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To Faithfully Execute the Law
California's Executive Branch Agencies 1959-2003

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Internet Access

This paper is also available through the Internet at the California State Library's home page (**www.library.ca.gov**) under California Research Bureau, CRB Reports.

EXECUTIVE SUMMARY

This report began with a request from the Schwarzenegger Administration to chart the history of executive branch agencies and their role of the governor's cabinet, and to summarize evaluations of their performance. The story is gleaned from musty government documents, contemporary press accounts, and dated textbooks. It is an important story. Who has the power to make and administer policy, how decisions are made, and how access to the governor is structured, matters a lot. To paraphrase Robert Dahl, democracy is about who gets what, when and how. This is why the quest to reorganize government is a complex and politically charged activity. A non-implemented decision is not very meaningful, no matter how important the policy.

All organizations require periodic re-examination and re-evaluation to see whether they are designed to meet the challenges of a rapidly evolving society. California is not the only government to confront this task, as recent testimony from the federal Government Accounting Office underscores.[1]

> Through normal evolution and inertia over the years, the United States now has a government that is weighed down by organizations with significant performance and management problems as well as duplicative and overlapping missions and functions…the nation simply cannot afford unnecessary, redundant, or inefficient organizations, programs or operations.

In 1959, incoming Governor Edmund G. Brown inherited an unwieldy state administrative structure that had not been substantially reorganized for 30 years. Moving to improve executive branch organization was one of his first acts of office, and a commitment that continued throughout his administration. His goals were to centralize executive branch control and accountability in the governor's office by eliminating duplicative administrative units, improving performance evaluation, enhancing coordination and communication, and promoting unified policy development.[*]

The original Brown reorganization plan proposed the creation of eight agencies to oversee groups of departments related by function. Four agencies were eventually created by statute (Highway Transportation, Youth and Adult Corrections, Resources, and Health and Welfare) and four by executive order (Business and Commerce, Revenue and Management, Public Safety and Employment Relations). The four statutory agency administrators became the core of the governor's cabinet, along with the Director of Finance, during Governor Reagan's term in office. Since then, participants in the cabinet have varied somewhat according to the current governor's priorties.

The Brown "super agencies" were immediately controversial. The ongoing criticism was that they usurped the operational role of the departments through micro-management,

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[*] The Legislature shares this responsibility. A discussion of how to strengthen legislative oversight is presented in the CRB report *Legislative Oversight of the Executive Branch*, by Charlene Wear Simmons, Ph.D., at http://www.library.ca.gov/crb/02/13/02-013.pdf

were too large and expensive, and neglected their policy-making and performance evaluation responsibilities. The reorganization had elevated the power of some administrative units and their constituency interests relative to others, resulting in a continuing push for an expanded cabinet. Evaluations of the "super agencies" over a 20-year period repeat both positive and negative themes. Nevertheless, there has been a steady trend, through governorships of both parties, towards more executive branch centralization through agency control, along with ongoing efforts to shift control and/or consolidate operational functions (such as moving the State Police into the Highway Patrol). This is an inevitable and ongoing process, as governors face the challenge of governing a state as large and complex as California.

Forty years after the creation of the first agencies, the scope of their operations and the size of their staff had expanded considerably. Agency secretaries had become spokespersons for the interests of their organizations and were isolated from the governor. As a result, the agencies were at risk during the State's major revenue shortfall that began in 2001. Funding for agency operations was severely reduced in the FY 2002-2003 budget and the Trade and Commerce Agency was eliminated, its functions split up among various departments. The new Schwarzenegger administration again faces the challenge of how to best define the role of the agencies and structure decision-making in California state government's executive branch.

INTRODUCTION

THE GOVERNOR AS CHIEF EXECUTIVE

The California Constitution vests the supreme executive power of the State of California in the governor, and charges the governor with ensuring that "…the law is faithfully executed."[2] The governor's responsibility for the overall policy direction of the executive branch was affirmed by the California Supreme Court in *People ex rel. Deukmejian v. Brown* (1981), in which the governor's position prevailed over that of the attorney general. In addition to the constitutional broad delegation of power, most of the governor's authority for specific actions derives from statutes and is subject to judicial review.

The state's Constitution authorizes the governor to require executive officers and their employees to furnish information relating to their duties.[3] In addition,

> …Government Code sections 11090 and 11091 require state agencies to provide periodic reports to the governor, and Government Code sections 12010 and 12011…require the governor to 'supervise the official conduct of all executive and ministerial officers,' and to be certain 'that all offices are filled and their duties performed.'[4]

Article V, Section 6 was added to the California Constitution in 1966, and allows the legislature to grant the governor authority to "assign and reorganize functions among executive officers and their employees, other than elective officers and agencies administered by elective officers." Article 7.5 of the Government Code, enacted in 1967, gives the governor broad power to reorganize the executive branch, subject to legislative veto within 60 days of a reorganization plan's submission to the legislature.

