

**Governor's Reorganization
Plan 2:
Reorganization of the
Executive Branch of State
Government**

A Briefing Paper for an Informational Hearing

Senate Committee on Governance & Finance
Senate Committee on Governmental Organization

10 a.m.
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This summary paper highlights key policy points and prepares the members of the Senate Committee on Governance and Finance and the Senate Committee on Governmental Organization for the May 23rd hearing on the Governor's Reorganization Plan (GRP) 2 of 2012.

The paper provides the following:

- Overview of the Governor's Reorganization Plan process.
- Summary of Governor's Reorganization Plan 2 of 2012.
- Key issues for consideration on governmental reorganizations:
 - ✓ Performance,
 - ✓ Consolidations,
 - ✓ Role of independent state entities, and
 - ✓ Implementation considerations.
- List of past reorganizations and the legislative response.

Governor's Reorganization Plan Process

The California Constitution authorizes the Legislature to delegate to the Governor the authority to assign and reorganize functions among executive branch officers, agencies and their employees. The Governor's authority to reorganize does not extend to other constitutional offices (Article V, Section 6). State law specifies a reorganization process and places limits on the reorganization authority.

State law specifies that the purpose of the Governor's reorganization authority, in the form of a GRP, is to enable the Governor to promote improved strategies for:

- Executing the law,
- Managing state government,
- Reducing expenditures,
- Increasing efficiency,
- Improving coordination among agencies and functions,
- Reducing the number of agencies, and
- Eliminating duplication and overlap among agencies.

To achieve these goals, the Governor can use a GRP to transfer functions among state agencies, eliminate functions or entire agencies, consolidate operations or specific functions, and establish new entities to perform the functions of an existing entity.

State law prohibits a GRP from:

- Extending an agency's authority or a function beyond the period authorized by law.
- Authorizing an agency to exercise any function not expressly authorized by law.
- Increasing the term of an office beyond that provided by law, or
- Abolishing any agency created by the California Constitution or transferring jurisdiction and control of a function by the California Constitution.

Process. A reorganization plan may be delivered to the Legislature at any time during a regular session, provided the Legislature has at least 60 calendar days of a continuous session to consider the plan. The Governor's plan becomes effective on the 61st day after it is given to the Legislature, unless either the Senate or the Assembly adopts a resolution rejecting the plan. The resolution requires a majority vote.

At least 30 days prior to submitting a GRP to the Legislature, the Governor must provide a copy to the Little Hoover Commission, in its advisory capacity. The Commission must review the plan and submit a report to the Legislature within 30 days of transmission to the Legislature.

Implementation. Following the effective date of a GRP, the Legislative Counsel prepares a bill for introduction that conforms the statutes to the GRP. The GRP itself does not amend the statutes. However, unless either house of the Legislature affirmatively rejects the GRP, it becomes law whether or not an implementing bill is passed.

Typically, implementing legislation, in one or more bills, is passed in the year following the effective date of a GRP. While the GRP itself cannot be amended by the Legislature, implementing legislation can modify a GRP's provisions.

A GRP is effective on the 61st day following its submission to the Legislature. GRP 2 specifies that it becomes operative on July 1, 2013, but directs state agencies to take prior actions needed to support its implementation. Thus if neither the Senate nor the Assembly rejects GRP 2 by midnight of July 2, 2012, it becomes *effective* July 3, 2012, and *operative* on July 1, 2013.

A GRP may provide for the appointment of individuals, subject to Senate confirmation, to lead an entity that results from consolidation or other type of reorganization.

Summary of GRP 2

Currently, the executive branch of state government includes eleven state agencies and cabinet-level departments:

- State and Consumer Services Agency,
- Business, Transportation and Housing Agency,
- California Emergency Management Agency,
- California Environmental Protection Agency,
- Health and Human Services Agency,
- Labor and Workforce Development Agency,
- Natural Resources Agency,
- Corrections and Rehabilitation Agency,
- Technology Agency,
- Department of Food and Agriculture, and
- Department of Veterans Affairs

The GRP would revise that structure and result in the following ten agencies and cabinet-level departments:

- Business and Consumer Services,
- Government Operations,
- Corrections and Rehabilitation,
- Labor and Workforce Development,
- California Health and Human Services,
- Environmental Protection,
- Natural Resources,
- Transportation,
- Department of Food and Agriculture, and
- Department of Veterans Affairs

Business and Consumer Services.

