING—Continued**Federal Government May Change Program**

In a November 21, 1977, memorandum to the President, the U.S. Attorney General recommended significant changes in the federal (LEAA) anti-crime program including:

1. Reorganizing the Department of Justice by abolishing LEAA and creating a National Institute of Justice.
2. Amending the Omnibus Crime Control and Safe Streets Act to reduce overhead expenses and make the program more responsive to the needs of state and local governments.

It is not possible to predict the ultimate effect of the Attorney General's proposal on OCJP prior to enactment of enabling legislation and federal action on LEAA's budget. For purposes of preparing the Governor's Budget, the state administration has assumed no changes in the federal program. Should Congress or the President, by executive order, implement changes affecting OCJP prior to the close of budget hearings, the Department of Finance should request appropriate changes in this budget.

Allocation of Administrative and Planning Funds Between OCJP and Local Planning Agencies

Last year, the Assembly Ways and Means Subcommittee hearing OCJP's budget requested that our office and OCJP obtain legal opinions from the Legislative Counsel and the Attorney General, respectively, as to whether OCJP or the CCCJ was the proper agency to allocate administrative and planning funds between OCJP and the regional criminal justice planning agencies. This question arose because the council does not formally approve funding allocations made by the staff for inclusion in the Governor's Budget. Such allocations are always based on projections of available federal funding and are subject to revision following federal action on LEAA's budget. For this reason, the council has not taken a direct role in the allocation of planning funds. Both legal opinions, however, concluded that CCCJ is ultimately responsible for allocating these funds. Therefore, the Legislature last session included language in the supplemental report recommending that if CCCJ subsequently approves an allocation of planning funds which differs from that reflected in the Governor's Budget, the support item in the budget be adjusted accordingly. The 1978 Budget Bill includes similar language in OCJP's support item.

ANALYSIS AND RECOMMENDATIONS

The budget request from the General Fund is \$8,073,021, an increase of \$2,665,294 over the current year. Table 2 summarizes total OCJP expenditure levels for the current and budget years, indicating the sources of funding by category, expenditure levels by program areas, and proposed changes from the current year. While it appears from Table 2 that federal support for OCJP is declining significantly, the difference is primarily attributable to a change in the budgeting system initiated last year. Prior to the change, state matching funds were appropriated each year to match federal allocations and carry-over balances of "Safe Streets Act" funds

which were available for three fiscal years. This required, in effect, the inclusion of all first-year federal funds (and the required state match) as well as any federal fund balances available for second and third year expenditure (and the state match) in each year's budget. Last year, the Budget Act made portions of the basic state matching appropriation available for one, two and three years to coincide with the availability of federal funds. Therefore, the budget no longer reflects federal carry-over balances. The inflow of federal funds for 1978-79, despite the apparent drop reflected in Table 2, is budgeted at the same level as estimated for the current year.

The General Fund increase of \$2,665,294 consists primarily of funding for the career criminal program (\$1,500,000), the community oriented policing program (\$2,015,000) and higher state matching requirements (\$145,247) imposed by federal legislation for planning purposes under the Juvenile Justice and Delinquency Prevention Act. These increases are partially offset by reduced matching requirements resulting from the budgeting change discussed above.

Table 2
Budget Summary

<i>Funding</i>	<i>Estimated 1977-78</i>	<i>Proposed 1978-79</i>	<i>Change from Current Year</i>	
			<i>Amount</i>	<i>Percent</i>
General Fund	\$5,407,727	\$8,073,021	\$2,665,294	49.3%
Federal funds	60,162,168	38,682,613	-21,479,555	-35.7
Totals	\$65,569,895	\$46,755,634	\$-18,814,261	-28.7%
<i>Programs</i>				
Planning and operations				
Personnel-years	\$970,981	\$1,103,441	\$132,460	13.6%
Administration	13.9	16.3	2.4	17.3
Personnel-years	894,926	922,014	27,088	3.0
Crime resistance task force	29.0	29.0	-	-
Personnel-years	182,114	282,114	100,000	54.9
Subtotal	1.0	1.0	-	-
Personnel-years	\$2,048,021	\$2,307,569	\$259,548	12.7%
State and private agency grants	43.9	46.3	2.4	5.5
Local project allocations	\$13,965,742	\$10,491,999	\$-3,473,743	-24.9%
Total	49,556,132	33,956,066	-15,600,066	-31.5
Personnel-years	\$65,569,895	\$46,755,634	\$-18,814,261	-28.7%
Personnel-years	43.9	46.3	2.4	5.5%

Community Oriented Policing Program Lacks Statutory Basis

We recommend deletion of \$2,015,000 requested to implement a Community Oriented Policing program in four to six local jurisdictions (Item 385—\$100,000 and Item 388—\$1,915,000).

We further recommend that the administration seek legislation specifically authorizing this new program if it wishes to establish it with the General Fund.

The budget includes \$2,015,000 from the General Fund to implement four to six local projects aimed at involving citizens in the policing process.

OFFICE OF CRIMINAL JUSTICE PLANNING—Continued

Program information necessary to evaluate this request is not available because traditional budget back-up material (that is, a budget change proposal) has not been prepared.

More importantly, the program lacks specific statutory authorization. The other General Fund programs (Career Criminal Prosecution and Youth and Family Multi-Service programs) included in OCJP's budget have been authorized by legislation. Programs which are to be funded entirely by the General Fund should be established and controlled by legislation. This permits the appropriate policy committees of the Legislature to review proposed activities and, in conjunction with the fiscal committees, establish initial funding levels. We believe that the appropriate funding source for this program would be the federal Safe Streets Act and state matching monies available to CCCJ. These funds are available for innovative approaches to reducing crime, and CCCJ has broad discretion in selecting the types of projects for which they may be expended.

Therefore, we recommend that funds included in the budget for community oriented policing be deleted and that the administration secure enabling legislation if it wishes to establish this program with General Fund monies.

STATE PUBLIC DEFENDER

Item 389 from the General
Fund

Budget p. 1074

Requested 1978-79	\$7,720,518
Estimated 1977-78.....	4,423,095
Actual 1976-77	2,399,696
Requested increase \$3,297,423 (74.6 percent)	
Total recommended reduction	\$30,564

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

*Analysis
page*

1. Death Penalty Appeals Workload. Recommend State Public Defender and Department of Finance exercise budgetary control over the 26.5 new positions for death penalty cases to coincide with workload increase. 1032
2. *Legislative Liaison. Reduce by \$30,564.* Recommend deletion of one deputy state public defender III for legislative liaison. 1032

GENERAL PROGRAM STATEMENT

The office of State Public Defender was created by Chapter 1125, Statutes of 1975 (operative January 1, 1976), primarily to provide legal representation for indigents before the Supreme Court and courts of appeal, either upon appointment by the court or at the request of the person involved. Such services may also be provided by private attorneys appointed by the courts. The responsibilities of the office include the following, the first four of which take precedence over all others:

1. Handling appeals, petitions for hearing or rehearing before any appellate court, petitions for certiorari to the United States Supreme Court or petitions for executive clemency from a judgment relating to criminal or juvenile court proceedings.

2. Engaging in proceedings for extraordinary writs, injunctions or declaratory relief relating to final judgments of conviction or wardship or to the punishment or treatment imposed thereunder.

3. Handling appellate or other legal procedures after imposition of a death sentence.

4. Defending state prison inmates in court proceedings relative to alleged commission of crimes within state prison facilities whenever the county public defender refuses to represent the accused because of conflict of interest or other legal reason. This is a mandatory function added by Chapter 1239, Statutes of 1976.