BRIEF EXECUTIVE BRANCH HISTORY PRIOR TO 1959

California became a state in a unique and unconventional manner, never having been a territory, in response to the challenge of the gold rush. The creation of state government was likewise a "record of emergencies," not one of gradual growth: "Various State boards, commissions and departments were rapidly created to meet the demands of the new State."[5] The state's "…executive branches have [since] undergone a bewildering number of variations, expansions, reorganizations."[6] Change has been constant, responding to increasing demands for professionalism, evolving concepts of executive power and management, and the state's rapidly increasing population and responsibilities.

In general, boards and commissions were the predominant form of state government organization in the 19th century. Over time it became apparent to reformers that "…State and county institutions were run on a wasteful, political basis, and that more modern and humane services could be rendered, probably at no greater cost."[7] When the Progressives swept into state government in 1910, they focused considerable energy and attention on improving the efficiency of state government operations.

The evolution of state government's financial structure provides a good example of this historical progression. In 1856, a State Board of Examiners (consisting of the Governor, the Secretary of State and the Attorney General) was created to examine the books of the Controller and the Treasurer, and the money in the state treasury. Two years later the Board was given responsibility for "…passing upon any claims against the state for which an appropriation had been made."[8] In 1911, Governor Hiram Johnson established a State Board of Control to supervise both the operations and finances of state agencies, and the State Board of Examiners was abolished. This change consolidated power over the state's finances and operations with the governor, who appointed the new board's "at-pleasure" members"[*]

By 1919, when a major reorganization of the executive branch was begun, there were more than 120 departments, boards and commissions under the governor's responsibility. In 1921, a comprehensive reorganization plan led to the creation of a Department of Finance and other large departments. The purpose was to consolidate the Governor's control over the executive branch and to improve administrative efficiency.

In 1927, Governor C.C. Young requested legislative authorization and created a Governor's Council, composed of the governor and the directors of the 13 departments in existence at that time. The goal was to improve communications and control. By the time of Governor Pat Brown's administration, the Council numbered more than 35 members and its meetings had become"…monthly rituals designed to inform the press and public of the accomplishments and problems of state government."[9]

[*] "At pleasure" appointees may be replaced by the Governor at any time.

GOVERNOR EDMUND G. (PAT) BROWN (1959-1967)

Following the major reforms begun in the Progressive era, there were no major reorganizations of state government for 30 years until the election of Governor Pat Brown. In that time, state government had again become unwieldy, with 12 new departments and many new boards and commissions. Meanwhile the policy challenges and program responsibilities of the state had expanded considerably along with its population.

Governor Brown had been the Attorney General and had first-hand experience with management challenges in state government. Executive departments tended to press separately for legislation, sometimes conflicting with one another. This meant that the administration could not present a unified view and single voice to the legislature. "Brown clearly saw the need for centralization and coordination of departmental actions and began a reform effort to tighten up executive action."[10]

Reorganization was a major point in Brown's campaign and in his Inaugural Address.[11] Shortly after his election, he appointed a special Committee on Organization of State Government to study state government structure and recommend improvements. The Commission consisted of three state officials (the Directors of Finance and Public Works and the Governor's Departmental Secretary), and four distinguished outside experts and practitioners of government. The Chair was Bert W. Levit, a former Director of Finance. Other members included a city manager, county executive, professor of Political Science, and the Directors of Finance and Public Works.

The Commission began its work by holding a two-day conference at the University of California, Davis, involving state and local government officials, and it subsequently created nine task forces to study specific issues. In December 1959, the Commission recommended an *Agency Plan for California* as a "…direct and logical effort to clarify and simplify the organization structure of a large and rapidly growing state...[which is not]… well served by continuing a complex and disorganized system."[12] The Commission identified the following deficiencies:[13]

- Weakened gubernatorial authority due to numerous independent and poorly coordinated boards and commissions, many with important policy-making or administrative functions and identified with clientele groups.
- Poor communication and control.
- Lack of an effective forum to formulate and execute unified, coordinated policies.
- Insufficient program planning and evaluation.[*]

[*] These criticisms have contemporary relevance, especially "The present budget process is one which encourages the executive and legislative branches to overemphasize the review of individual items at the expense of basic policy and program evaluation." (*The Agency Plan*, p. 6)

The *Agency Plan for California* recommended the creation of eight agencies composed of departments related on a functional basis: Employment Relations, Health and Welfare, Public Works, Youth and Adult Correctional, Resources, Business and Professions, Public Safety, and Revenue and General Services. In addition, it recommended creation of an Executive Department in the governor's office to be responsible for planning, general management and budget activities.