Currently, the State and Consumer Services Agency is made up of the following departments and entities:

- Department of General Services,
- Department of Consumer Affairs,
- Franchise Tax Board,
- Public Employees' Retirement System,
- State Teachers' Retirement System,
- Department of Fair Employment and Housing,
- Fair Employment and Housing Commission,
- California Science Center,
- California Victim Compensation and Government Claims Board,
- California African American Museum
- California Building Standards Commission,

- Alfred E. Alquist Seismic Safety Commission, and
- Office of Privacy Protection

GRP 2 eliminates the agency and establishes a new agency, the **Business and Consumer Services Agency**, made up of the following entities:

- Department of Consumer Affairs,
- Department of Fair Employment and Housing,
- Department of Business Oversight,
- Department of Housing and Community Development,
- Department of Alcoholic Beverage Control Alcoholic Beverage Control Appeals Board,
- California Horse Racing Board, and
- Alfred E. Alquist Seismic Safety Commission

The following entities are transferred to the **Natural Resources Agency**:

- Office of Exposition Park Management,
- California Science Center, and
- California African American Museum.

The Department of Real Estate and the Office of Real Estate Appraisers would be abolished and reconstituted as bureaus within the Department of Consumer Affairs.

The California Housing Finance Agency would be transferred into the Department of Housing and Community Development.

The Structural Pest Control Board would be transferred from the California Environmental Protection Agency to the Department of Consumer Affairs.

The State Board of Chiropractic Examiners would be transferred as a unit within the Department of Consumer Affairs.

Currently, the **Business Transportation and Housing Agency** includes the following entities:

- Department of Transportation,
- Department of Motor Vehicles,
- California Highway Patrol,
- Board of Pilot Commissioners,
- Department of Corporations,
- Department of Financial Institutions,
- California Housing Finance Agency,
- Department of Managed Health Care,
- Department of Alcoholic Beverage Control,
- Alcohol Beverage Control Board,
- Department of Housing and Community Development,
- Department of Real Estate,
- Office of Traffic Safety,
- Office of Real Estate Appraisers, and
- California Infrastructure and Economic Development Bank.

The GRP eliminates the Department of Corporations and the Department of Financial Institutions and transfer their respective authorities and responsibilities to the Department of

Business Oversight, which would be established within the **Business and Consumer Services Agency**. The new Department of Business Oversight's executive officer would be the Commissioner of Business Oversight. The department's administration would include a Deputy Commissioner of Business Oversight for the Division of Corporations and a Deputy Commissioner of Business Oversight for the Division of Financial Institutions.

The GRP establishes a **Transportation Agency**, which includes the following entities formally housed within the Business, Transportation and Housing Agency:

- Department of Transportation,
- Department of Motor Vehicles,
- California Highway Patrol,
- Board of Pilot Commissioners, and
- California Traffic Safety Program.

Along with those entities, the **Transportation Agency** also would include the:

- California Transportation Commission, and
- High-Speed Rail Authority.

The following entities that are currently part of the Business, Transportation and Housing Agency would be transferred into the **Governor's Office of Business and Economic Development**:

- California Infrastructure and Economic Development Bank,
- Office of Tourism,
- California Film Commission,
- Film California First Program, and
- Small Business Loan Guarantee Program.

Government Operations Agency

The GRP also establishes the **Government Operations Agency**, which would house the Office of Administrative Law, the Public Employees' Retirement System, the State Teachers' Retirement System, the State Personnel Board, the California Victim Compensation and Government Claims Board, the Department of General Services, the Department of Human Resources, and the Franchise Tax Board.

The Government Operations Agency also would house the Department of Technology, which would include the Office of Information Security and the Office of Technology Services. The current Secretary of California Technology would be transitioned into the Director of Technology.

Corrections and Rehabilitation Agency

GRP 2 does not affect the Corrections and Rehabilitation Agency.

Labor and Workforce Development Agency.

GRP 2 moves the **Public Employment Relations Board (PERB)** into the Labor and Workforce Development Agency.