5. Providing representation in a proceeding of any nature where a person is entitled to representation at public expense.

6. Representing any person in cases in which the local public defender because of conflict of interest or other reason refuses to provide such services. This authorization is permissive, excludes prison conflict cases under No. 4 above, and provides for a contract of reimbursement between the county and the state for services rendered.

The State Public Defender is appointed by the Governor to a term of four years, subject to Senate confirmation. He is authorized to employ staff and establish offices as necessary to perform his duties and to contract with county public defenders, private attorneys and nonprofit corporations to provide authorized legal services to eligible indigents. He may perform all of his responsibilities with state employees (i.e., his own staff), contract with private attorneys, nonprofit corporations, or utilize a combination of these services.

Accordingly, the State Public Defender has established offices in Los Angeles, Sacramento and San Francisco to provide legal defense services to indigent criminal appellants in courts of appeal districts except for the San Diego division of the fourth district. The required services in that division are handled by contractual arrangements with a private law group.

ANALYSIS AND RECOMMENDATIONS

The \$7,720,518 budget request for this office represents an increase of \$3,297,423 or 74.6 percent over estimated current-year expenditures of \$4,423,095. The increase reflects merit salary and price increases and also the salaries, operating expenses and equipment costs relating to 105.5 proposed workload positions, including an attorney for legislative liaison. The requested positions may be grouped into the following three categories.

Writs and Appeals

Sixty-six additional legal and clerical positions reflect the assumption by the office of a greater portion of the total indigent criminal appeals in the Supreme Court and the courts of appeal. The Judicial Council estimates that counsel will be appointed for 4,697 indigent criminal appellants in the

STATE PUBLIC DEFENDER—Continued

1978-79 fiscal year. Of these appointments, 2,971 or 63.3 percent will be to the State Public Defender and 1,726 or 36.7 percent to private attorneys. The positions requested are necessary for the increased workload to be assumed by the State Public Defender.

Death Penalty Appeals Workload

We recommend that the State Public Defender and the Department of Finance exercise budgetary control over the authorization of 26.5 new positions for death penalty cases to coincide with workload buildup.

A total of 26.5 legal and clerical positions are requested to handle anticipated workload relating to automatic appeals in death sentence cases. This workload includes not only the initial appeal to the State Supreme Court, but also writs and appeals in state and federal courts and clemency hearings before the Governor. The workload estimate is based on information supplied by the appellate courts and by private counsel who have handled previous death penalty appeals and collateral proceedings.

All of the positions are requested effective July 1, 1978, because of an anticipated buildup in death penalty cases during the current year. The crime for which the death penalty is to be applied must have been committed subsequent to the effective date (August 11, 1977) of the new death penalty legislation. Because the defendant must have been apprehended, prosecuted and convicted subsequent to that date, the backlog of death penalty appeals may not be as substantial on July 1, 1978, as projected. Furthermore, the death penalty cases received subsequent to July 1, 1978, will be assigned on a continuing basis to the office throughout the year. Thus, in order to effect maximum salary savings, strict hiring control should be exercised by the Department of Finance and the State Public Defender to insure that the new positions are added only when warranted by the growth in caseload rather than at the beginning of the 1978-79 fiscal year.

Staff Support Positions

The third group of new positions includes two librarians, two administrative assistants I, two clerks II and six clerk typists for workload increases relating to existing and proposed positions.

The requested positions will result in more efficient utilization of staff and improve administration and office procedures and functions.

Legislative Liaison

We recommend the deletion of one deputy state public defender III for legislative liaison for a salary reduction of \$30,564.

The budget request for this office includes a deputy state public defender to provide legislative liaison primarily to the policy committees considering criminal and mental health bills. Provision of such legislative liaison should not require the full time services of an attorney. Staff of the office have been providing testimony and assistance to the two policy committees (Assembly Criminal Justice Committee and Senate Judiciary Committee) as a secondary assignment and can continue to do so.

This office is currently authorized 82 attorney positions including 19 in

Sacramento, and is requesting an additional 62 including 20 for Sacramento. We believe that the office will have a sufficient number of attorneys to continue to provide legislative liaison on a secondary assignment basis.

ASSISTANCE TO COUNTIES FOR DEFENSE OF INDIGENTS

Items 390-391 from the General
Fund

Budget p. 1077

Requested 1978-79	\$1,275,000
Estimated 1977-78.....	1,275,000
Actual 1976-77	775,000
Requested increase—None	
Total recommended reduction	None

1978-79 FUNDING BY ITEM AND SOURCE

Item	Description	Fund	Amount
390	Public Defender Assistance	General	\$775,000
391	Capital Case Defense Preparation	General	500,000
			<u>\$1,275,000</u>

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

Public Defender Assistance

Item 390 reimburses counties for a portion of their expenditures in providing legal assistance to indigents charged with criminal violations in trial courts or involuntarily detained under the Lanterman-Petris-Short Act.

The reimbursements provided by this item are authorized by Section 987.6 of the Penal Code and may not exceed 10 percent of the counties' expenditures for such purposes. The state had never contributed the 10 percent maximum. The amount requested represents the traditional dollar level of state support for this program and is a diminishing percentage of total county costs. The counties have budgeted \$72,060,549 for indigent defense for the 1977-78 fiscal year.

Capital Case Defense

Item 391 reimburses the counties for the costs of investigative services and expert witnesses (generally psychiatrists) relative to the defense of indigents in capital cases. These reimbursements are authorized by Penal Code Section 987.9, which was added by urgency legislation, Chapter 1048, Statutes of 1977. This legislation appropriated \$1 million, of which \$500,000 is estimated for expenditure in the current year. The remaining \$500,000 plus \$500,000 requested in the Budget Bill, provides \$1 million for this purpose in the budget year.

SUBVENTION FOR GUARDIANSHIP/CONSERVATORSHIP PROCEEDINGS

Item 392 from the General
Fund

Budget p. 1077

Requested 1978-79	\$2,350,020
Estimated 1977-78.....	2,217,000
Requested increase \$133,020 (6.0 percent)	
Total recommended reduction	None

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

Chapter 1357, Statutes of 1976, revised certain procedures, terminology and definitions in the Government and Probate Codes relating to guardianship and conservatorship. The legislation mandated additional local expenditures to (1) provide appointed counsel and court investigators to represent the interests of proposed wards or conservatees under specified circumstances and (2) provide court investigators to conduct periodic reviews of guardianships and conservatorships.

This item provides \$2,350,020 to reimburse county costs mandated by Chapter 1357. The amount requested represents estimated current-year expenditures, adjusted by 6 percent to reflect anticipated cost increases. Additional experience is needed relative to local expenditure levels in this newly established program to project budgetary needs more accurately.

PAYMENTS TO COUNTIES FOR COSTS OF HOMICIDE TRIALS

Item 393 from the General
Fund

Budget p. 1078

Requested 1978-79	\$100,000
Estimated 1977-78.....	595,000
Actual 1976-77	222,602
Requested decrease \$495,000 (83.2 percent)	
Total recommended reduction	None

GENERAL PROGRAM STATEMENT

This item provides reimbursements to counties for specified costs relating to two categories of criminal trials: (1) those involving escape from custody of the Department of Corrections, and (2) those related to high cost homicide trials.