Each of the agencies was to be supervised by an administrator responsible to the governor for over all policy, program and performance. Administrators were to act as an extension of the governor. Collectively the eight agency administrators would serve as the governor's cabinet, although the Commission recommended that the actual membership of the cabinet be determined by the governor and not fixed in statute. The Commission estimated savings of between two and five million dollars annually (in 2003 prices, $13.3m - $33.4m) resulting from minimizing duplicating and overlapping functions.

The *Agency Plan for California* was modified and partially implemented in 1961. At the governor's recommendation, four agencies were created by statute;[*] these included Highway Transportation, Youth and Adult Corrections, Resources, and Health and Welfare. The governor subsequently established four other agencies by executive order: Business and Commerce, Revenue and Management, Public Safety and Employment Relations. He also recommended the abolition of a number of existing agencies, boards and commissions, based on the Commission's recommendations; some were abolished and others were not. For example, a recommendation to consolidate the state's revenue functions by creating a Department of Revenue was not enacted.[14]

The powers and duties of agency administrators were established by statute, and included limited authority to exercise general supervision over departments, review and approve budgets, and coordinate and evaluate departmental operations. Agency administrators were responsible to the governor for departmental performance, long range, coordinated planning and policy formulation. They were assigned a minimal staff to fulfill these duties. Meanwhile, department directors continued to have all their previous powers, including adopting rules and regulations, reorganizing departments, assigning duties and appointing staff.

In his *Comments on Reorganization Plan No. 1 of 1968*, A. Alan Post, Legislative Analyst, summarized the rationale behind Governor Brown's creation of the agencies.[15]

> I think it is generally agreed that there should be a consolidation of departments, boards and commissions under the Governor, that his span of control should be narrowed, and that his resources to put into effect his policies and commitments should be strengthened thereby. The agency concept which was established on the basis of two major reports in 1959 attempted to do that.

[*] AB 1593 (Winton) created the Health and Welfare Agency, Youth and Adult Corrections Agency, and the Resources Agency, and SB 699 (Collier) created the Highway Transportation Agency.

Or, as a scholarly analysis subsequently noted, "The aim of all such reorganization is to permit the Governor to supervise the work of his administration through …subordinates…"[16] Nonetheless, the new agencies were controversial, due primarily to the bureaucratic expansion that their creation implied. In addition, departments which previously believed they had direct access to the governor became subordinate, and the interests they represented were not always pleased. The new agencies were nicknamed "super-agencies," and became the subject of political debate.

CREATION OF THE "LITTLE HOOVER COMMISSION"

In 1961, the Commission on California State Government Organization and Economy was created by the legislature (AB 1510 Marks) as a permanent, bipartisan board of review. Its purpose was to recommend ways to make government operations more efficient and effective. Eugene C. Lee, a respected professor of Political Science at the University of California, Berkeley, was the first Chair, and Assemblymember Milton Marks of San Francisco the Vice Chair. Notable legislative members included Assemblymember John T. Knox (Richmond) and Senators George Miller Jr. (Richmond) and Vernon T. Sturgeon (Paso Robles).

Since 1962, the Commission, known also as the Little Hoover Commission, has made recommendations on proposed executive branch reorganizations, and has analyzed the operations of state programs in order to recommend improvements in effectiveness and efficiency.

During Governor Pat Brown's administration, the Commission made many recommendations to eliminate duplication and overlapping services and improve administrative methods and procedure, "…all aimed at reducing expenditures consistent with efficient performance of essential services."[17] For example, the Commission concurred with a 1959 *Agency Plan of California* recommendation to reorganize the Department of Finance by creating a Department of General Services from some of its management functions (this proposal was implemented in 1963).[18]

In 1965, the Commission identified the extensive use of boards and commissions (an estimated 276 in 1964) as one of the "…principal problems in the administration of state programs."[19] These organizations, composed primarily of private citizens serving part-time, were often created by the legislature out of distrust for the executive, in the Commission's view. The Commission recommended against using boards and commissions to administer programs, and endorsed their value in offering guidance in policy deliberations and reviewing program results. It recommended that appointments be made by the governor, terms of office fixed and limited, and members not compensated.[20]

1962 EVALUATION OF THE AGENCY CONCEPT

In a 1962 report,[21] the Commission on California State Government Organization and Economy reviewed the recent reorganization of the executive branch in state government, including the "agency" concept implemented in 1961. It considered, "To what extent—after one year of operation—has the administrative reorganization program achieved the objectives anticipated by the Governor and the Legislature?" The Commission's conclusion, after taking extensive testimony, was that the grouping of related departments within an "agency" for the purposes of "…improving policy and program development, execution, and control," had made the governor's responsibility as chief executive more manageable and more effective, and

