

2/3/69

Memorandum 69-28

Subject: Future Program of Law Revision Commission

Attached is a copy of Management Memo 69-4 announcing that the Department of Finance will conduct a thorough program review at Policy and Program Hearings which will be held during April 1969.

The review includes not just the amounts that are expected to be expended over the next four or five fiscal years, but also what the output in measured units is expected to be during the same period. See the attached copy of the program budget for 1969-70. The State Administrative Manual requires that each agency provide an up-to-date Multi-Year Program and Program Memorandum to the Department of Finance by March 1 each year.

(We have obtained an extension of the March 1 deadline until after our March meeting.) As stated in the State Administrative Manual: "It is important that budgeting tools reflect accurate estimates of the cost of achieving a program objective, but it is just as important to be able to evaluate whether or not the program accomplished what it was designed to do."

As far as expenditures during the next four fiscal years are concerned, the staff believes that no increase in expenditures will be required other than for any across-the-board salary increases that may be approved by the Legislature. Attached as Exhibit I (pink pages) is a Multi-Year Program for output (in terms of projects). As far as output during the next four fiscal years is concerned, the question that must be decided by the Commission as a basis for preparation of the materials for the Policy and Program Hearings is the level of production that is estimated for each of the next four years. Exhibit I indicates the staff estimate of the level of production. This estimate is based on the assumption that either most members

of the Commission will read the material prior to the meeting, or meetings will be held on Thursday evening when necessary to maintain the schedule.

In summary, there are two assumptions that would be used in predicting future expenditures and output. The expenditures would remain constant at the level for 1969-70; the output would be generally as shown in the attached Exhibit I. Using these assumptions (or other assumptions developed by the Commission), the staff will prepare the material required for the Policy and Program Hearings scheduled for April 1969 and will submit the material for Commission approval at the March 7-8 meeting.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

2/3/69

EXHIBIT I

MULTI-YEAR SCHEDULE OF PROJECTS

(Number of sections is estimated unless otherwise indicated)

FEBRUARY 1969 - JANUARY 1970

Legislative Consideration of Recommendations to 1969 Legislature (64 sections--actual count)

Powers of Appointment (SB 98, SB 99)
Real Property Leases (SB 101)
Additur and Remittitur (SB 105)
Evidence Code (Revisions of Privileges Article) (SB 103)
Sovereign Immunity (Statute of Limitations in Actions Against
Public Entities and Public Employees) (SB 100)
Mutuality of Remedies in Suits for Specific Performance (SB 104)
Fictitious Name Certificates (SB 102)

Topics to Be Added to Agenda of Topics (SCR 17)

Topics to Be Dropped from Agenda of Topics (SCR 16)

Preparation of Recommendations to 1970 Legislature (66 sections)

Fictitious Business Name Statute (Comprehensive Revision)--35
sections
Inverse Condemnation (Right to Survey and Examine Property)--3
sections
Sovereign Immunity (Prisoners and Mental Patients)--12 sections
Condemnation Law and Procedure (Cost Allocation)--5 sections
Evidence (Res Ipsa Loquitur)--1 section
Quasi-Community Property--4 sections
Civil Code Section 1698 (Oral Modification of Contract in
Writing)--1 section
Code of Civil Procedure Section 1974 (Writing Required to Hold
Person Liable for Representation as to Credit of Third Person)
--1 section
Small Claims Court Law--4 sections

Topics to Be Added to Agenda of Topics (to be determined)

Topics to Be Dropped from Agenda of Topics (to be determined)

Work on Other Topics

Inverse Condemnation (Water Damage) (TOP PRIORITY)
Condemnation Law and Procedure (The Right to Take) (PRIORITY)
Arbitration

Consideration of Recommendations to 1969 Legislature That Are
Not Enacted

JANUARY 1970 - JANUARY 1971

Legislative Consideration of Recommendations to 1970 Legislature

(See topics listed under "Preparation of Recommendations to 1970
Legislature" for February 1969-January 1970 Period)