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

Escape From Custody

Pursuant to Penal Code Section 4700.2, counties are reimbursed for trials and related costs arising from crimes committed in connection with an escape, or a conspiracy to effectuate an escape, from custody of the Department of Corrections. Reimbursement under this Penal Code provision is limited to trials based on indictments filed between November 1, 1970, and June 30, 1971; and October 6, 1972, through October 6, 1973. Reimbursements will be made in the current year, but no further claims are anticipated due to the limited application of this provision. The current year expenditure under this Penal Code provision is in the amount of \$495,000 to reimburse San Bernardino County for costs arising from the forceful taking of a state prisoner from the custody of state correctional officers in that county. The reimbursement was authorized by Chapter 455, Statutes of 1976 (SB 1168), and was included as Item 365.1 in the Budget Act of 1977.

High-Cost Homicide Trials

Pursuant to Government Code Sections 15200-15203, counties are reimbursed for the costs of a trial or trials in a homicide case beyond that point where total trial costs exceed a five-cent local property tax rate. Expenditures under this program since 1971-72 have been as follows:

<i>Fiscal Year</i>	<i>Expenditure</i>
1971-72	\$95,964
1972-73	370,105
1973-74	164,824
1974-75	55,000
1975-76	199,727
1976-77	1,182
1977-78 (Estimated)	100,000
1978-79 (Proposed)	100,000

Except in 1972-73 and 1973-74 when reimbursements were made for an unusual case (the Juan Corona trial), expenditures have ranged from \$1,182 to \$199,727 per annum. Therefore, the amount budgeted appears to be reasonable as there is no method of forecasting the number and dollar value of such claims, if any, to be filed.

ADMINISTRATION AND PAYMENT OF TORT LIABILITY CLAIMS

Item 394 from the General
Fund

Budget p. 1078

Requested 1978-79	\$1,978,711
Estimated 1977-78	2,197,084
Actual 1976-77	1,192,146
Requested decrease \$218,373 (9.9 percent)	
Total recommended reduction	None

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

*Analysis
page*

1. Budget Format. Recommend Department of Finance, in cooperation with the Department of Justice, the Board of Control and Caltrans, develop new budgetary display for the tort item beginning in the 1979-80 budget. 1039
2. Policy Guidelines. Recommend Department of Finance, in cooperation with the Department of Justice, Board of Control, and Caltrans, implement clear policy guidelines regarding tort claims. 1040

GENERAL PROGRAM STATEMENT

Existing law defines the extent of the state's liability for tort actions and makes the Board of Control the primary agency responsible for tort claims management. The Attorney General investigates all claims to determine their validity, provides legal services to the board for the program and, with the board's approval, directly settles claims up to \$10,000.

This item provides funds for payment of (1) claims for all General Fund agencies except the University of California and a small number of agencies with unique liability problems which are covered by special insurance, (2) legal and investigative services provided by the Attorney General on claims payable from the General Fund, and (3) Board of Control administrative costs directly related to tort actions. The Department of Finance retains total discretion concerning the expenditure of funding appropriated under this item.

In the past, this item also provided insurance premiums to cover the state's tort liability for claims between \$5 million and \$50 million. Following a recommendation by our office last year, the Department of Finance studied possible alternatives to the state's purchase of tort liability insurance in light of substantial increases in insurance premiums beginning in the 1976-77 fiscal year. The study concluded that it was both cost-beneficial and feasible for the state to discontinue this type of insurance. As a result, this item no longer contains funding for tort liability coverage. The state's current policy will terminate May 20, 1978.

The \$350,000 identified for claims in this item represents the anticipated level of claims (up to \$50,000) against General Fund agencies. These moneys are administered by the Department of Justice, but approval of

the Department of Finance must be obtained for claims between \$10,000 and \$50,000. Claims above this amount generally are introduced as separate bills requiring special appropriation by the Legislature. Special fund agencies (with the exception of the Department of Transportation which investigates, litigates and pays its own claims) reimburse the General Fund for payments made under the program on their behalf.

ANALYSIS AND RECOMMENDATIONS

The proposed 9.9 percent decrease in this item is primarily attributable to the elimination of the tort liability premium. The budget also reflects a \$1,212,030 savings (\$252,030 in 1976-77 and \$960,000 in 1977-78) that was previously allocated for insurance premiums. In past years, reimbursements reflected special fund contributions toward the insurance premium. They no longer appear because this coverage has been eliminated. Table 1 shows the funding and proposed expenditures for the tort liability program.

Table 1
Budget Summary
Administration and Payment of Tort Liability Claims

	<i>Estimated 1977-78</i>	<i>Proposed 1978-79</i>	<i>Change from Current Year</i>	
			<i>Amount</i>	<i>Percent</i>
<i>Funding</i>				
General Fund	\$2,197,084	\$1,978,711	\$-218,373	-9.9%
<i>Program</i>				
Attorney General	\$1,512,084	\$1,628,711	\$116,627	7.7%
Board of Control ^a	(41,000)	(43,500)	(2,500)	(6.1)
Claims	685,000 ^b	350,000	-335,000	-48.9
Total	\$2,197,084	\$1,978,711	\$-218,373	-9.9%

^a Board of Control administrative expenses are included in claims funds.

^b Includes funding of three claims, totaling \$335,000, appropriated by the Legislature in the current year.

Workload

Table 2 shows total tort claims workload (excluding Caltrans) from fiscal year 1971-72 through fiscal year 1976-77. Since 1971-72 there have been increasing numbers of claims, claims payments and administrative costs. Because of accounting procedures which allow claims filed in one fiscal year to be paid up to two years after the original appropriation, claims payments shown for fiscal years 1975-76 and 1976-77 may not reflect settlement of all claims filed during those years. For example, a claim filed in 1976-77 but not resolved until 1979 would be paid from the 1976-77 account. Amounts identified as total claims payments include both General Fund and special fund appropriations. Claims may be paid in several ways. For example, Board of Control "allowances" include payments (usually under \$10,000) out of the \$350,000 account appropriated in this item to the Department of Justice. Settlements and judgments administered by the Attorney General also include payments from the \$350,000 account as well as special appropriations to the Department of Justice for individual tort claim settlements. Administrative costs include services provided by the Attorney General for both special fund and General Fund agencies, investigator time, and services provided by the Board of Control.

ADMINISTRATION AND PAYMENT OF TORT LIABILITY CLAIMS—Continued

Table 2
Summary of Tort Claims Activity
(Excluding Department of Transportation)

	1971-72	1972-73	1973-74	1974-75	1975-76	1976-77
Attorney General tort files created ^a	700	824	995	1,288	1,461	1,536
Percent change in files from prior year	—	18%	21%	29%	13%	5%
Board of Control allowances	\$47,904	\$72,893	\$28,593	\$74,309	\$96,877	\$52,644
Attorney General administered settlements and judgments.....	\$462,737	\$764,039	\$1,312,395	\$2,136,287	\$1,951,010	\$669,394
Total claims payments	\$510,641	\$836,932	\$1,340,988	\$2,210,596	\$2,047,887	\$722,038
Percent change in awards from prior year	—	64%	60%	65%	—7%	—65%
Administrative costs	\$364,064	\$542,253	\$764,111	\$969,297	\$1,185,737	\$1,705,528
Percent change in costs from prior year	—	49%	41%	27%	22%	44%

^a These files include tort claims filed with the Board of Control.