- Filled a needed, but previously missing, level of political-administrative leadership created by the size and complexity of California State Government.
- Provided a potentially greater opportunity for more effective legislative review and improved communication with the executive branch.
- Produced specific and tangible benefits of program co-ordination among related departments, the elimination of overlapping services, and more efficient utilization of manpower, space and financial resources.[22]

The Commission concluded that the new agencies had filled a missing role, midway between the specialized and detailed day-to-day administrative responsibilities of a department director and the generalized broad-policy duties of the Governor. Benefits included better communication, improved broad-scale planning, better program development and policy execution, and budgetary savings.

Significantly for future debate, agency administrators testifying before the Commission contended that their staffing requirements were minimal, perhaps four to six exempt (from civil service) professional positions concerned with budget planning, program evaluation, communication and management analysis.

GOVERNOR RONALD REAGAN (1967-1975)

During Ronald Reagan's campaign for Governor, he attacked the four "…$27,500-a-year 'super chiefs' created under the Brown administration…as a superfluous layer of bureaucratic fat."[23] Shortly after his election as Governor, he designated Caspar Weinberger to head a task force on state government reorganization. In a December 1966 interview, Mr. Weinberger predicted that the Reagan administration would eliminate five of the eight super-agency jobs created during the Brown administration, thereby saving millions of dollars:

> Weinberger said the Brown administration 'tried to drop the super agency structure on top of the existing government structure—and it just didn't work.' He criticized the present administrators for acting as decision-making departmental chiefs instead of as liaison men between the Governor's office and the some 250 State agencies, bureaus and commissions."[24]

As part of his focus on economy in state government, the Governor quickly moved to abolish the four "super-agencies" created by executive order by Governor Pat Brown: Business and Commerce, Revenue and Management, Public Safety and Employment Relations. At the same time, the Governor endorsed a proposal of Weinberger's committee to convert the remaining agency administrators into "deputy governors," with broadened authority to coordinate the work of all state departments.[25] In February 1967, Governor Reagan appointed Weinberger as Chair of the Commission on California State Government Organization and Economy.

Governor Reagan instituted a Cabinet at the beginning of his administration that consisted of the heads of the four statutory agencies and the Director of Finance.[*] He made frequent use of cabinet meetings to hammer out policy directions and coordinate administrative actions. Reagan's first cabinet secretary, William P. Clark, began a practice of creating "minimemos" for cabinet meetings. These memos summarized issues in a single page format for discussion purposes: "Each memo had four paragraphs, with the first devoted to a statement of the issue, the second to the pertinent facts, the third to discussion and the fourth to a conclusion and recommendations."[26] Later, cabinet meetings were rotated among different agencies. In 1970, the Reagan administration created the Governor's Office of Planning and Research, which provided centralized staff support to the governor and his cabinet.

NEW REORGANIZATION AUTHORITY

In 1966, the voters approved a constitutional amendment authorizing the legislature to delegate to the governor the power to reorganize the structure of state government (Section 6 of Article V of the California Constitution). The Reorganization Act of 1967 (SB 296, Way) empowered the governor to shift departments around within the executive

[*] The Cabinet superseded the Governor's Council, which was abolished at the beginning of Governor Reagan's administration.

branch, subject to legislative veto within 60 days after submission of a proposal to the legislature.* Reorganization plans were to be reviewed by the Little Hoover Commission, its recommendations sent to the governor and the legislature, and the proposals examined in legislative hearings. Over the years many, but not all, proposed reorganization plans have been adopted.† For example, the *Governor's Reorganization Plan No. 3 of 1971*, which would have created an Environmental Protection Agency, failed in the legislature.

Governor Reagan's first reorganization plan (No. 1 of 1968) regrouped existing departments within four statutory agencies (Business and Transportation, Human Relations, Resources, and Agriculture and Services) and created three new departments: Commerce, Health Care Services, and Human Resources Development. Plan No. 1 also changed the title of agency heads from "Administrator" to "Secretary." Plan No. 2 of 1969 created a new Department of Navigation and Ocean Development.

The Governor's Reorganization Plan No. 1 of 1970 created a new Department of Health by combining three existing departments and programs from two others, effective July 1, 1973. The new department was the largest unit in state government, aside from the University of California and California State University. The impetus was a report by the Legislative Analyst that identified fragmentation and duplication among 50 health care programs administered by 15 different units of state government, along with serious gaps in services.[27]

The Governor's Reorganization Plan. No. 2 of 1970 renamed the old Department of Professional and Vocational Standards as the Department of Consumer Affairs, effective July 1973. Chapter 1252 (1972) combined the Departments of Public Works and Aeronautics into the Department of Transportation.