Preparation of Recommendations to 1971 Legislature (300 or more sections)

Inverse Condemnation (Water Damage) (TOP PRIORITY)--20 sections
Condemnation Law and Procedure (The Right to Take) (PRIORITY)--200
sections
Evidence Code:
 Revisions of Business and Professions Code--50 sections
 Revisions of Civil Code--50 sections
Arbitration--2 sections
Sovereign Immunity (The Collateral Source Rule)--3 sections

Work on Other Topics

Condemnation Law and Procedure (PRIORITY)
Inverse Condemnation (PRIORITY)

Consideration of Recommendations to 1970 Legislature That Are Not
Enacted

Additional Topics (to be determined on basis of priorities and
assignments given by legislative committees)

JANUARY 1971 - JANUARY 1972

Legislative Consideration of Recommendations to 1971 Legislature

(See topics listed under "Preparation of Recommendations to 1971
Legislature" for January 1970-January 1971 Period)

Preparation of Recommendations to 1972 Legislature

Inverse Condemnation (various aspects)
Condemnation Law and Procedure (Comprehensive Statute)

Work on Other Topics

Inverse Condemnation (various aspects)
Other Topics (to be determined on basis of priorities and assignments given by legislative committees)

JANUARY 1972 -

Legislative Consideration of Recommendations to 1972 Legislature

Condemnation Law and Procedure (Comprehensive Statute)
Inverse Condemnation (various aspects)
Other Topics (to be determined)

Work on Other Topics During Future Years Determined on Basis of
Priorities and Assignments Given by Legislative Committees

LAW REVISION COMMISSION

Office at Stanford University

Program Objective

The primary objective of the California Law Revision Commission is to study the statutory and decisional law of this state to discover defects and anachronisms and to recommend legislation to effect needed reforms. The subjects of commission study are designated by concurrent resolution of the Legislature.

The commission consists of a Member of the Senate appointed by the Committee on Rules, a Member of

the Assembly appointed by the Speaker, and 7 additional members appointed by the Governor with the advice and consent of the Senate. The Legislative Counsel is an ex officio nonvoting member of the commission.

SUMMARY OF PROGRAM REQUIREMENTS

Law revision * (General Fund) -----	
Personnel man-years -----	

ACTUAL 1967-68	ESTIMATED 1968-69	PROPOSED 1969-70
\$126,230	\$159,069	\$163,922
6.1	8	8

I. LAW REVISION

Output

The basic measure of the commission's output is the number of statute sections recommended to be added, amended, or repealed at a given session. This is not an accurate measure of output, however, since one statute section dealing with a complex, controversial problem may require substantially more resources than 50 sections dealing with a relatively simple, noncontroversial problem.

	Actual 1967-68	Estimated 1968-69	Proposed 1969-70
Sections enacted -----	77 ¹	60 ^[24]	40 ^[60]
Sections recommended --	75		
Sections tentatively recom-			
mended -----	48 ²	200 ^{3[0]}	100 ^{3[20]}

Another measure of the commission's output is the number of printed pages contained in material published in a given fiscal year. To some extent, this reflects the commission's actual output since the complexity of the legal problem involved is generally reflected in the number of pages required to discuss the problem. However, the commission strives for conciseness in its publications in order to minimize printing costs and to reduce the volume of material that must be considered by the Legislature and other interested persons. Consequently, the more editorial resources that are devoted to a particular publication, the more likely that it can and will be shortened.

	Actual 1967-68	Estimated 1968-69	Proposed 1969-70
Commission reports (printed pages) -----	327	100 ^[23]	400
Background studies pub- lished in law reviews (printed pages) -----	160	250 ^[20]	280 ^[25]

* An additional activity of the commission, required by Government Code Section 10331, is recommending the express repeal of all statutes repealed by implication or held unconstitutional. An insignificant amount of resources is devoted to this activity, estimated at approximately \$300-\$500 a year.

¹ The number of sections enacted exceeds the number recommended because several sections were added to the recommended legislation after it had been introduced in the Legislature.