Need More Comprehensive Budget Format

We recommend that the Department of Finance, in cooperation with the Department of Justice, the State Board of Control, and Caltrans develop a new budgetary display for the tort item beginning in the 1979-80 budget to reflect more completely, the administrative costs and claims activity attributable to tort claims.

Although the Department of Justice prepares an annual report summarizing its role in tort claims, settlements and judgments, no agency prepares a single report summarizing in a comprehensive manner all components of the state's tort liability program. Such information should be provided in the Governor's Budget.

A comparison of Table 2 with current and past budget documents reveals several problems in tort claims activity. First, the tort item as shown in the budget reflects only those Attorney General services provided to General Fund agencies. When the Attorney General acts on behalf of a special fund client, the agency is billed at the Attorney General's hourly billing rate (\$39.80 proposed in the budget year). However, these special fund services are not reflected in the tort item, but are shown instead as reimbursements in the Department of Justice budget.

Second, the Board of Control's administrative costs are not separately identified. We question the appropriateness of paying administrative expenses from the claims payment item.

Third, the level of claims activity, by fiscal year, is not clearly identified. Comparison of the Department of Justice's summary of tort claims payments during 1976-77 differs by \$150,772 from the figure which can be derived from the Governor's Budget. The Department of Justice's accounting office currently summarizes claims payments on a quarterly basis. However, this report serves an accounting function rather than a summary of claims activity because it includes such items as payments against accounts from two preceding years. Similarly, the mechanism of payment is not clearly identified because the report is primarily concerned with whether the payment was from the General Fund or a special fund.

A further reporting complication is the nonexistence of summary data, collected by one agency, which also include the considerable tort claims activity (payments of \$819,000 in fiscal year 1976-77) of the Department of Transportation. We therefore believe the Department of Finance should summarize in the Governor's Budget all elements of the tort liability program. This would make it unnecessary for the Legislature to assemble cost and workload data from four principal sources (Departments of Finance and Justice, Board of Control and Caltrans).

ADMINISTRATION AND PAYMENT OF TORT LIABILITY CLAIMS—Continued**Need Clear Policy Guidelines**

We recommend that the Department of Finance, in cooperation with the Department of Justice, Board of Control, and Caltrans, implement clear policy guidelines regarding tort claims review and payment.

The division of tort claims responsibility between the Departments of Finance and Justice, the Board of Control and Caltrans, causes a number of problems in addition to those affecting the budgetary summary discussed above. For example, during the 1977 legislative session the Board of Control included a \$750 tort claim for payment from the General Fund in the Omnibus Claims Bill. Following a review of the bill by our office, we questioned the precedent of paying this particular claim in light of the findings of an accident investigation following the incident involved. Subsequent to the publication of our bill analysis on June 29, 1977, it was discovered that the claimant had been paid by the Department of Justice on February 14, 1977. It appears that the claimant would have received duplicate payment had the claim gone unquestioned during legislative consideration.

Several problems have come to our attention regarding tort claims review and payment. First, there are no clear guidelines for handling the payment of claims. A control mechanism preventing possible duplicate payments does not exist. In addition, there is no clear policy which defines the use of bills for claims settlements. The Department of Finance generally uses \$50,000 as the minimum amount requiring legislative review. We believe this policy should be clearly articulated in the State Administrative Manual, including specification of which agency shall administer settlement payments approved by the Legislature. Currently, several departments including the Departments of Finance and Justice administer these special claim appropriations.

Second, Caltrans has significant tort claims activities as previously discussed. However, the review and payment process followed by the department is not clearly defined as it relates to other state agencies. Pursuant to Chapter 1106, Statutes of 1977, Caltrans will be subject to legislative budget review and State Administrative Manual guidelines for the first time beginning in the 1978-79 fiscal year. We believe it is consistent with this legislative mandate to specify clear policy guidelines for the review and payment of tort claims by the department.

Finally, we believe that current payment practices sometimes appear to violate existing law. Specifically, the Board of Control is empowered to authorize agencies to settle claims not to exceed \$1,000. The board has given such authorization to the Attorney General. Claims settlements above this amount are not specifically delegated. However, if the Attorney General settles a claim above \$1,000 which the board previously denied, the board generally is not advised regarding the basis of the claim, the amount of the settlement, or the claimant's agreement as required by law. The Department of Finance should address this issue in developing clear policy guidelines for tort payment.

We believe that the increasing volume of tort claims and the discontinu-

ance of tort liability insurance require clear policy guidelines defining the precise roles of each of the responsible agencies for both claims review and payment.

PAYMENTS FOR COURT AWARDED ATTORNEY FEES

Items 395-396 from the General
Fund

Budget p. 1080

Requested 1978-79	\$1,002,333
Estimated 1977-78.....	None
Requested increase \$1,002,333	
Total recommended reduction	\$1,002,333

1978-79 FUNDING BY ITEM AND SOURCE

Item	Description	Fund	Amount
395	<i>Serrano v. Priest</i> Attorney Fees	General	\$968,000
396	<i>Mandel v. Hodges</i> Attorney Fees	General	34,333
			<hr/> \$1,002,333

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

Analysis
page

1. *Mandel v. Hodges*. Reduce Item 396 by \$34,333. Recommend deletion consistent with prior legislative action. 1042
2. *Serrano v. Priest*. Reduce Item 395 by \$968,000. Recommend deletion because total award is not directly related to actual costs. 1043
3. Legislative Policy on Attorney Fees. Recommend Legislative Counsel, in cooperation with the Office of Attorney General and the Judicial Council, report on the potential impact of Chapter 1197, Statutes of 1977, on the award of attorney fees and the development of standards for determining actual litigation costs. 1046

GENERAL PROGRAM STATEMENT

This item, new in the budget year, provides funds for the payment of court awarded attorney fees to plaintiffs who successfully litigate complaints against the state. In previous years, these fees have been reviewed by the Legislature as a component of the Board of Control's Omnibus Claims Bill, or as a separate bill.

ANALYSIS AND RECOMMENDATIONS

The budget proposes a state appropriation totaling \$1,002,333 to pay court awarded attorney fees in two cases: (1) *Serrano v. Priest* which challenged California's system of school finance and (2) *Mandel v. Hodges* which challenged the Governor's 1973 order closing state offices for two hours on Good Friday. Both cases include interest assessments, computed at an annual rate of 7 percent, from the date of the trial court judgment

PAYMENTS FOR COURT AWARDED ATTORNEY FEES—Continued

until the date of estimated payment. The attorney fees plus interest charges are summarized in Table 1.

Table 1
Court Awarded Attorney Fees
Serrano v. Priest* and *Mandel v. Hodges

	Court Awarded	Interest	Total
<i>Serrano v. Priest</i>	\$800,000	\$168,000 ^a	\$968,000
<i>Mandel v. Hodges</i>	25,000	9,333 ^b	34,333
Total	\$825,000	\$177,333	\$1,002,333

^a Interest assessment from August 1, 1975 to August 1, 1978.

^b Interest assessment from April 6, 1973 to August 6, 1978.

Previous Legislative Denial

We recommend deletion of \$34,333 in Item 396 for attorney fees awarded in the Mandel v. Hodges case because the Legislature already has considered and rejected this claim.

The *Mandel v. Hodges* case was filed on behalf of Ms. Shelly Mandel who asserted that she should be given time off with pay on Yom Kippur in order to "freely exercise" her religion. However, rather than ruling on this issue, the court ruled that state offices could not be closed by order of the Governor for two hours on Good Friday. Even though Ms. Mandel lost the case that her attorneys filed in her behalf, the court awarded attorney fees of \$25,000 to Richard M. Kaplan and Ephraim Margolin and stipulated the accrual of interest at an annual rate of 7 percent from the date of the judgment. The claim of attorneys Kaplan and Margolin was included in the Board of Control's Omnibus Claims Bill, Chapter 314, Statutes of 1977.