1967 Evaluation of the Agencies

In 1965, the California Assembly enacted House Resolution No. 710, creating an Interim Committee on Governmental Organization to study and report on the organization of the executive branch of California state government. Assemblymember Milton Marks was the Chairman and Eugene A. Chappie the Vice Chairman. In its 1967 report, the Committee found that changes in the *Agency Plan* recommended during Governor Brown's administration had given "…the administrator greater direction and control over the functions within the departments within the agency in direct contradiction of the original concept of the 1961 reorganization.[28] The concern was that agencies would eventually become larger, integrated "departments," with expanded operational control,

* Reorganization "…includes the transfer in whole or part of any agency to the jurisdiction and control of any other agency; or the consolidation in whole or part of one agency with another; or the abolition of the whole or any part of an agency when the functions of that agency are transferred to another." Assembly Interim Committee on Government Reorganization, *Organization of the Executive Branch*, 1967, p. 19.

† In this report we discuss only major enacted reorganization proposals.

contrary to the original conception in the *Agency Plan*. In several instances, agency administrators had already been given statutory operational authority.

In a separate report submitted to the Committee, Legislative Analyst A. Alan Post found that[29]

> There is a growing tendency for agency administrators to concern themselves with detailed programming and budgeting and…it raises questions as to statutory authority of individual departments over functions which overlap departmental lines…

The Committee found that the expansion of agency power was the logical result of giving agency administrators "two greatly different and often competing roles:" (1) coordinating related programs within departments and communicating on their behalf to the governor, and (2) performing broad policy responsibilities. The result was duplication and inefficiency. In addition, agency administrators were borrowing staff from departments, thereby creating larger administrative structures than originally anticipated.

Following an earlier recommendation of the *Agency Plan*, the Committee supported creation of an executive office of the Governor to assist with management, planning and budgeting.

1968 PRIVATE SECTOR EVALUATION OF STATE OPERATIONS

Governor Reagan relied on task forces composed of business people to bring into state government "fresh ideas and business-like methods." In 1967 he established by Executive Order (R2-67) a "Governor's Survey on Efficiency and Cost Control" staffed by business executives, with the costs covered by private contributions. The *Survey* examined the day-to-day operations and long-range plans of over 60 departments and functions of state government, and issued a detailed series of reports in 1968.

The *Survey* recommended realigning agency functions and expanding to six major agencies (Fiscal Affairs, Management Systems, General Services, Regulatory and Protective, Human Resources, Physical and Natural Resources). The business executives felt that the delegation of line authority to agency secretaries for day-to-day administration needed to be clarified: "A well-managed corporate enterprise seldom can afford the luxury of an executive level just below the top of the corporate hierarchy which does not have well defined responsibility and accountability for specific segments of the company's operations."[30] They were also concerned that agency secretaries lacked sufficient staff to perform their duties, and endorsed the practice of "borrowing" staff from departments. They recommended that the agency administrators become more fully involved in planning and budgeting processes.

In 1968, Governor Reagan created a private sector Task Force on Transportation, and in 1973 a Task Force on Law Enforcement (which recommended [re] creation of a Public

Safety Agency). His Task Force on Tax Reduction recommended placing a tax ceiling in the Constitution, but the proposal was defeated at the polls in 1972.

GOVERNOR EDMUND G. (JERRY) BROWN JR. (1975-1983)

Governor Jerry Brown's management style differed considerably from that of his predecessor, in that he generally preferred dealing with administrative matters on a one-to-one basis and did not rely heavily on cabinet meetings.[*31] Nevertheless, he expanded the cabinet during his term in office. In 1977, his administration moved the departments of Industrial Relations and Food and Agriculture from the Agriculture and Services Agency, creating a new Department of Industrial Relations, a new Food and Agriculture Agency, and a new State and Consumer Services Agency. Analysis at that time indicates that the Governor did this in order to elevate the spokespersons for those interests to cabinet status.

