

## Memorandum 91-49

Subject: Administrative Matters - Budget and Personnel Issues

## BUDGET FOR 1991-92 FISCAL YEAR

The Commission's budget for the fiscal year just ended June 30 was \$657,000. For the coming 1991-92 fiscal year, the Governor has ordered all agencies to absorb across-the-board reductions necessitated by the state budget deficit. The most recent word we have from the Department of Finance is that the reductions will leave the Commission's budget for 1991-92 at \$527,000, which amounts to a 20% reduction, or \$130,000 less than last year's budget. How can the Commission, which is a very lean operation already, accommodate this reduction?

The staff suggests the following changes in budgeted amounts in order to ensure continued effective Commission operation. These items are discussed in more detail below.

(1) Fewer but longer Commission meetings. Savings: \$7,000 (consisting of reduced travel expenses and per diems for Commission and staff).

(2) Reduction of Mr. Murphy from 75% to 60% time. Savings: \$10,000.

(3) Fill vacant Staff Counsel position at Graduate Legal Assistant level. Savings: \$31,000.

(4) Leave vacant secretarial position unfilled. Savings: \$32,000.

(5) Eliminate temporary help. Savings: \$18,500.

(6) No new printing encumbrances. Savings: \$11,000.

(7) Charge for Commission materials. Savings: \$8,000 (consisting of photocopying and mailing expenses).

(8) Eliminate out-of-state travel allowance. Savings: \$2,000.

(9) Reduce consultant contracts. Savings: \$3,000.

(10) Reduction of employee salaries by 5%. Savings: \$6,000.

The foregoing changes would result in savings of \$128,500. This would be sufficient to live within the 1991-92 budget. A key element of this plan is filling the vacant staff counsel position at the

graduate legal assistant level. Commission productivity depends on a full legal staff. If, as a result of the current hiring freeze, we are unable to fill this position, we would be able to eliminate other proposed reductions.

The staff believes that under this regime the Commission would be fully functional, although somewhat less productive, than in previous years. The details of each proposed change are discussed below.

#### TRAVEL AND PER DIEM EXPENSES

We could save perhaps \$7,000 by reducing by a third the number of Commission meetings, and therefore paying less in travel expenses and per diems for the Commission (and staff). To some extent fewer Commission meetings are inevitable during the coming year anyway, with the turnover and reduction in staff.

The Commissioners need to make a commitment to attend scheduled meetings, and to arrive on time. We have lost substantial amounts of meeting time during the past year due to late starts and lack of a quorum. With fewer meetings and longer hours we may also be able to improve attendance, and thereby keep the Commission fully productive.

The staff recommends the Commission reduce the number of meetings by a third, but increase the total meeting time at each meeting by a third to compensate. This would take the form of full day meetings on Thursday and Friday. We could also start the meeting Thursday afternoon rather than Thursday morning and go into the evening. However, we could not do this at the state capitol, where it causes problems if we meet past five o'clock.

The staff proposes the following revised meeting schedule for the remainder of 1991, and for 1992:

<u>August 1991</u>	No Meeting	
<u>September 1991</u>		
Sep. 12 (Thur.)	10:00 a.m. - 12:00 noon	San Francisco
	1:30 p.m. - 6:00 p.m.	
Sep. 13 (Fri.)	9:00 a.m. - 12:00 noon	
	1:30 p.m. - 4:00 p.m.	

October/November 1991

Oct. 31 (Thur.)	10:00 a.m. - 12:00 noon	Sacramento
	1:00 p.m. - 5:00 p.m.	
Nov. 1 (Fri.)	9:00 a.m. - 12:00 noon	
	1:00 p.m. - 4:00 p.m.	

December 1992 No Meeting

January 1992

Jan. 23 (Thur.)	10:00 a.m. - 12:00 noon	Los Angeles
	1:30 p.m. - 6:00 p.m.	
Jan. 24 (Fri.)	9:00 a.m. - 12:00 noon	
	1:30 p.m. - 4:00 p.m.	

February 1992 No Meeting

March 1992

Mar. 12 (Thur.)	10:00 a.m. - 12:00 noon	Sacramento
	1:00 p.m. - 5:00 p.m.	
Mar. 13 (Fri.)	9:00 a.m. - 12:00 noon	
	1:00 p.m. - 4:00 p.m.	

April/May 1992

April 30 (Thur.)	10:00 a.m. - 12:00 noon	San Francisco
	1:30 p.m. - 6:00 p.m.	
May 1 (Fri.)	9:00 a.m. - 12:00 noon	
	1:30 p.m. - 4:00 p.m.	

June 1992 No Meeting

July 1992

July 9 (Thur.)	10:00 a.m. - 12:00 noon	San Diego
	1:30 p.m. - 6:00 p.m.	
July 10 (Fri.)	9:00 a.m. - 12:00 noon	
	1:30 p.m. - 4:00 p.m.	