In our analysis of the claims bill dated February 18, 1977, we recommended against payment and noted the following:

(1) In the absence of a controlling statute or an agreement between the parties, attorney fees are generally not awarded to successful litigants in American courts. (There was no express or implied agreement relative to attorney fees in this case.)

(2) This was the first case in which attorney fees would be awarded against the state without specific statutory authority.

(3) The fee awarded by the court represented an attorney charge of \$83 an hour compared to 1977 charges by the Office of the Attorney General of \$33.10.

(4) There was reason to question the number of attorney hours that were awarded for payment by the court. (The court did not review the total number of hours spent preparing and trying the case, the manner in which the time was spent or the attorneys' normal billing rates.)

This case did not involve a formal trial. Court time consisted solely of arguing a brief during one afternoon. The Office of the Attorney General indicated that a reasonable amount of time spent by the claimants on this case would be about one week, or 80 hours for both attorneys.

(5) The case was appealed and the attorneys awarded an additional \$75,000 for their work at the appellate level. The Attorney General cur-

rently is appealing the award of attorney fees on appeal. In the event the Attorney General is unsuccessful on appeal, the Legislature will be asked to appropriate additional attorney fees for this case.

During hearings conducted on the claims bill by both the Assembly Ways and Means and Senate Finance committees this claim was debated and deleted. Having been deleted in both houses, the claim was not included for payment when the Governor signed the claims bill on July 11, 1977.

We continue to recommend against payment of these attorney fees. More importantly, we believe the Legislature has clearly articulated its decision on payment of court awarded attorney fees in this case. We therefore recommend deletion of \$34,333 in Item 396 consistent with prior legislative action.

Serrano v. Priest

We recommend deletion of \$968,000 in Item 395 for attorney fees awarded in the Serrano v. Priest case because the total award is not directly related to the attorneys' actual costs.

Background. The plaintiffs in Serrano were a group of Los Angeles County public school children and their parents who brought a class action suit in 1968 for declaratory and injunctive relief against state and county officials who were charged with administering the financing of the California public school system. On April 14, 1975, the Superior Court for the County of Los Angeles awarded \$800,000 in attorney fees to be shared equally by the Serrano attorneys: the Western Center on Law and Poverty and Public Advocates, Inc. The court clearly specified that this award of fees is to be remitted to the account of the nonprofit organizations by whom the attorneys were employed and will not accrue as a benefit to the individual attorneys. This fee award was appealed to and confirmed by the California Supreme Court. The Governor's Budget has included \$968,000 to comply with the court's decision to award attorney fees against the state in this case.

Basis of Award. In the Superior Court's document entitled "Findings of Fact and Conclusions of Law Concerning the Award of Attorneys' Fees" the court details the factors taken into consideration in deciding to award attorney fees to the Serrano attorneys. Table 2 summarizes the number of attorney hours expended by the Serrano attorneys, and the court's estimate of reasonable hourly rates.

Table 2
Court's Determination of
Attorney Hours and Reasonable Hourly Rates
Serrano Attorneys

	<i>Hours</i>	<i>Hourly Rates</i>	<i>Total Cost</i>
Public Advocates, Inc.			
Wolinsky	1,309.5	\$150	\$196,425
Kline	90.25	150	13,538
Chandler	104	50	5,200
Lock	300	35	10,500

PAYMENTS FOR COURT AWARDED ATTORNEY FEES—Continued

Western Center			
McDermott	2,966	60	177,960
Ochi	2,110	40	84,400
Levine	195	60	11,700
Soven	373	60	22,380
Edelman.....	140	60	8,400
Binder.....	70	60	4,200
Levy	104	60	6,240
Lock	150	35	5,250
Law Students	1,240	20	24,800
Total	9,151.75		\$570,993

There are several problems associated with the court's accounting of attorney hours. First, there is a discrepancy of \$229,007 between the court's award (\$800,000 plus interest) and the total cost as set forth in the court's findings shown in Table 2. There is no explanation given for the derivation of this additional monetary award other than the court's discussion of the significance of the Serrano case. Second, no explanation is given as to how the attorney hours were derived. We have been unable to ascertain whether these are estimates or summaries of actual time reporting records. Third, it is our understanding that law student time largely was donated rather than compensated for on a monetary basis by the attorneys. Fourth, the court employed a "reasonable hourly rate" for each attorney, despite the fact each attorney was drawing a full salary at the time of his involvement in the case.

Table 3, summarizing hourly billing rates for special fund clients utilized by the Attorney General since fiscal year 1968-69, offers some comparative rates utilized by the Department of Justice to recover actual costs. A comparison of the two tables indicates that the court's conception of a "reasonable rate" was substantially higher than that utilized by the Attorney General over a comparable period.

Table 3
Attorney General Hourly Billing Rate
Special Fund Clients

<i>Year</i>	<i>Rate</i>
1968-69	\$16.50
1969-70	17.50
1970-71	19.50
1971-72	21.00
1972-73	21.50
1973-74	23.75
1974-75	29.00
1975-76	32.50
1976-77	33.10
1977-78	37.20

Finally, we fail to understand the court's logic in awarding equal fees to Public Advocates, Inc., and the Western Center. Public Advocates, Inc., expended 1,803.75 hours in the case compared to 7,348 hours contributed by the Western Center, a difference of over 300 percent.

Serrano Attorneys. Both the Western Center for Law and Poverty and

Public Advocates, Inc., are public interest law firms which do not accept fees from their clients. Public Advocates, Inc., is principally funded by foundations and is tax exempt. According to the court's "Findings of Fact and Conclusions of Law", Public Advocates, Inc., has been funded by foundations to demonstrate the feasibility of financing public interest law practice through recovery of court-awarded attorney fees. Therefore, fees are sought whenever appropriate. From its inception in 1971 until the date of the court's findings, Public Advocates, Inc. has received fees in only two cases.

The Western Center for Law and Poverty is directly funded by the federal government's Legal Services Corporation, which provides financial support to programs offering legal assistance in noncriminal proceedings to low-income persons. The corporation's budget for 1977 was \$125 million. Thus, each of the Western Center's attorneys was drawing a government-supported salary at the time of the litigation.

It is important to note that none of the parents who brought the class action suit against the state has paid fees for the services of either Public Advocates, Inc., or the Western Center.

Policy Issues

Public Support. The California Supreme Court, in its decision regarding the award of attorney fees, concluded that the eligibility of plaintiffs' attorneys for award of fees was not affected by (1) the fact that plaintiffs were under no obligation to pay fees or (2) that plaintiffs' attorneys received funding from charitable or public sources. However, the court noted further that the factor of public or foundational support may properly be considered in determining the size of the award. It is interesting to speculate on the size of the fee that the court might have awarded in the absence of such support.

The Legislature may wish to consider the policy question of appropriating state monies for attorney fees when the attorneys in question were drawing their normal salaries (paid by the federal government and private foundations) during the course of litigation. In the case of the Western Center award, the Legislature is being asked to appropriate state tax dollars for activities which already have been financed by federal tax dollars. Thus, the taxpayers of California would have to pay for attorney fees that they have already helped pay for in their capacity as federal taxpayers.

