

Memorandum 91-34

Subject: Administrative - Personnel and Budget Matters

Summary

This memorandum is primarily informational, but does include one matter for Commission action.

The memorandum describes the Commission's budget situation for the coming year, noting that we do not yet have final numbers, and indicating how we plan to accommodate anticipated budget cuts. It discusses the current state freeze on hiring employees and consultants, and how that impacts the Commission's present and planned consultant contracts. The memorandum notes the resignation of one of our office assistants and the planned retirement of our Executive Secretary. And it describes our plans for filling these positions, and the savings we can realize in the process that will enable us to live within our reduced budget.

Budget for Fiscal 1991-92

The state budget for fiscal 1991-92 has not yet been adopted. There is pressure on the budgets of all state agencies due to the large deficit in the state budget.

Under the Governor's original budget plan, the Law Revision Commission's share of the state budget would be \$634,000. This amount represents a 3.5% reduction (or \$23,000) from the current fiscal year, reflecting the fact that the Commission received a one-time budget augmentation for the current year for the Family Code project.

As a result of the budget crisis, the Governor has ordered an across-the-board "trigger reduction" averaging 4% of the budgets of all agencies. In the Commission's case, this amounts to a reduction of \$13,000. We plan to achieve this savings by reducing our use of temporary help; this could slow production of material at peak times, but would not substantially hurt the Commission's operations.

Hearings have been held by both Assembly and Senate budget subcommittees on the proposed budget. The Commission's Vice Chairperson, Ed Marzec, appeared before the Assembly subcommittee, which was the crucial hearing for the Commission's budget. The proposed budget has been approved by both subcommittees without dissent.

We have now been informed by the Department of Finance that the Governor has ordered an additional 5% cut in the proposed budgets of all agencies. And, "Additional reductions in State Operations for the budget year may become a necessity if General Fund revenues continue to fall below estimates."

A 5% cut in the Commission's proposed budget would amount to \$31,700. This would be more difficult to absorb without hurting the Commission's operations somewhat, were it not for the fact that we can expect to offset the reduction through salary savings resulting from personnel changes during the next fiscal year. The personnel changes are discussed below.

Hiring and Consultant Freeze

In addition to reductions in the proposed budget for the next fiscal year, the Governor has sought to save money during the current fiscal year by imposing a hiring freeze on all state agencies. Under the freeze a new state employee cannot be hired, an existing state employee cannot have the employee's time base increased, a new consultant cannot be retained, and an existing consultant cannot have the consultancy contract extended. Transfers within state agencies are permissible. The freeze expires July 1, 1991. We do not know whether the freeze will be extended into the next fiscal year.

The Commission has contracts outstanding with three consultants--Professors Coskran (commercial real property leases), Asimow (administrative adjudication), and Kasner (donative transfers of community property; community property in joint tenancy form).

The Coskran contract expires June 1, 1991. Professor Coskran has completed all work under the contract, and his final claims are being processed and paid.

The Asimow contract expires June 30, 1991. He has delivered his study in installments and has been paid on a part payment basis. The final installment of the contract is in progress but will not be delivered in completed form until the end of the summer. The staff plans to authorize the final payment before expiration of the contract on submission of a satisfactory outline and evidence of satisfactory work in progress.

The two Kasner contracts expire June 30, 1992. Professor Kasner has delivered the first study and is attending Commission meetings on it at our request. He has commenced work on the second study and intends to complete it by the end of the summer.

It will not be clear whether we can extend the current contracts until after the July 1 hiring freeze expiration date passes.

The Commission has also named as consultants on the administrative law study practitioners Turner & Sullivan and Livingston & Mattesich of Sacramento, practitioner Mark Levin of Los Angeles, and Professor Stolz of U.C. Berkeley. However, due to the hiring freeze we have been unable to execute contracts with them to pay their travel expenses and per diems, and they have been serving without pay. We plan to execute contracts with them if the hiring freeze ends as scheduled.

These consultant expenses are not great and we should be able to cover them even under the reduced budget. In the event our budget situation worsens and we feel that we cannot any longer afford to pay the consultants, we will simply discontinue inviting them to attend Commission meetings. They can continue to attend as volunteers, if they so desire, as they do now.

We had also hoped to retain Mr. DeMouilly after his retirement to continue work on the Family Code on a consultant basis at a greatly reduced cost to the Commission. It is possible this could be accomplished even if the hiring freeze continues, since he is an existing state employee.

Personnel Changes

The Commission's staff consists of four attorneys (including the Executive Secretary) and three clerical/administrative employees.

One of our three clerical employees, an Office Assistant (General), has been hired away by another state agency (permissible under the hiring freeze) closer to where she lives, effective May 31. The Office Assistant salary is \$26,200, and benefits we pay are \$7,800, for a total of \$34,000 annually. We are making no immediate plans to replace the office assistant, until our budget situation becomes more clear; this is an obvious candidate to cover the 5% budget reduction. This could cause some slowdown in production of Commission work. But we think our Administrative Assistant can fill in and help out with some of the Office Assistant tasks (photocopying, mailing, proofreading, etc.) at peak times.

The Commission's Executive Secretary, John DeMouilly, has submitted tentative retirement papers for July 15. The Commission has decided to promote from within, Mr. Sterling taking the Executive Secretary position and Mr. Ulrich moving up to the Assistant Executive Secretary slot. This will leave an opening for a new full-time attorney on the Commission's staff.

As we have described in previous memoranda, we have gone through the state civil service hiring process to obtain a new lawyer at the entry level. We have extended an offer to Pamela Mishey, a U.C. Davis law graduate currently employed as a research attorney with the Sonoma County Superior Court. She will start August 15, assuming the hiring freeze is not extended. If the hiring freeze is extended, we will seek an exemption from it. We believe it is critical to the Commission's productivity that we maintain a full legal staff. Law revision is our only product, and we would cut most other parts of the budget, including publications, before we cut legal staff.

If we are unable to hire at the entry level, we would consider a transfer of a lawyer from within state service. However, we would not be able to realize the same savings we get from an entry level hire, and it is likely we would get another agency's reject rather than a lawyer who will do us some good. In either case, we can expect a reduction in productivity as we train a new lawyer to become fully proficient as a Commission employee.

The savings we would realize by promoting and hiring at the entry level would be approximately \$33,000. However, we will also take a one-time hit to pay Mr. DeMouilly's accrued vacation on his retirement, which the savings would cover. It may also be possible to pay the accrued vacation in installments, so that the full amount does not fall within one fiscal year.

In order to elevate Mr. Sterling to the Executive Secretary position, the Commission should adopt a resolution appointing Mr. Sterling as Executive Secretary, effective on Mr. DeMouilly's retirement.

Promotion of Mr. Ulrich to the Assistant Executive Secretary position requires a civil service promotional examination; we will begin that process shortly. The hiring of Ms. Mishey at the entry level has previously been approved by the Chairperson pursuant to the delegation of authority noted in the Commission's Handbook of Practices and Procedures.

Respectfully submitted,

Nathaniel Sterling
Assistant Executive Secretary