August 1992 No Meeting

September 1992

Sep. 10 (Thur.)	10:00 a.m. - 12:00 noon	Sacramento
	1:00 p.m. - 5:00 p.m.	
Sep. 11 (Fri.)	9:00 a.m. - 12:00 noon	
	1:00 p.m. - 4:00 p.m.	

October 1992 No Meeting

November 1992

Nov. 12 (Thur.)	10:00 a.m. - 12:00 noon	Los Angeles
	1:30 p.m. - 6:00 p.m.	
Nov. 13 (Fri.)	9:00 a.m. - 12:00 noon	
	1:30 p.m. - 4:00 p.m.	

December 1992 No Meeting

#### REDUCTION OF MR. MURPHY'S TIME BASE

Rather than hiring a new lawyer to fill the vacant legal position left by Mr. DeMouilly's retirement, we could move Mr. Murphy from 3/4 time to full time and keep consultant contracts fully funded. Mr. Murphy would prefer instead to reduce his time basis to 60%, thereby freeing up sufficient funds to fill the new lawyer position. This will help keep the Commission fairly productive within the constraints of its reduced budget, and the staff recommends it.

#### FILL VACANT POSITION AT GRADUATE LEGAL ASSISTANT LEVEL

Mr. DeMouilly has deferred his retirement date from July 15 to July 31. He hopes this will enable him to complete the portion of the new Family Code he is presently at work on.

We have received the written consents of the Commissioners to the appointment of Mr. Sterling to replace Mr. DeMouilly, and have filed the necessary documentation in Sacramento. The resolution adopted by the Commission makes the effective date July 15 or such other date as Mr. DeMouilly retires, so no new resolution is needed.

We have begun the process of promotion of Mr. Ulrich to fill the Assistant Executive Secretary position. Two other persons, former legislative employees, have applied for the position as well, so we will schedule hiring interviews with all applicants. The fact is, however, that apart from any other considerations, our budget precludes us from hiring anyone but Mr. Ulrich. The only way we can meet our budget cuts is by promoting up and replacing with a lawyer at the entry level--otherwise we will not have sufficient funds to operate.

We have held a civil service examination for the entry level legal position, established an eligibility list, held hiring interviews, and extended an offer to a young lawyer, which has been accepted. However, the Governor has just extended the hiring freeze until the end of the new fiscal year. We are looking for a way to complete the hire notwithstanding the freeze, and are applying for an exemption.

#### LEAVE VACANT SECRETARIAL POSITION UNFILLED

One of our two secretaries has been hired away by another agency. We do not plan to fill the position. Our administrative assistant can help out with secretarial duties when necessary. We will look at the end of the fiscal year to see whether we want to fill this position or let it lapse permanently.

#### ELIMINATE TEMPORARY HELP

Our reduced secretarial staff and our administrative assistant will just have to work harder.

#### NO NEW PRINTING ENCUMBRANCES

We have encumbered \$6,000 out of last fiscal year's funding for printing the Commission's 1991 annual report. We have also encumbered \$6,000 each for printing recommendations on probate law and the Family Code. We need to have these items printed by December or we are likely to lose the funding. We would not plan to print anything with this fiscal year's money, saving the \$11,000 allocated to that for other purposes.

#### RESTRICT DISTRIBUTION OF MEETING MATERIALS AND TENTATIVE RECOMMENDATIONS

The largest single portion of our total budget for photocopying and postage goes to distribute meeting materials to various persons on our mailing list. This is also the largest single burden on our secretarial staff. We need to adopt a policy limiting distribution of meeting materials (and tentative recommendations) if we are to function reasonably on a reduced budget with a reduced secretarial staff.

The Commission has previously approved charging for copies of the staff draft of the Family Code being circulated for review, and has asked for a staff memorandum outlining a general policy relating to distribution of Commission materials on all subjects for the new fiscal year in light of the Commission's actual budget for the year.

In developing a general policy, there are several noteworthy factors. (1) Payments received for Commission materials will not, as a general rule, augment the Commission's budget; payments go to the state's general fund. (2) The main purpose for charging is to deter people from requesting the material unless they really want it. (3)

While we can hope to save some Commission expenses by reducing our mailing list, the main savings will be in staff time required to deal with the mailings. (4) To some extent it is counterproductive to charge for materials for which we want, and need, peoples' comments. (5) We have been fairly restrictive in sending out meeting materials. Of the administrative law materials we send out, probably half goes to people who actually read the material and either respond in writing or attend the meeting. Of the probate materials we send out, perhaps a third goes to correspondents and attendees. (6) The situation with tentative recommendations is more dismal; of the hundreds of copies of each tentative recommendation circulated for comment, we typically receive between a dozen and two dozen responses, most of which are uncritical. (7) The open meeting law requires meeting agendas to be provided free of charge on written request, but permits an agency to charge a fee for other meeting materials "covering direct costs of duplication"; we assume "direct costs" include, in addition to paper and toner, a prorated share of copier maintenance and depreciation, and operator time. (8) We don't really want to become involved in a charging system that will require more time for the staff to administer than it will simply to send out all materials.