We believe the Legislature is in effect being asked to pay attorney fees in a successful publicly-supported challenge of state procedures, in order to finance future litigation which may not be successful or ancillary activities such as fund raising and administration.

Actual Costs. Documents filed in the case of *Consumers Union of United States, Inc., et al v. California State Board of Pharmacy* help to analyze the issue of actual cost reimbursement. Public Advocates, Inc., worked with Consumers Union in this case. In answers and responses to interrogatories dated December 15, 1977, information was provided regarding the 1975-77 hourly rate of Public Advocates, Inc., Table 4 illustrates how this rate is derived. If annual expenses are divided by total

PAYMENTS FOR COURT AWARDED ATTORNEY FEES—Continued

compensable attorney hours, the resulting hourly rate is \$64.91. However, if annual expenses are divided by *total* attorney time, including such public advocate activities as fund raising and administration which are not compensable, the average hourly cost per attorney hour drops to \$23.60.

The policy issue, as we see it, is whether the state should be asked to pay actual costs associated with the litigation of a particular case, or a higher rate which would also cover nonlitigation-related activities. If the Legislature wishes to reimburse the attorneys in the Serrano case, we believe it should consider reimbursing only for the actual costs (documented by standard accounting procedures) associated with a suit, rather than the total costs associated with operating a legal services office.

Table 4
Public Advocates Hourly Rate
1975-77

(a) Average attorney hours per week	55
(b) Average hours in non-litigation activity such as fund raising and administration	(35)
(c) Total compensable activity	(20)
(d) Average attorney weeks per year	50
(e) Average number of compensable hours per attorney per year (d times c)	1,000
(f) Average total number of attorney hours per year (a times d)	2,750
(g) Average number of attorneys.....	6
(h) Average annual expenses.....	\$389,466
(i) Average hourly cost per hour of attorney time billed (h) divided by (e times g) ..	\$64.91
(j) Average hourly cost per attorney hours (h) divided by (f times g)	\$23.60

Without regard to the factual issues of the Serrano case, we believe it is inappropriate for the Legislature to be asked to appropriate \$968,000 for attorney fees which (1) greatly exceed the actual costs of litigation, (2) reimburse publicly-supported organizations, (3) are equally divided between two organizations which did not work equally on the case, and (4) are awarded without a specific statutory authorization. We therefore recommend deletion of \$968,000 in Item 395.

Need Legislative Policy on Court-Awarded Attorneys' Fees

We recommend that the Legislature direct the Legislative Counsel, in cooperation with the Office of the Attorney General and the Judicial Council, to (1) analyze the potential impact of Chapter 1197, Statutes of 1977, on state and local governments, (2) develop standards for determining actual costs incurred by attorneys and (3) examine the feasibility of establishing a maximum ceiling for fees awarded in public interest cases, and report to the Joint Legislative Budget Committee and appropriate policy and fiscal subcommittees by November 1, 1978.

Historically, the generally accepted rule regarding award of attorney fees is that (1) without a statute to the contrary, attorney fees are not chargeable against the losing party and (2) the right to fees is a contractual one between the attorney and his client. The Legislature has provided for attorney fees in those situations where it has deemed that public policy and the public interest mandate such awards. For example, the Legislature has delegated the award of fees to the discretion of the trial court in

cases involving the refusal of nonadmitted foreign or alien insurers to pay claims in accordance with terms of a contract. In Government Code Section 800, the Legislature has limited the plaintiff's right to recover fees to those cases "where he is personally obligated to pay such fees." Fees of this type may not exceed a maximum of \$1,500.

Recent Legislation Needs Fiscal Analysis. During the last session, the Legislature enacted Chapter 1197, Statutes of 1977, which substantially altered previous legislative policy regarding award of attorney fees. This measure, chaptered October 1, 1977, was never reviewed by the Legislature's fiscal committees because the Legislative Counsel's digest indicated it had no fiscal impact.

Specifically, the act:

1. Authorizes the award of attorney fees to a successful party in any action which has resulted in the enforcement of an important right affecting the public interest, if:
 - a. Significant benefit has been conferred on the general public or a large class of persons,
 - b. The necessity and financial burden of private enforcement make the award appropriate, and
 - c. Such fees should not in the interest of justice be paid out of the recovery.
2. Allows fees to be awarded against public entities but prohibits such collections by public bodies.
3. Specifies that a claim for attorney fees need not be filed prior to the filing of the case at issue.
4. Disclaims any costs mandated for local governments.

While it is our understanding that Chapter 1197, Statutes of 1977, does not apply retroactively to *Serrano v. Priest* and *Mandel v. Hodges*, we believe that its fiscal and policy implications for state and local governments are considerable. We therefore recommend that the Legislature direct the Legislative Counsel, in cooperation with the Office of the Attorney General and the Judicial Council to (1) analyze the potential impact of Chapter 1197, Statutes of 1977, on state and local governments, (2) develop a standard detailing the appropriate cost components of court-awarded attorney fees to be considered by the Legislature, and (3) examine the feasibility of establishing a maximum ceiling for attorney fees awarded in public interest cases, and report its findings to the Joint Legislative Budget Committee and appropriate policy and fiscal subcommittees by November 1, 1978.

BOARD OF CONTROLItem 397 from the General
Fund

Budget p. 1081

Requested 1978-79	\$416,242
Estimated 1977-78.....	400,279
Actual 1976-77	292,516
Requested increase \$15,963 (4.0 percent)	
Total recommended reduction	None

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS*Analysis
page*

1. Budget Program Display. Recommend program identification beginning in the 1979-80 Governor's Budget. 1050
2. Merit Award Eligibility. Recommend management employees be ineligible for awards. Further recommend board adopt eligibility criteria on basis of management/nonmanagement rather than existing supervisory/nonsupervisory personnel distinction. 1050
3. Award Maximum. Recommend reestablishment of a \$10,000 maximum award on basis of 10 percent of net first-year savings. 1051
4. Total Suggestion Costs Unknown. Recommend Merit Award Board estimate department staff time committed to merit award program and report findings to the Joint Legislative Budget Committee and appropriate policy and fiscal subcommittees by December 1, 1978. 1052

GENERAL PROGRAM STATEMENT

The Board of Control administratively adjudicates all claims for money or damages against the state. These claims relate to such matters as tort liability, equity, local mandated costs, good samaritan acts and losses resulting from crimes of violence. The board also reviews numerous fiscal transactions, including discharge of accounts receivable by the state, refunds, credits and cancellation of taxes, sale and disposal of unclaimed property and transfer of funds between state agencies. It also determines the pro-rata share of statewide administrative costs payable by each state agency, per diem rates for state employees on travel status, and rules on employee travel claims.

Funds are included in this item for the statewide suggestion system administered by a five-member Merit Award Board which acts in an advisory capacity to the Board of Control. Activities of this program include establishing merit standards and policies, reviewing suggestion evaluations, and recommending certificate and monetary awards for state employees to the Board of Control.

ANALYSIS AND RECOMMENDATIONS

The board is proposing a General Fund expenditure of \$416,242, which is \$15,963 or 4.0 percent above the current General Fund support level. This increase is largely attributable to price inflation and an increase of \$8,266 in travel expenses directly related to board hearings. The board's administrative costs for processing claims of violent crime victims are identified as reimbursements under this item. Direct support for the Victims of Violent Crimes and Good Samaritan programs is included in the budget for Indemnification of Private Citizens (Items 398-399).