² These sections are included in a tentative recommendation relating to one aspect of condemnation law and procedure. One of the sections is a constitutional amendment.

³ These sections will be included in tentative recommendations relating to various aspects of condemnation law and procedure and inverse condemnation. However, the commission does not plan to submit comprehensive legislation on these subjects to the Legislature until 1972.

Need

The commission assists the Legislature in keeping the law up to date by intensively studying complex and controversial subjects, identifying major policy questions for legislative attention, gathering the views of interested persons and organizations, and drafting recommended legislation for legislative consideration. The commission also identifies deficiencies in the law that might not otherwise come to legislative attention and recommends corrective legislation.

The efforts of the commission permit the Legislature to devote its time to determining significant policy questions rather than having to be concerned with the technical problems involved in preparing background studies, working out intricate legal problems, and drafting needed legislation. The output of the commission thus permits the Legislature to accomplish needed reforms that the Legislature might otherwise not be able to effect because of the heavy demands on legislative time. In some cases, the commission's study results in a determination that no legislation on a particular topic is needed, thus relieving the Legislature of the burden of devoting its time to the study of such topic.

Input

	Actual 1967-68	Estimated 1968-69	Proposed 1969-70
Expenditures -----	\$126,230	\$159,069	\$163,922
Personnel man-years -----	6.1	8	8

Workload Information

The workload of this commission is determined primarily by the number of topics assigned to it by the Legislature. The commission now has an agenda of 25

LAW REVISION COMMISSION—Continued

I. LAW REVISION—Continued

topics referred to it by the Legislature for study. During the next four or five years, the Commission will devote most of its efforts to preparing recommendations relating to condemnation law and procedure and to inverse condemnation—two topics which legislative committees have directed the commission to give priority. Other recommendations on smaller topics will be submitted to the Legislature during this period.

Present staffing of the commission is adequate to handle the anticipated workload during 1969-70. Delay in completing work on major topics now under study is unavoidable because the studies are complex and controversial.

Authority

Section 10330 of the Government Code.

MANAGEMENT MEMO

SUBJECT: Policy and Program Hearings April 1969

NO. 69-4

DATE ISSUED:
January 20, 1969

REFERENCES:

EXPIRES:

The Governor has announced that he is expecting a thorough program review and complete Multi-year Program, and that Policy and Program Hearings will be held during April 1969. The subject of these meetings will be the important program issues raised by operating departments through the Agency Secretaries. Program Issue Papers will be prepared with the assistance of the Department of Finance which will be the outline for the meeting.

The purpose of this memo is to highlight the objectives of the Policy and Program meetings, and to state as explicitly as possible exactly what is expected. As set forth in detail in the State Administrative Manual (TL-139) recently published, particular attention should be paid to Sections 6814 and 6820.

Our first objective is to conduct a thorough review of all state programs. Departments will submit Multi-year Programs to the Department of Finance as soon as possible after March 1 and before April 1, 1969.

In addition, department heads will identify major policy and program issues. The Policy and Program meetings will consider the program issue identified by departments and also those raised by the Agency Secretary and the Department of Finance, including the following:

What are the needs of the people?

Is California State Government getting results?

Are we supporting programs at the most effective and efficient level?

What programs can or should be abandoned?

What new programs, if any, should be substituted for existing programs?

Why?

Are all levels of Government working together?

The meetings should include major program changes that are now being considered for the 1970-71 Governor's Budget. During the course of these meetings other issues may be raised and subsequent in-depth analysis will be conducted during the period May through September on subjects requiring more information, analysis and decisions.

It will be very helpful if Agency Secretaries have prepared agency-wide program structures. By this means, Agency Secretaries will have a basis for reviewing programs that cross departmental lines and a basis for raising important inter-departmental issues which should be considered.