With these considerations in mind, the staff proposes the following policy. The Commission will not charge for materials provided to Commission and staff members, consultants, members of the Legislature, Governor, and government depository libraries. The Commission will not charge for meeting agendas. The Commission will notify persons on its mailing list of the availability of tentative recommendations and Commission reports, of the general tenor of the items, and of the opportunity to request a copy. The Commission will charge for material sent on request of a person, as follows:

(1) If the item is less than 10 pages, \$5.50 per item, representing an averaged cost of \$5 for handling and shipping plus \$.02 per page photocopier cost plus tax.

(2) If the item is between 10 and 50 pages, \$8.50 per item, representing an averaged cost of \$7.50 for handling and shipping plus \$.02 per page photocopier cost plus tax.

(3) If the item is between 50 and 100 pages, \$18.00 per item, representing an averaged cost of \$15 for handling and shipping plus \$.02 per page photocopier cost plus tax.

(4) If the item exceeds 100 pages, a special price will be set for that item.

(5) Subscriptions for all materials on a particular topic will be offered at \$200 annually, representing an averaged annualized cost of materials for a major Commission study.

(6) Printed materials will be charged at the same rate as photocopied materials, for simplicity, even though the marginal cost is lower.

Notification of the new policy will be sent to all persons on the Commission's mailing list, with the explanation that charges are necessitated by the state's budget situation. A Commissioner or staff member may request that an individual item be sent to a person without charge in a case where that appears appropriate, such as where the person is providing material needed by the Commission in exchange, or where providing background information will help solve a problem in the legislative process, or where the Commission is requesting the assistance of the person on a particular matter. The Commission will review the policy at the end of the new fiscal year to see how it is working and in light of the budget for the next fiscal year.

#### ELIMINATE OUT OF STATE TRAVEL

There is \$2,000 in the Commission's budget for out of state travel. This is used to cover the Executive Secretary's attendance of the annual conference of the Uniform Law Commission. This has been a worthwhile expenditure, but we do not see how it can be justified with our budget as tight as it is. We plan to save this money for other purposes this fiscal year.

#### CONSULTANT CONTRACTS

The Professor Asimow is needed in the administrative adjudication study to present his proposals to the Commission and respond to agency comments on the proposals. We would allocate \$2,000 of our \$14,000 consultant budget to provide for his travel to Sacramento to complete the study. We should extend Professor Asimow's contract, which expired June 30, so that it is clear payment is proper.

The Commission has also named practitioner consultants on the administrative adjudication study. Most of these are in the Sacramento area, and we would ask them to continue to bear their own expenses for

serving as a Commission consultant, as they have done for the past few meetings.

Professor Kasner is needed to respond to issues on the donative transfers of community property study, as well as to present the new study on community property in joint tenancy form, due this fall. As a northern Californian, he might be able to attend meetings in Sacramento at his own expense without an undue imposition.

The staff believes it is important to retain Mr. DeMouilly after his retirement to work as a consultant to complete the Family Code project. This would be a tremendous saving of limited staff resources, and would ensure continuity, since he has been the primary draftsman on the project. We would contract with him to complete the draft of the Family Code, incorporate changes enacted by other legislation at the current session, and review comments received on the code and draft any necessary changes; the work would be completed by June 30, 1992. This would relieve the staff of a huge volume of work and would require Mr. DeMouilly to devote an estimated 50 hours a month for the rest of the fiscal year to the project. At a cost to the Commission of \$9,000, this would boost Commission productivity at relatively little cost. The staff recommends Commission approval of the contract with Mr. DeMouilly.

#### REDUCTION OF EMPLOYEE SALARIES

The numbers we have been using reflect the newly announced 5% reduction in the salaries of the Executive Secretary and Assistant Executive Secretary. If salaries of other Commission employees are also cut 5%, as the Governor has proposed, we can expect to save an additional \$6,000, which we are relying on to help close the gap between proposed spending and available funding.

#### CHEAP OR FREE LAW STUDENT LABOR

In the past we have relied on law student assistance for cite checking, spot research, and the like. We have been able to save significant amounts by hiring law students on the federally-funded work study program, at small cost to the Commission.

Now may also be the time to look more closely into unpaid law student interns who receive academic credit rather than pay. We have avoided this before because we feel we get greater commitment out of a student we are paying. Also, much of the work our student employees do is pretty routine detail work that isn't really consonant with the concepts of an academic program. This would take additional staff time to develop, but could be worth it in the long run.

Respectfully submitted,

**Nathaniel Sterling**  
**Assistant Executive Secretary**