In 1975, the Governor proposed merging the Air Resources Board, the Water Resources Control Board, and the Solid Waste Management Board into a fifth agency, but the proposal was rejected in the State Senate. In response, Brown established a special position on environmental affairs and included it in his cabinet. That year the Brown administration also acted to abolish the Department of Commerce. Two years later, a small Department of Economic and Business Development was created in the Business and Transportation Agency to "provide a focus" for the business community.[32]

The Governor's Reorganization Plan No. 1 of 1977 abolished the State Office of Narcotics and Drug Abuse and moved its staff and functions to the Department of Health. *The Governor's Reorganization Plan No. 1 of 1979* created a Department of Fair Employment and Housing and a Housing Commission within the State and Consumer Services Agency. *Governor's Reorganization Plan No. 3 of 1979* (re) created the Youth and Adult Correctional Agency, by moving the Youth Authority and the Department of Corrections from the Health and Welfare Agency. The Governor's *Reorganization Plan No. 1 of 1981* created the State Personnel Board. Governor Brown's administration was also responsible for the creation of the Agricultural Relations Board (1975), the California Conservation Corps (1976), the California Arts Council, and an Office of Business Development (1977).

Governor Brown used his appointment power to "…shake up the traditional procedures and thinking of many governmental boards."[33] His administration established the principle that public members should be appointed to the state's various boards and commissions, in addition to representatives of the regulated professions and businesses. He "changed the face of state government" by appointing more women, Blacks, Asians, Latinos and Native Americans to state positions than ever before: "Of the 5,680 appointments made by the governor through mid-April [1982], 1,367 were to women, 412 to blacks, 517 to Chicanos, 255 to Asians, and 44 to Native Americans."[34] Notable appointments included the Chief Justice of the Supreme Court (Rose Elizabeth Bird), the Director of Finance (Mary Ann Graves), the Director of the Office of Economic Opportunity (Alice Huffman) and the Savings and Loan Commissioner (Linda Yang).

[*] A retrospective of his term in office noted his "lack of interest in the day-to-day administration of government nuts and bolts…" Ed Salzman, "Judging Jerry," *California Journal*, March 1982.

Nathan Shapell chaired the Commission on State Government Organization and Economy under Governor Jerry Brown. The Commission was responsible for reviewing executive branch reorganization plans, among other things. In a 1979 review of its work, the Commission concluded that "Over the 18 years of the Commission's existence, the responsiveness of governors and legislators to Commission recommendations has been varied." While some recommendations were embraced and implemented, others had been rejected due to legitimate differences of opinion or pressure from special interests.[35]

RISE OF THE REGULATORY AGENCIES

In a 1978 review, T. Anthony Quinn and Ed Salzman wrote, "Perhaps the most significant development of the last decade has been the rise of appointive power in California."[36] The Public Utilities Commission, created in the Progressive era, was the prototype for the increasing number of regulatory agencies (also called independent commissions). In 1969, the San Francisco Bay Conservation and Development Commission was created to control filling of the bay. The California Coastal Commission was established by voter initiative in 1972 (Proposition 20) and later made permanent by the legislature through adoption of the California Coastal Act of 1976. Other examples include the Agricultural Labor Relations Board (1975), the Energy Resources, Conservation and Development Commission (1974), the Fair Political Practices Commission (1974), and the Public Employee Relations Board (1977).

GOVERNMENT OPERATIONS REVIEW PROJECT

In March 1982, the Government Operations Review Project, a joint undertaking of the Assembly Committee on Policy Research Management and the Assembly Office of Research, released a report documenting "…several serious deficiencies in the organization and functioning of state government."[37] Committee chair Howard Berman and Vice-Chairman Patrick J. Nolan guided the bipartisan review, which raised concerns about slow and costly state procedures and the "grinding machinery of government."

The report was divided into five separate studies: cabinet level organization ("super-agencies"), personnel practices, contracting for services, purchasing supplies and materials and administrative rulemaking. Significantly for this analysis, it recommended abolishing the "super agencies," transferring their program functions to appropriate departments, and allowing each new governor to create a cabinet-level organization compatible with his or her management style. In a scathing critique of state management, the report asserted that[38]

> In the quest for order, accountability and control, laws and procedures of the past two decades have fragmented responsibility and created a rigid system which stifles creativity, eliminates competitive ideas, increases administrative costs, delays the implementation of programs, and discourages the employment of competent leaders.

The Government Operations Review Project found that the five super agencies (State and Consumer Services, Resources, Youth and Adult Correctional, Health and Welfare, and Business, Transportation and Housing) had not preserved the intent of Governors Pat Brown and Ronald Reagan, which was that agency staff should remain small, assist with planning policy and coordinating activities, and refrain from interfering in department operations. Instead, the five agencies had a combined budget of nearly $13 million ($25.5 million in 2003 dollars) and employed more than 150 people.