California Health and Human Services Agency

GRP 2 does not affect the California Health and Human Services Agency.

California Environmental Protection Agency

Under the GRP, the Department of Resources Recycling and Recovery would be moved from the Natural Resources Agency into the California Environmental Protection Agency.

Natural Resources

The California Natural Resources Agency currently includes the following entities:

- Department of Resources Recycling and Recovery,
- Department of Boating and Waterways,
- Boating and Waterways Commission,
- Department of Parks and Recreation,
- Department of Conservation,
- California Energy Commission,
- California Conservation Corps,
- Colorado River Board of California,
- Department of Fish and Game,
- Department of Forestry and Fire Protection,
- Department of Water Resources,
- California Coastal Commission,
- California Coastal Conservancy,
- California Tahoe Conservancy,
- Santa Monica Mountains Conservancy, and
- Sacramento-San Joaquin Conservancy.

GRP 2 transfers from the former Business, Transportation and Housing Agency, into the **Natural Resources Agency** the following entities:

- Office of Exposition Park Management,
- California Science Center, and
- California African American Museum.

It also places the Delta Stewardship Council under the authority of the Agency, moves the Department of Boating and Waterways into the Department of Parks and Recreation as a division, and eliminates the Boating and Waterways Commission.

The GRP 2 also transfers the Department of Resources Recycling and Recovery out of the Resources Agency and into the **California Environmental Protection Agency**.

Department of Food and Agriculture

GRP 2 does not affect the Department of Food and Agriculture.

Department of Veterans Affairs

GRP 2 does not affect the Department of Veterans Affairs.

Other entities.

Emergency Management. Currently, emergency management operations are led by the Secretary for California Emergency Management, who oversees the California Emergency Management Agency. GRP 2 would rename the agency as the Office of Emergency Services within the office of the Governor and the Secretary would become the Director of Emergency Services.

Gambling Control. Currently, the California Gambling Control Commission serves as the regulatory body for gambling establishments, proposition players, remote caller bingo, and tribal casinos. That authority includes creating policy, establishing regulations, issuing licenses, and administering certain Indian gaming revenues and trust funds. The California Department of Justice has law enforcement and investigatory powers pertaining to gambling establishments, gambling licenses, and work permits.

GRP 2 would transfer some functions from the Gambling Control Commission to the Department of Justice, including support, investigatory, auditing, and compliance functions. The commission would retain jurisdiction over licensing, policies, regulations, criteria, and standards.

Establishing administrative authority.

In addition to enacting organizational changes, GRP 2 fortifies the administrative authority of the cabinet secretaries. The GRP includes the following language:

The secretary of an agency shall be generally responsible for the sound fiscal management of each department, office, or other unit within the agency. The secretary shall review and approve the proposed budget of each department, office, or other unit. The secretary shall hold the head of each department, office, or other unit responsible for management control over the administrative, fiscal, and program performance of his or her department, office, or other unit. The secretary shall review the operations and evaluate the performance at appropriate intervals of each department, office, or other unit, and shall seek continually to improve the organization structure, the operating policies, and the management information systems of each department, office, or other unit. (Section 199, page 183)

For some entities, this language reflects current statutory authority or long-established practice. However, for others, including the Delta Stewardship Council, the California Transportation Commission, the Public Employment Relations Board, and others that operate with a degree of independence from the Governor's Cabinet, this language may result in new lines of reporting and authority.

Operational Date.

The GRP would become effective on July 2, 2012 and operational on July 1, 2013, but would authorize a state agency, department, or entity to take actions prior to July 1, 2013 that are necessary to ensure that the provisions of the plan become operative on July 1, 2013.

Insert Current Organizational Chart

Insert Proposed Organizational Chart

Issues for consideration.

The authority vested in the Governor to reorganize the administration has been used in the past to improve coordination among entities working toward shared goals. The reorganization of correctional and rehabilitation entities, under a secretary, has led to improved coordination of those programs. Similarly, reorganizations have allowed departments to provide more focus on specific issues, such as the decision to designate the Department of Public Health as a stand-alone department under the Health and Human Services Agency.