Consolidation of both of these programs under the Board of Control was accomplished January 1, 1978, as authorized by Chapter 636, Statutes of 1977. Previously, the Attorney General investigated all claims to determine their validity. The Department of Justice transferred 25 positions (20 claims specialists and 5 office assistants) to the board for this verification process, which will now be performed in three field offices located in Sacramento, San Francisco, and Los Angeles. These positions have not been reflected as new positions nor as reimbursements in the board's budget for the 1978-79 fiscal year.

Table 1 illustrates the board's proposed funding and expenditures for the budget year. The decrease in personnel-years reflects a reduction in administratively established positions assigned to local mandated cost claims review.

Table 1
Board of Control
Budget Summary

<i>Funding</i>	<i>Estimated 1977-78</i>	<i>Proposed 1978-79</i>	<i>Change From Current Year</i>	
			<i>Amount</i>	<i>Percent</i>
General Fund	\$400,279	\$416,242	\$15,963	4.0%
Reimbursements	310,568	310,568	-	-
Total expenditures	\$710,847	\$726,810	\$15,963	2.2%
Personnel-years	29.3	28.3	-1	-3.4%

The number of claims and merit award suggestions received by the board continues to rise annually. The projected workload of the board, as measured by claims and suggestions received, is shown in Table 2.

Table 2
Board of Control
Workload Measures

	<i>1976-77</i>	<i>1977-78 (est.)</i>	<i>1978-79 (est.)</i>
Victim and Good Samaritan claims	5,526	6,189	7,427
Government claims	6,148	7,562	9,301
Suggestions	3,413	3,754	4,129
Total	15,087	17,505	20,857

The government claims program, the board's largest, has grown steadily since fiscal year 1971-72 as shown in Table 3. Claims approved in this process are presented to the Legislature in the board's Omnibus Claims Bill.

BOARD OF CONTROL—Continued

Table 3
Board of Control
Government Claims Program
Claims Received

<i>Fiscal Year</i>	<i>Number</i>	<i>Percent increase from prior year</i>
1971-72	2,483	-
1972-73	3,284	32%
1973-74	3,428	4
1974-75	4,419	29
1975-76	4,581	4
1976-77	5,776	26
1977-78 (est.)	7,220	25
1978-79 (est.)	9,025	25%

Need New Budget Program Display

We recommend that Board of Control programs, including indemnification of private citizens, government claims, local mandated cost claims, and the Merit Award Board, be identified separately beginning in the 1979-80 Governor's Budget.

Pursuant to Resolution Chapter 92, Statutes of 1977, we analyzed the state's merit award system administered by the Board of Control and compared it to similar employee suggestion programs in the public and private sectors. Our report, "A Comparative Review of California's Merit Award Program," dated October 1977, noted that the merit award portion of the Board of Control budget historically has not been identified in the Governor's Budget as a separate program. This lack of definition makes it difficult to analyze the personnel and operating expense components of the merit award program. The Department of Finance advised us at the time this report was being prepared that the merit award program could be identified separately beginning with the 1979-80 Governor's Budget.

The problem of identifying personnel and operating expenses associated with the board's programs is not limited to the suggestion system but applies equally well to the following components of the board's activities: indemnification of private citizens, government claims, and local mandated cost (SB 90) claims review. The failure to reflect 25 new positions and accompanying reimbursements in this year's Governor's Budget illustrates the problem of identifying the personnel and operating costs of individual programs administered by the board. We therefore recommend that indemnification of private citizen awards, government claims, local mandated cost claims and merit awards be identified as separate Board of Control programs beginning in the 1979-80 Governor's Budget. This identification should include output data, personnel requirements and operating expenses for each program.

Management Eligibility for Merit Award

We recommend that the Merit Award Board no longer allow management employees to be eligible for awards.

We further recommend that the board utilize Personnel Board Rule 546 to delineate management/nonmanagement employees for merit award

eligibility rather than the existing supervisory/nonsupervisory personnel distinction.

In the course of comparing the state's merit award system with similar employee suggestion programs in the public and private sectors, as discussed earlier, we focused particular attention on policies concerning awards to supervisory employees. Currently, state supervisory employees may receive cash awards for adopted suggestions which are not within the scope of their "normal job responsibilities" or in instances where they "directly assist" an employee with development of a suggestion that subsequently is adopted. It is difficult to determine which positions in state service should be considered "supervisory" because agencies differ in the way they utilize various employee classifications.

Our review of private sector policies on this issue revealed that, generally, a distinction is made between line staff and "management" for participation eligibility, as opposed to line personnel and "supervisors" which is the focus of the state's participation guidelines.

A distinction between management and nonmanagement employees would appear to eliminate much of the current confusion regarding participation eligibility for the state's merit award program. Currently, the state is developing a means of distinguishing line staff from management as a result of Personnel Board Rule 546, which requires each department to delineate its management and nonmanagement staff for collective bargaining purposes. Departments will be making these determinations no later than July 1, 1978. Adoption of a management/nonmanagement distinction would make the state program more comparable to practices prevailing in the private sector and eliminate current inconsistencies in the definition of a supervisor.

Maximum Payment Limit Needed

We recommend that a \$10,000 maximum award be reestablished on the basis of 10 percent of the net first-year savings.

Currently, the Merit Award Board makes awards on the basis of 10 percent of the net first-year savings with no limit on the amount of the award. In previous years, a \$10,000 maximum was in effect. The National Association of Suggestion Systems recommends the establishment of a maximum award. Award maximums also appear to provide some legal protection for the organization in the event of a law suit. Table 4 illustrates the range of maximum awards currently allowed by selected states and corporations.

Table 4
Maximum Award Limits
Public and Private Suggestion Systems

<i>Entity</i>	<i>Award Limits</i>
State of Maryland.....	\$5,000
Commonwealth of Pennsylvania.....	10,000
State of Washington.....	300
IBM.....	75,000
Del Monte.....	20,000
RCA.....	15,000
Western Electric.....	10,000

BOARD OF CONTROL—Continued

Because of the broad range of maximum award limits in the public and private sectors and the potential legal liability to the state if a clear maximum award level is not adopted, we recommend that a \$10,000 maximum award be reestablished on the basis of 10 percent of the net first-year savings.

Suggestion Costs Unknown

We recommend that the Merit Award Board implement procedures to estimate departmental staff time committed annually to the merit award program and report its findings to the Joint Legislative Budget Committee and appropriate policy and fiscal subcommittees by December 1, 1978.

The director of each state agency designates an employee to be responsible for the department's merit award program. The staff of the Merit Award Board works directly with these departmental coordinators. However, no data have been gathered summarizing the time commitment, in personnel-years, expended by departmental staff in administering the program. An accurate cost-benefit evaluation of the merit award program requires information on its total administrative cost. We recommend that the board implement procedures to estimate departmental staff time committed, on an annual basis, to the merit award program and report its findings to the Joint Legislative Budget Committee and appropriate policy and fiscal subcommittees by December 1, 1978.

INDEMNIFICATION OF PRIVATE CITIZENS

Items 398-399 from the General

Fund and Indemnity Fund

Budget p. 1082

Requested 1978-79	\$8,356,475
Estimated 1977-78.....	8,032,075
Actual 1976-77	6,000,013
Requested increase \$324,400 (4.0 percent)	
Total recommended reduction	\$25,000

1978-79 FUNDING BY ITEM AND SOURCE

Item	Description	Fund	Amount
398	Indemnification of Private Citizens	General	\$7,927,678
399	Indemnification of Private Citizens	Indemnity	428,797
			<u>\$8,356,475</u>

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONSAnalysis
page

1. *Overbudgeting.* Reduce Item 398 by \$25,000. Recommend funding level be adjusted to reflect reduced claim activity.