The Project's review found that the agencies were administering programs and reviewing and approving departmental budgets, contracts, regulations and personnel services, thereby duplicating the work of other control agencies. They had accumulated duplicate and competing operational roles, imposed unnecessary controls, and failed to coordinate departmental activities, improve management, or assist in policymaking and planning.[39] Assuming an operational role undermined the effectiveness of the agencies, while "…their original role—assisting the Governor in policymaking and planning, coordinating operating functions, and improving the organization structure of government—has withered."[40]

The Government Operations Review Project recommended abolishing the agencies as of July 1, 1983 and transferring their operating programs or functions to the appropriate departments. Each new governor would be authorized to submit an executive reorganization plan at the beginning of his or her new term; the plan would sunset the year following the governor's term of office. The governor could employ executive assistants to coordinate government activities, make policy and conduct planning, at an annual cost not to exceed $1.5 million.[41] These recommendations were enacted by the legislature in 1982 (AB 3331, Katz) but were vetoed by Governor Brown because in his judgment, the system was working fairly well and the structure of the management team should be the determined by the governor. Program-specific staffing and expenditures by the agencies were substantially reduced.

GOVERNOR DEUKMEJIAN (1983-1991)

At the time of Governor Deukmejian's election, the executive branch was composed of five agencies (Business, Transportation and Housing, Resources, Health and Welfare, State and Consumer Services, Youth and Adult Correctional) and two departments with Cabinet status (Food and Agriculture and Industrial Relations). Governor Deukmejian opposed legislation to abolish the agencies and restrict his ability to restructure his management team (AB 1437, Katz, which unanimously passed both houses of the legislature), because the governor already had the power to change the structure of the executive branch.

In 1984, the Deukmejian administration established an Office of Educational Planning and Policy within the Governor's Office of Planning and Research. The director of the office was to serve as the governor's chief advisor on education issues. This development reflected the Governor's desire to have his own education policy advisor and not to rely solely on the elected Superintendent of Public Education.[*]

In 1983, the Governor signed a bill raising the governor's salary from $49,100 to $85,000 a year, to take effect in the next gubernatorial term. The pay-raise bill allowed increases in other salaries in the governor's office, including appointed state agency and department heads. For example, the Health and Welfare agency secretary's salary increased from $63,624 to $78,663.[42] The average salary in California at that time was around $20,000.

The Governor's Reorganization Plan No. 1 of 1984 created the Department of Personnel Administration. In November 1984, a ballot initiative created the state lottery. In 1987, an Environmental Affairs Advisor was created, with responsibilities for the Air Resources Board, Waste Management Board and Water Resources Control Board. In 1988, Governor Deukmejian abolished Cal-OSHA.

EVALUATION OF THE SUPER AGENCIES

In 1987, the Senate Advisory Commission on Cost Control in State Government issued a *Report on The Super Agencies*, pursuant to S.R. 40 (1984), based on the work of a subcommittee chaired by A. Alan Post, the respected former Legislative Analyst. In its report, the Commission reviewed the "twenty-five year controversy surrounding the Agencies' purposes, influence, and growth." The Commission analyzed how each of the four governors since the Agency Plan was adopted in 1961 had utilized his cabinet and identified two distinct models:[43]

- The decision-oriented model is "…structured in order to maximize the Governor's ability to address proposed solutions to existing problems." Meetings

[*] For more detailed information on educational policy organization see Murray Haberman, *A Double-Headed System: A History of K-12 Governance in California and Options for Restructuring*, California Research Bureau, 1999, at http://www.library.ca.gov/crb/99/11/99011.pdf

are run by the chief of staff following a predefined agenda, the governor and agency secretaries attend along with executive staff, options are presented for solving problems, and the result is a decision by the governor. Governor Reagan followed this approach.

- The discussion-oriented cabinet model involves a broader group of people, including from outside government, and functions as an open discussion of policy problems and a regular brainstorming session. The governor does not attend regularly, and few decisions are made. In this model, agency secretaries have less structured contact with the governor. Governor Jerry Brown is identified most closely with this approach.

Agency secretaries assume different roles depending on the type of cabinet structure a governor adopts and political priorities. They can implement and communicate the governor's agenda as well as develop it. They may view their primary role as an extension of the governor (top down), or as a communication link between state departments and the governor (bottom up). Long-standing controversial issues include how much authority and control they should have over departmental budgets and personnel, and the size of their staff and operations.

After considering the governor's accountability for the actions of his administration, and a realistic span of control, the Commission concluded that the existing system was serving the governor well and made the following recommendations:[44]

- That the Agency form of administration in state government be retained.
- That Agency Secretaries and their staff be removed from the various boards and commission on which they now serve.
- That personnel filling exempt positions with the Agencies should possess appropriate job qualifications and be used only to perform Agency-related tasks.
- That the Governor attend meetings of his or her cabinet as often as possible.
- That Agencies should continue to review departmental budgets.
- That program-specific activities being administered by Agencies, to the extent that this is not occurring, be redirected to the particular Agency's appropriate constituent departments.
- That additional study be undertaken to determine why many agencies, departments, boards, commission, and offices of state government are not represented under the Agency system, and thereby in the Governor's cabinet. The study should include a detailed examination of the methods used by Agency Secretaries to carry out their broad fiscal, management, and performance review responsibilities, and it should illustrate the potential efficiencies and economies which an effective management system can obtain, in terms both general and relating to specific programs.