In his transmittal letter, the Governor stated that GRP 2 is part of his efforts to streamline government, improve efficiency and reduce unnecessary spending. GRP 2 is intended to improve the management and coordination of government activities, and facilitate further consolidations and cost savings.

Key issues for consideration of governmental reorganizations:

- Performance,
- Consolidations,
- Role of independent state entities, and
- Implementation considerations.

Performance

The GRP is intended to improve the operations of state entities, enhance coordination and improve outcomes. GRP 2 does not specifically outline the means to improve outcomes or operations through the reorganization process.

Organizational change is an important component of efforts to transform the operations of public agencies. However, organizational reform is just one component in securing improvements in operations or reductions in costs.

In March 2011, the Senate Governance and Finance held a hearing on the opportunities to transform California state government. The Committee heard testimony that significant and sustained improvement in the operations of public agencies also requires:

1. Sustained executive attention.
2. Clearly defined goals.
3. A culture supportive of change and improvement throughout the affected agencies.
4. Key staff charged with implementing reforms and reorganizations.
5. Management and analytic capacity to change how departments work and are managed.
6. A coordinated approach to ensure ongoing executive and legislative approval for changes.
7. An effective implementation and performance management strategy.

Many reforms begin with an ambitious plan but lack the detailed analysis necessary to show how organizational or other reforms will result in reduced costs, improved cross-agency alignment, or

enhanced outcomes. Additionally, those plans must include efforts to ensure that line staff, policy makers and others understand and work toward reform goals. The support of managers and staff is particularly important to realizing improvement. For example, the federal government has established a set of laws and regulations that provide direction to executive officers, managers and staff on how reforms are to be implemented and the timeframes for their implementation.

GRP 2 authorizes the Secretary of each agency, including those not covered by the GRP, to evaluate the performance of each department, office or other entity within the agency (Section 199, page 183). This section is consistent with past efforts in California to promote improved operations, including the State Government Strategic Planning and Performance and Review Act (AB 2711, Brown, Statutes of 1994, Chapter 779).

Committee members may want to ask witnesses:

- How is GRP 2 expected to reduce costs, increase coordination and improve services?
- What efforts are in place, or should be in place, to measure or monitor cost reductions or service and program improvements?
- What efforts are in place, or should be in place, to identify ongoing barriers to cost reductions or service improvements and to identify ways to address those barriers?
- Recognizing that program managers and line staff are key to reducing costs and improving outcomes, what consultation did the administration undertake, or is underway, to ensure that the reorganization sought by GRP 2 will be successfully implemented?

The Legislature may wish to consider, through the process of drafting implementing legislation, or through companion legislation, ways to clarify how evaluation will be performed, the time frames for that evaluation and what information will be shared with the Legislature and made public. Sample language consistent with federal legislation is attached (See page 23).

Consolidations.

GRP 2 proposes significant consolidations and transfers, resulting in one less agency in state government. The GRP does not specifically delineate the rationale for many of those consolidations, or the specific problems that are being addressed.

Department of Resources Recycling and Recovery

The GRP transfers the Department of Resources Recycling and Recovery from the Natural Resources Agency to the California Environmental Protection Agency.

Concerns have been raised that the current process for state review of locally issued permits for garbage dump expansions, new dumps or facilities is inadequate, with insufficient public review and public discussion of the implications of those decisions for local communities. It is unclear how the GRP would result in improved operations to the permitting and permit review process.

Similarly, the Department of Resources Recycling and Recovery manages two programs: the Beverage Container Recycling and Litter Reduction program and the Waste Reduction and Management Program. While both programs deal with similar issues, the programs have disparate goals and place different functional requirements on the department. The GRP does not delineate how the shifting the program from the Natural Resources Agency to the Environmental Protection Agency will address the functional differences between these two programs.

Committee members may want to ask:

- What is the goal or rationale for moving the Department of Resources Recycling and Recovery from one agency to another?
- How is it envisioned that this proposed shift would improve the operations of the programs administered by the Department?

Transportation and Housing.

The GRP also contains two elements that affect housing entities. The GRP:

- Transfers housing departments away from the Business, Transportation and Housing Agency into the new Business and Consumer Services Agency.
- Transitions the California Housing Finance Agency (CalHFA) into the Department of Housing and Community Development (HCD).