1054

GENERAL PROGRAM STATEMENT

This item, which is administered by the Board of Control, consists of two programs. The first, Victims of Violent Crimes program, provides compensation to California residents who sustain serious financial hardship as victims of crimes of violence or are financially dependent upon a victim. The second, the Good Samaritan program, compensates California citizens who sustain injury or damage to property as a result of acts benefiting the public. Under the provisions of Chapter 1144, Statutes of 1973 (effective July 1, 1974), total recovery for victim claims may not exceed \$23,500, including a maximum of (a) \$10,000 for lost wages, (b) \$10,000 for medical expenses, (c) \$3,000 for rehabilitation, and (d) \$500 for attorney fees. A maximum award of \$5,000 is available to cover losses incurred by citizens benefiting the public.

Consolidation of both of these programs under the Board of Control was accomplished January 1, 1978, as authorized by Chapter 636, Statutes of 1977. Previously, the Attorney General investigated all claims to determine their validity. This verification process now will be performed by Board of Control staff in three field offices located in Sacramento, San Francisco, and Los Angeles.

Although the General Fund is primarily responsible for the support of these programs, the annual appropriation is partially offset by fines levied on the perpetrators of violent crimes and penalty assessments levied on individuals convicted of any other felony or misdemeanor. The collection of penalty assessments (\$5 for misdemeanors and \$10 for felonies) in the budget year results from the passage of Chapters 521, 1122 and 1123, Statutes of 1977. New receipts from fines and penalty assessments, estimated at \$428,797 for the budget year, are deposited in the Indemnity Fund (Item 399) but transferred to the General Fund for support. The increase in the Indemnity Fund for the budget year has resulted in a slight decrease in General Fund support.

ANALYSIS AND RECOMMENDATIONS

As shown in Table 1, the Governor's Budget proposes a net increase of \$324,400 or 4.0 percent above the current support level, reflecting continued growth in the number of compensation claims filed. Anticipated savings from consolidation of claims verification under the Board of Control have not materialized to the extent originally estimated. The board maintains this is a result of larger than anticipated start-up costs, particularly for remodeling office space in Los Angeles. Board of Control services for the budget year include the salaries and operating expenses of 25 new positions (20 claims specialists and 5 office assistants) transferred from the Department of Justice for the verification process. These positions inadvertently have not been reflected in the Board of Control budget (Item 397).

Also, a \$60,000 appropriation is erroneously included in Item 398. The money was actually appropriated to the State Controller by Chapter 1123, Statutes of 1977, for costs incurred by local agencies in connection with the victim program.

Table 2 illustrates the increased workload experienced by the Victims

INDEMNIFICATION OF PRIVATE CITIZENS—Continued

of Violent Crimes program since fiscal year 1974-75. The total dollars awarded increased 260.3 percent since 1974, while the average award increased by 3.5 percent over the same period.

Table 1
Budget Summary
Indemnification of Private Citizens

<i>Funding</i>	<i>Estimated 1977-78</i>	<i>Proposed 1978-79</i>	<i>Change From Current Year</i>	
			<i>Amount</i>	<i>Percent</i>
General Fund	\$8,001,663	\$7,927,678	\$-73,985	-1.0%
Indemnity Fund	30,412	428,797	398,385	1,310.0
Total	\$8,032,075	\$8,356,475	\$324,400	4.0%
<i>Program</i>				
Claims—Victims of Crimes	\$7,112,845	\$7,437,245	\$324,400	4.6%
Claims—Victims benefiting the public	50,000	50,000	-	-
Attorney General expenses ^a	320,000	-	-320,000	-100.0
Board of Control expenses	549,230	869,230 ^b	320,000	58.3
Total	\$8,032,075	\$8,356,475	\$324,400	4.0%

^a Represents six months cost. Program transferred to Board of Control 1-1-78.

^b Includes salaries for 25 new positions transferred from the Attorney General.

Table 2
Workload Data ^a
Victims of Crimes Program

	<i>1974-75</i>	<i>1975-76</i>	<i>1976-77</i>	<i>Percentage Change</i>
				<i>1974-75 to 1976-77</i>
New Claims ^b	3,792	4,932	5,526	45.7%
Denied	659	2,452	2,665	304.4
Allowed	763	1,468	2,656	248.1
Percent of processed claims allowed ..	53.7%	37%	49.9%	-7.1
Amount awarded	\$1,418,540	\$2,603,736	\$5,110,524	260.3
Average award ^c	\$1,859	\$1,773	\$1,924	3.5%

^a The number of claims allowed and denied do not equal new claims because of processing backlogs.

^b New claims include only those claims which meet the program's criteria for possible award. Additional claims are received but cannot be accepted when, for example, the claimant is not a California resident.

^c Includes attorney fees.

Good Samaritan Program Overbudgeted

We recommend that funding for citizens benefiting the public (Good Samaritan program) be reduced from \$50,000 to \$25,000 for a General Fund savings of \$25,000 in Item 398.

Under the Good Samaritan program, a maximum award of \$5,000 may be made to indemnify a citizen who incurs personal injury, death or damage to property in the process of (1) preventing a crime; (2) apprehending a criminal, or (3) rescuing a person in immediate danger of injury or death as a result of fire, drowning or other catastrophe. Since 1972, \$50,000 has been included annually in the Governor's Budget for the payment of such claims. Prior to that time, payment of individual claims

required legislative approval. However, with the Legislature's approval of \$23,500 as the maximum compensation under the Victims of Violent Crimes program (effective July 1, 1974), individuals who qualified for an award under either the Good Samaritan program or the Victims of Violent Crimes program have sought the higher compensation (\$23,500 compared to \$5,000) available under the latter program. Table 3 illustrates the decline in good samaritan payments since fiscal year 1972-73.

Table 3
Payment of Claims
Citizens Benefiting the Public

1972-73	1973-74	1974-75	1975-76	1976-77
\$50,267	\$25,510	\$14,163	\$21,493	\$14,296

In view of this historical trend, we believe that the Good Samaritan program is overfunded and recommend a reduction of \$25,000.

STATE BAR OF CALIFORNIA

Item 400 from the General
Fund

Budget p. 1083

Requested 1978-79	\$30,000
Estimated 1977-78.....	30,000
Actual 1976-77	None
Requested increase—None	
Total recommended reduction	None

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

The State Bar of California is a public corporation headed by a 21-member board of governors. The board consists of 15 attorney members elected by district by members of the State Bar and six nonattorney public members appointed by the Governor for a term of three years. Two nonattorney public members are appointed to the bar's examining committee by the nonattorney members.

The board may also establish disciplinary boards to determine disciplinary actions and reinstatement proceedings as provided by rule. These boards must have, in addition to attorney members, two nonattorney members appointed by the Governor to four-year terms.

The board of governors administers those provisions of the Business and Professions Code relating to the practice of law. It is empowered to make investigations of all matters affecting or relating to:

- a. The State Bar or its affairs.
- b. The practice of the law.
- c. The discipline of the members of the State Bar.

The board, through its examining committee, determines the eligibility of and examines all applicants wishing to practice law. The board certifies to the Supreme Court those applicants found qualified under state law and