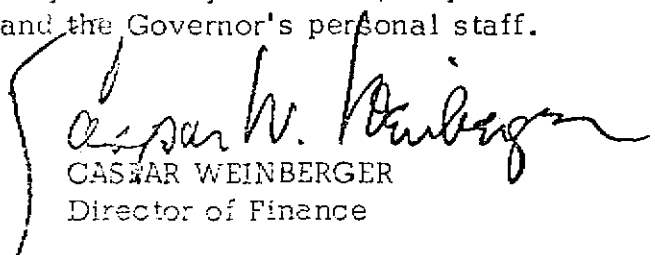
A Program Issue Paper should be prepared on each issue. These papers shall serve as a basis for discussion. Issue Papers should be brief and concise. They should point out the problem the program is supposed to meet, what the program does, how well it is working, and the general background behind the problem. Appendix I (attached) elaborates on the possible content of Issue Papers.

We are working toward holding the meetings by issue, inviting all interested departments to participate. This approach should be used whenever possible. We believe it can be very beneficial in making this interdepartmental, interagency program approach a reality.

The Department of Finance has the following responsibilities:

1. Conduct analysis of each Program Issue Paper submitted and prepare comments concerning each issue.
2. Raise issues which are of urgent consideration but not raised by departments.
3. Arrange for Policy and Program Hearings including the dissemination of Issue Papers to all individuals involved, gathering of supplemental information, and the organization of the hearing agenda.

In addition to the specific format outlined above, it is my hope that these meetings can be conducted informally and that the dialogue among the concerned individuals shall be one where opinions are freely expressed and full consideration is given. Because of this need for full and free discussion, it is contemplated that attendance at these hearings will consist of the Agency Secretary and staff, Department head and necessary staff, Department of Finance and the Governor's personal staff.


CASPAR WEINBERGER
Director of Finance

DISTRIBUTION: A C M

APPENDIX I

Outline of an Issue Paper

The Issue Paper is a written presentation that attempts to identify and describe the major features of a significant problem facing the government. It essentially attempts to "define the problem", a first step in any program analysis. It is not the purpose of the Issue Paper to provide the cost and effectiveness information that would be included in a program analysis.

The Issue Paper may either stand by itself as a description of the problem area in order to provide an improved perspective of the problem, or, preferably, can be used to set the framework, to act as the first phase of an in-depth "cost and effectiveness" analysis of the problem.

The Issue Paper should address such questions as:

A. What is the Problem?

1. What seems to be the real problem?
2. What appear to be the causes of the problem? To what extent are they currently known?
3. Who are the specific population(i.e., clientele) groups affected? (If other than the general public, identify their special characteristics such as: age group, race, income class, special needs, geographical location, etc.)
4. What is the magnitude of the problem? How widespread is it now? How large is it likely to be in future years?

B. Objectives and Evaluation Criteria

1. Toward what public objectives should programs for meeting the problem be directed? Sought here are the fundamental purposes, not the immediate physical outputs.
2. How can estimates of progress against these objectives be made? Identify the appropriate evaluation criteria (i.e., measures of effectiveness). If these do not seem directly measurable, indicate the "proxies" that might be used.

C. Current Activities and Who's Involved

1. What other agencies of the government, what other sectors of the community, or other levels of government, in addition to this government, are involved in attempting to meet the problem?

2. What specific activities are currently being undertaken by this government that are relevant to the problem? Identify each such current program and, to the extent possible, provide current costs and their current estimated impact relative to the criteria in B.2. Indicate the number in each beneficiary group identified in A.3 and those currently being served. If possible, project these into the future based upon current planning.

D. Political and Other Significant Factors

1. Are there major political factors that seem to affect the problem?
2. Are there any unusual resource or timing limitation problems of special significance?

E. Alternatives

1. What alternative programs or activities should be considered for meeting the problem? Describe the major characteristics of each.

F. Recommendations for Follow-Up

1. What is recommended as the next step? The Issue Paper should not normally contain program recommendations as to choices among alternatives. But it should indicate what next should be done about the issue. Recommendations as to the timing and scope of needed follow-on analysis should be made, whether the analysis is to be of the "quick-response" or "in-depth" type.
2. What are the major data problems likely to be associated with undertaking an in-depth analysis? How might these problems be met in the short run? The long run?