The primary mission of both HCD and CalHFA is to finance affordable housing. Effectively, these entities are engaged in infrastructure development. Associating these entities with other departments that finance and provide infrastructure, such as Transportation, allows for synergies and a more effective, coordinated approach to the expenditure of the state's scarce infrastructure funds. Moreover, transportation and housing needs are inextricably linked, and the 2008 enactment of SB 375 (Steinberg, Chapter 728), requires coordinated transportation and housing planning at the regional level.

Disassociating these two disciplines at the state level may undermine integrated planning efforts around housing and transportation.

In contrast to the present organization of housing entities in an agency with transportation responsibilities, shifting these entities to the proposed Business and Consumer Services Agency places them among entities with largely dissimilar goals and functions. The Department of Consumer Affairs, which also would be housed in the Business and Consumer Services Agency, will continue to be comprised largely of professional boards and commissions. There is minimal overlap between the functions and goals of the Department of Housing and Community Development, the California Housing Finance Agency and these regulatory bodies. The remaining entities within the agency, although they may have some role with regard to housing, have functional roles that are not consistent with the infrastructure-related missions and roles of CalHFA or HCD.

Committee members may want to ask witnesses:

- What is the rationale and direct value – associated with cost reductions or service improvements – of separating these two housing related agencies from transportation and other infrastructure related entities?
- How will the administration ensure – or what effort should it pursue to ensure – that the GRP results in improved coordination across a new set of state agencies and how should the Legislature monitor or ensure that that happens?
- What strategies does the administration have in place, or should have in place, to ensure that GRP 2 does not undermine the state’s ability to leverage limited infrastructure funding to address housing needs while meeting the goals of SB 375?

Similarly, the GRP would transfer CalHFA into the Department of Housing and Community Development.

CalHFA is the state’s housing bank. It borrows capital from financial markets through the sale of revenue bonds and loans those funds to first-time homebuyers and the developers of affordable housing. CalHFA’s finances are off-budget. The agency receives no General Fund support, and the state’s General Fund is not liable for CalHFA’s bonds. As a result, it maintains its own credit rating separate from the state’s credit rating. For these reasons, the Legislature established CalHFA with an independent governing board and later made its Governor-appointed director a term appointment.

The GRP moves this independent agency under the authority of HCD.

Committee members may want to ask witnesses:

- What benefit or efficiency is derived from moving CalHFA into HCD?
- The GRP would require CalHFA, under the new department, to comply with additional layer of administrative requirements to pursue its mission. What analysis or review was conducted and how did it determine that this shift was consistent with the mission and function of the CalHFA?
- Currently, the CalHFA Executive Director is a term appointment of the Board, and as such, does not report to the Governor or an agency secretary. What reporting structure does the GRP envision if CalHFA were to be moved into a department with a director who will continue to report to the Board, but will also report to a secretary and the Governor?
- The independence of CalHFA allows it to secure a credit rating separate from that of the state. What advice and guidance has the administration secured to ensure that the GRP would not impair that credit rating or even affect the state’s overall bond rating in the event of a poor investment or default?

- Given the significant complications associated with this particular component of the GRP, how does the administration intend to monitor or report on the benefits of the reorganization and in what timeframe should the Legislature expect those to occur?

Boating and Waterways and State Parks

GRP 2 eliminates the Boating and Waterways Commission and the Department of Boating and Waterways would become a division within the California Department of Parks and Recreation. The Department of Boating and Waterways finances, plans and develops boating facilities on waterways through local assistance grants and loans primarily to cities and counties for improvements to harbors and ports. The department also provides financial aid and training to local law enforcement agencies, conducts invasive species control activities in the Delta, and operates beach erosion control and replacement programs. The Department of Boating and Waterways is funded through a portion of state gas taxes, vessel registration fees, and through loan proceeds. The Department's current loan portfolio is approximately \$350 million.

The Harbors and Watercraft Revolving Fund generally maintains a surplus. In contrast, State Parks has been perennially underfunded. Annually, more than \$26 million has been provided to State Parks from vessel fuel tax receipts.