- That the Governor not be given the authority to totally dismantle the Agency structure or alter it to suit his or her desires.

GOVERNOR WILSON (1991-1999)

Governor Wilson's cabinet met regularly, as did a separate group of agency undersecretaries. In these meetings administration policy was developed in a fairly unified manner, which facilitated the ability of agency secretaries to serve as spokespersons for the Administration.

Shortly after his election, Governor Wilson created the position of Secretary of Child Development and Education as a member of his Cabinet (*Executive Order W-1-91*). This action enhanced the status of the advisory position created by Governor Deukmejian. Attempts to create the Office of Child Development and Education as a statutory body subsequently failed (SB 479 Morgan, 1991; SB 266 Morgan, 1993; SB 1710 Bergeson, 1994; AB 621 Brulte, 1995).

*The Governor's Reorganization Plan No. 1 of 19*91 created the California Environmental Protection Agency, transferring the State Air Resources Board, the California Integrated Waste Management Board, the State Water Resources Board, and California regional water quality control boards to the agency. The Plan also created the Department of Toxic Substances Control in the agency, transferring programs from the State Department of Health Services; a new Department of Pesticide Regulation (transferring programs from the Department of Food and Agriculture); and an Office of Environmental Health Hazard Assessment (transferring functions from the Department of Health Services).

In 1992, the Trade and Commerce Agency was created by combining the Department of Commerce and the World Trade Commission, resulting in seven Cabinet-level agencies. The Agency was founded in response to concerns about California's poor business climate, loss of jobs, and regulatory and permitting issues, with a charge to define competitive economic policies and development strategies.

The Governor's Reorganization Plan No. 1 of 1995 consolidated the Division of the California State Police into the Department of the California Highway Patrol. *The Governor's Reorganization Plan No. 3 of 1995* transferred the offices and functions of the State Fire Marshal from the State and Consumer Services Agency to the Department of Forestry and Fire Protection.

In a 1995 analysis, the Office of Legislative Analyst asserted that "Governors and Legislatures are continually looking at ways that governmental agencies can be organized differently."[45] The analysis notes two major reasons for this focus: reinventing government to make it more responsive and effective, and saving money by eliminating duplication and unnecessary work. Governor Wilson's 1994-1995 budget contained a number of proposed organizational changes, which were generally not enacted. Examples include the perennial proposal for a Department of Revenue, a new Department of Energy and Conservation and a new Department of Waste Management. Each of these proposals involved consolidating the functions of several existing organizations.

GOVERNOR DAVIS (1999-2003)

At the outset of his administration, Governor Davis made several immediate symbolic changes to his Cabinet. He elevated the status of the Department of Veterans Affairs to cabinet level, and in *The Governor's Reorganization Plan No. 1 of 1998* changed the name of the Health and Welfare Agency to the Health and Human Services Agency. In 2000, a new Department of Managed Care was created to assume regulatory and oversight responsibilities for health maintenance organizations that previously were the responsibility of the Department of Corporations.

In 2002, the Davis administration created a new Labor and Workforce Development Agency to coordinate labor and employment programs. The Agency brought together the Agricultural Labor Relations Board, the Unemployment Insurance Appeals Board, the Workforce Investment Board, the Department of Industrial Relations, the Employment Development Department and the Employment Training Panel.

As an administrator, Governor Davis perhaps relied more on departmental directors for policy and program advice than on agency secretaries. His management style was characterized as "micro-management:"

> More than any other recent governor, Gray Davis has immersed himself in virtually every detail of running his administration. Davis says his micro-management style is about accountability. But the result has been bogged-down appointments. (Steve Scott, "Davis the Micro-Manager," *California Journal*, August 1, 2000.)

Forty years after the creation of the first agencies, the scope of their operations and the size of their staff had expanded considerably, yet agency secretaries had become isolated from the governor. As a result, the agencies were at risk during the State's major revenue shortfall that began in 2001. Funding for agency operations was severely reduced in the FY 2002-2003 budget and the Trade and Commerce Agency was eliminated, its functions split up among various departments. The new Schwarzenegger administration again faces the challenge of how to best define the role of the agencies and structure decision-making in California state government's executive branch.

ENDNOTES

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