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REORGANIZING GOVERNMENT: HOW DOES IT HAPPEN?

INTRODUCTION

In August 2004, the California Performance Review (CPR) proposed a sweeping reorganization of state government, as well as a number of policy changes.¹ This proposal has prompted questions about how a reorganization would actually take place. While the Governor has limited authority to initiate government change by Executive Order, major changes require legislation and formal review. This *Budget Brief* seeks to answer key questions relating to agency reorganization.²

WHAT IS AN EXECUTIVE ORDER?

An Executive Order is an edict issued by the Governor to state agencies. For example, Governor Schwarzenegger issued an Executive Order in August 2004 to begin consolidating the Stephen P. Teale Data Center and the Health and Human Services Data Center “to the maximum extent permitted by existing law.” This Executive Order also requires that a plan to “reorganize and consolidate the data centers” be submitted to the Governor by November 1, 2004.³

WHAT IS A REORGANIZATION PLAN?

State law outlines a specific process for implementing an agency reorganization. The definition of “reorganization” includes:

- The partial or entire transfer of an agency or its functions to another agency;
- The partial or entire abolition of an agency’s functions;
- The partial or entire consolidation of an agency or its functions; and/or
- The establishment of a new agency to perform some or all functions of an existing agency or agencies.⁴

Policy goals of a reorganization typically include better execution of state laws, reducing state expenditures, increasing the efficiency of state operations, consolidating and coordinating state agencies, and reducing duplication and overlap among state programs.⁵

A reorganization plan cannot, however, abolish any agency that was created by the California Constitution.⁶ These include the Legislature and Constitutional officers (Governor, Lieutenant Governor, Secretary of State, Treasurer, Controller, Attorney General, Insurance Commissioner, Superintendent of Public Instruction, and members of the Board of Equalization); the court system (including the Judicial Council, Commission on Judicial Appointments, and

Commission on Judicial Performance); the State Personnel Board; the California Citizens Compensation Commission; the University of California; the State Board of Education; the Fish and Game Commission; the Public Utilities Commission; the State Bar of California; and the California State Lottery.

WHY A REORGANIZATION PLAN?

It might seem logical that if a Governor wants to reorganize government, he or she should simply issue a series of Executive Orders. However, any major reorganization likely involves changing state law, and changes to statute must be accomplished through legislation. In addition, the formal reorganization process preserves the balance of power among the branches of government and allows for public review.

HOW DOES THE REORGANIZATION PROCESS WORK?

State law specifies an Executive Reorganization Process for any transfer of agency jurisdiction or control. The timeline for a reorganization plan is as follows:

- The Governor first submits the plan (or plans) to the Milton Marks “Little Hoover” Commission on California State Government Organization and Economy, commonly known as the Little Hoover Commission (LHC), for review. The LHC is an independent state agency that reviews agencies and programs for efficiency and effectiveness.
- The Governor may submit the plan to the Legislature 30 days after the LHC receives it.
- Each house of the Legislature refers the plan to the appropriate committee for analysis and possible advisory recommendations to the full Legislature.
- Within 30 days of the Legislature receiving the plan, the LHC must report its findings (which are advisory, not binding) to the Legislature. The LHC conducts public hearings during this period.
- On the 61st day after the Legislature receives the plan, the plan becomes effective – unless either house passes a resolution by majority vote rejecting the plan. The Legislature can only approve or reject the plan; it cannot amend the plan.⁷

CAN THE LEGISLATURE CREATE ITS OWN REORGANIZATION PLAN?

The Legislature can create a reorganization plan through legislation. This legislation, of course, must be signed by the Governor.

HAS A REORGANIZATION EVER OCCURRED BEFORE?

Since 1968, governors have submitted more than two dozen reorganization plans to the Legislature, which approved 18 of them.⁸ Some key reorganization plans approved by the Legislature over the years include:

- Establishing four agencies: Business and Transportation, Resources, Human Relations, and Agriculture and Services (Governor Ronald Reagan, 1968);
- Consolidating the Department of Mental Hygiene, the Department of Public Health, the Department of Health Care Services, and the social service functions of the Department of Social Welfare into a new Department of Health (Governor Ronald Reagan, 1973);

- Consolidating the Division of Labor Law Enforcement and the Division of Industrial Welfare into the Department of Industrial Relations (Governor Jerry Brown, 1975);
- Creating the Youth and Adult Correctional Agency (Governor Jerry Brown, 1979);
- Creating the Environmental Protection Agency (Governor Pete Wilson, 1991); and
- Merging the State Police with the California Highway Patrol (Governor Pete Wilson, 1995).⁹

The most recent agency reorganization was the creation of the Labor and Workforce Development Agency under then Governor Gray Davis in 2002. This reorganization process moved the existing Employment Development Department, Workforce Investment Board, Agricultural Labor Relations Board, and Department of Industrial Relations to the new agency. The LHC held one public hearing on the proposal before submitting its recommendations to the Legislature. The Legislature allowed the plan to go into effect and in August 2002 approved legislation addressing implementation of the plan (SB 1236, Alarcon, Chapter 859 of 2002).¹⁰

Erin Riches prepared this Budget Brief. The California Budget Project (CBP) was founded in 1994 to provide Californians with a source of timely, objective, and accessible expertise on state fiscal and economic policy issues. The CBP engages in independent fiscal and policy analysis and public education with the goal of improving public policies affecting the economic and social well-being of low- and middle-income Californians. General operating support for the California Budget Project is provided by foundation grants, individual donations, and subscriptions. Please visit the CBP's web site at www.cbp.org.

ENDNOTES

¹ The California Performance Review, *A Government for the People for a Change: Prescription for Change, A Report of the California Performance Review* (August 2004).

² "Agency reorganization" is used as a general term throughout this Brief to refer to a reorganization of agencies, departments, boards, or other state entities. For details on the CPR report, please see California Budget Project, *Soup to Nuts: An Analysis of Selected Recommendations of the California Performance Review* (August 6, 2004).

³ Governor Arnold Schwarzenegger, Executive Order S-13-04 (August 24, 2004). Consolidation of the two data centers was one of the recommendations of the California Performance Review.

⁴ Government Code Section 12080(b).

⁵ Government Code Section 12080.1.

⁶ Government Code section 12080.4(e).

⁷ Government Code sections 8523, 12080.2, and Little Hoover Commission, *Governor's Reorganization Plan Process*, downloaded from <http://www.lhc.ca.gov/lhcdir/grp1/grp1.html> on September 24, 2004.

⁸ Legislative Analyst's Office, *An Initial Assessment of the California Performance Review* (August 27, 2004), p. 13.

⁹ Legislative Analyst's Office, *An Initial Assessment of the California Performance Review* (August 27, 2004), pp. 14 and 19.

¹⁰ For more information, see California Budget Project, *Governor Davis' Proposed Labor Agency Reorganization Plan* (April 2002).