The Committee members may want to ask:

- What is the rationale for moving the Department of Boating and Waterways into the Department of Parks and Recreation?
- What cost savings or administrative efficiencies will be derived through this component of the reorganization?
- What fiscal controls does the administration envision to ensure that funds in the Harbor and Watercraft Revolving Fund will not be subsumed into the operating accounts for the broader department?
- What provisions does the administration intend to put in place to ensure that the challenges currently facing the Department of Parks and Recreation do not result in diminished services or future cost pressures to eliminate programs and services currently offered by the Department of Boating and Waterways?
- Recognizing that much of the work of the Department of Boating and Waterways occurs outside of the jurisdiction of state parks and the Department of Parks and Recreation, what provisions does the administration intend to put in place to ensure that the authority of the Division of Boating and Waterways will not be diminished?

Other organizational changes.

The GRP would move the California Science Center, the California African American Museum and Exposition Park into the Natural Resources Agency. Similar functions in support of agricultural associations and related activities are conducted by the Department of Food and Agriculture (GRP 2, Section 71).

The GRP transfers the Structural Pest Control Board from the California Environmental Protection Agency to the Department of Consumer Affairs within the Business and Consumer Services Agency (Section 2).

Committee members may want to ask witnesses:

- What is the rationale for these components of the GRP and what benefits should be expected from these changes?

Role of Independent State Entities

The GRP would move a number of entities that Legislature intended to operate with a significant degree of independence, including those entities with legislative appointees, those intended or authorized to advise the Legislature, and those with quasi-judicial functions.

Delta Stewardship Council. The Delta Stewardship Council was created to achieve the state mandated, coequal goals for the Delta. "Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. To promote its mission, the Council engages state and federal agencies, local officials and others. GRP 2 moves the Council into the Natural Resources agency, potentially impeding its ability to consult with all affected state agencies, monitor policy, programmatic and implementation issues related to those goals, and advise policymakers on its progress.

The Council was formed as part of a collaborative process that called for an independent voice, with the capacity for oversight on the Delta. In forming the Council, the legislative testimony affirmed the need for real independence, and the clear appearance of independence, to support the mission of the Council.

One key function of the Council is to develop and adopt a Delta Plan, and then oversee state, and local agency compliance with that plan. More specifically, the Council will oversee compliance with the plan of some state agencies within the Natural Resources Agency, such as the Department of Water Resources and the Delta Conservancy, and some outside of the Natural Resources Agency, such as the Department of Food and Agriculture and the Department of Transportation. The Council also acts as an appellate body for approval of the Bay Delta Conservation Plan (BDCP), which is being developed under the direction of the Natural Resources Agency.

Committee members may want to ask witnesses:

- What is the goal or rationale for shifting the Council into the Natural Resources Agency?
- How does moving the Council into the Natural Resources Agency promote both the actual and perceived independence of the Council, particularly in light of the specific authority included in the GRP for agency oversight of entities under the Agency?
- Will moving the Council into the Natural Resources Agency hinder its ability to fairly oversee compliance with the Delta Plan? If so, what additional steps will need to be taken to ensure the Council has the appropriate level of independence?
- What are specific examples of problems that the Council has had which would have been avoided had the Council been a part of the Natural Resources Agency?

Public Employment Relations Board (PERB). The National Labor Relations Act is the basic labor law of the United States; the Act expressly excludes employees of state and local governments. The Public Employment Relations Board (PERB) was created to have oversight over public employment relations in California.

PERB is created in statute as independent of any state agency. It is a neutral, quasi-judicial body consisting of five members, each appointed by the Governor, and confirmed by the Senate, to 5-year terms. Once appointed, an appointee serves out his or her 5-year term as an independent member of the board, presumably free from political interference. All decisions of the PERB are precedential. In general, appeals to PERB decisions must be taken to the Appellate court.

Among its many duties, PERB hears matters of dispute related to labor relations, investigates unfair labor practice charges or alleged violations, establishes or approves bargaining units, and decides contested matters involving recognition, certification, or decertification of employee organizations. PERB also seeks court enforcement of its orders and decisions as it deems necessary. California has four major public employment relations statutes, as follows:

1. The Ralph C. Dills Act, which is specific to state employees.
2. The Meyers-Milias-Brown Act (MMBA), which covers local governmental agencies and their employees.
3. The Educational Employment Relations Act (EERA), which applies to public schools and community colleges.
4. The Higher Education Employer-Employee Relations Act (HEERA), which covers employees of the University of California and the California State University systems.

PERB has issued a large number of rulings over the years that define and give meaning to the labor relations statutes. In addition, PERB has adopted an extensive body of rules to govern public labor relations in California.

Labor organizations are concerned that moving PERB into the Labor and Workforce Development Agency could undermine its effectiveness, rather than improve government operations.

Committee members may want to ask witnesses:

- Should the administration ensure that PERB will continue to operate free from interference? If so, how will this be accomplished?
- There is concern that the transition could create administrative delays, slowing down decision-making, rather than speeding it up. What plans are in place, or underway to ensure that the GRP would result in shorter wait time and few delays in administration functions?
- Moving PERB may result in conflicts when employees and departments under the agency are involved in labor disputes. How does the administration intend to ensure that conflicts do not occur?
- Moving PERB also could jeopardize the confidentiality of the Board's filings. What policies and procedures does the administration propose to ensure the confidentiality of those filings?

The Committees may want to explore whether moving the Council into the Natural Resources Agency, particularly in light of the specific authority included in the GRP for agency oversight of entities under the agency (Section 199, page 183), would undermine the intent of the Legislature in forming the Council and if so, consider alternatives to clarify and fortify the Council's independence.

California Transportation Commission. The California Transportation Commission (CTC) was established in 1978 by AB 402 (Chapter 1106, Statutes of 1977) out of a growing concern for the development of a unified California transportation policy. The Commission replaced and assumed the responsibilities of four independent bodies: The California Highway Commission, the State Transportation Board, the State Aeronautics Board, and the California Toll Bridge Authority. The Commission is responsible for the programming and allocating of funds for the implementation of highway, passenger rail and transit improvements throughout California. This effort includes evaluating spending plans proposed by Caltrans and the administration, and weighing regional priorities against what the state might prefer or recommend. In addition, CTC advises and assists the administration and the Legislature in formulating and evaluating policies and plans for California's transportation programs.

The Commission consists of eleven voting members and two non-voting ex-officio members. Of the eleven voting members, nine are appointed by the Governor, one is appointed by the Senate Rules Committee, and one is appointed by the Speaker of the Assembly. The two ex-officio non-voting members are appointed from the State Senate and Assembly, usually the respective chairs of the transportation policy committee in each house. The Commission advises and assists the administration and the Legislature in formulating and evaluating state policies and plans for California's transportation programs. The Commission is also an active participant in the initiation and development of State and Federal legislation that seeks to secure financial stability for the State's transportation needs.

GRP 2 places the Commission into the Transportation Agency under the authority of the Transportation Secretary.

Much of CTC's work is reviewing and approving plans or projects brought forward by Caltrans and the administration. If CTC is to take direction from the secretary and administration, it becomes unclear what role the commission plays in the process.

Other potential issues raised by transitioning the Commission into the agency include:

- Every two years Caltrans compiles the State Transportation Improvement Program (STIP) and the State Highway Operations and Protection Program (SHOPP), which principally include the schedule and expenditure of projects on the state highway system over future years. Currently, these programs originate from Caltrans and the Business, Transportation and Housing Agency, with input from the regional transportation planning agencies, for review and approval by the Commission. Under the GRP, the CTC will be requesting permission to review and approve these programs from the same entity, the Transportation Agency, from where they originate, potentially rendering the Commission's review and approval inconsequential.
- The CTC currently is required to provide input on and approval of public-private partnership (PPP) proposals. These proposals can commit the state or regional agencies to billions of public dollars in payment obligations over decades, and can be complicated and controversial. If these proposals originate from the administration, under the GRP it is unclear how impartial and objective the Commission's review might be, or what value the CTC can bring to the process.
- In response to significant problems in the development of the new Bay Bridge, the Legislature created an entity, called the Toll Bridge Project Oversight Committee, to provide oversight and ultimately be responsible for delivery of the project. The committee is comprised of three individuals – the Executive Director of the Bay Area Toll Authority (BATA), the Director of Caltrans, and the Executive Director of the CTC. The CTC representative is intended to serve as a third voice between the implementer (the state) and the project sponsor (BATA). If the Commission's representative is essentially another voice for the administration, it is unclear what value he or she brings to this committee, as well as how this shift in power might affect the development of this project.

- Currently, CTC is viewed by its constituents in regional transportation agencies as having a substantial degree of independence and autonomy, increasing the Commission's transparency and limiting the perception of undue influence by either the Governor or the Legislature. The CTC is at least to some degree a space of recourse for regional transportation planning agencies and self-help counties to appeal to should they not agree with Caltrans on any issue. Much of the transportation funds spent in the state are now generated locally, not through state taxes, and therefore giving these regional entities a relatively neutral place to contribute to decision-making is very important. If the CTC is more closely aligned with the administration, these partners may decide to limit their participation in state highway projects, instead funding other local transportation options, leaving the state with an even less-funded highway system.

For each of these specific functions, the Commission has an independent voice and decision-making process. It is unclear what value the CTC would continue to contribute should it become part of the administration, or how critical it could be of proposals or policies which originate from the new agency.

Committee members may want to ask witnesses:

- Does moving the CTC into the Transportation Agency may make much of its responsibilities redundant? What is the rationale behind this component of the Plan?
- Could the GRP dramatically limit the Commission's independent authority and thus alter the intent of the Legislature in creating the Commission? What is the explicit goal of this proposal and what options should be considered to preserve the Commission's independence?
- Could the GRP diminish the oversight and transparency that is currently afforded by the Commission for California's transportation planning and expenditures? What does the administration propose to ensure that transparency and oversight is enhanced and not diminished?
- Moving the CTC into the Transportation Agency more closely aligns the Commission with the administration, changing its relationship with the state's regional transportation partners. How does the administration propose to address the potential problems arising from losing these partners and their significant contributions to the state highway system?

Options to preserve or enhance functional independence. To address the concerns raised above for entities intended to have some degree of independence, the Committees may want to solicit testimony from the administration on strategies to preserve the functional independence of those entities.

The Legislature may want to consider adopting implementing language to clarify the specific independence that it intends to confer on those entities and itemize those authorities. Consider the following specific authorizations or abilities:

Authority over operational issues, including the ability to:

- Meet at any time and place as it may deem proper.
- Hold hearings or other public meetings as it may deem proper.
- Administer oaths.
- Employ, pursuant to laws and regulations governing state civil service, staff and any legal, and technical assistants and consultants as it may deem necessary.
- Contract with any other agencies, public or private, as it deems necessary, for the rendition and affording of any services, facilities, studies and reports to the entity as will best assist it to carry out its duties and responsibilities.

Authority to work within and outside of the Executive Branch, including the ability to:

- Cooperate with and to secure the cooperation of county, city, city and county, and other public agencies, state, federal or local in investigating and pursuing any matter within the scope of its duties and responsibilities.
- Bring matters before and secure the assistance of the courts in enforcing orders and processes, to the extent that authority is consistent with the mission of the entity.
- Cooperate with every department, agency, or instrumentality in the state government; and to secure directly from every department, agency, or instrumentality full cooperation, including access to its records, and access to any information, suggestions, estimates, data, and statistics it may have available, to the extent that access is not otherwise limited under state or federal law.
- Authorize its agents and employees to absent themselves from the state where necessary for the performance of their duties.
- Do any and all other things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the powers expressly granted it, notwithstanding any authority expressly granted to any officer or employee of the executive branch of state government.

Authority to advise the Legislature, federal authorities, and others, including the ability to:

- Publish and issue information, reports, studies or other products as it may deem proper.
- Testify before legislative or other bodies, as it may deem proper.

Implementation.

The Committees may want to solicit testimony from the administration on the detailed plans that outline how the organizational changes sought through GRP 2 will result in reduced costs, enhanced coordination and improved outcomes.

Committee members may want to ask witnesses:

- What savings are projected? How will those savings be achieved?
- What additional efforts, if any, are planned to support organizational reforms with management, procedural and administrative reforms to increase the likelihood that the proposed reorganizations will be successful, including efforts to ensure that state agencies have the staffing, management, analytic tools, training and related evaluation and research capacity to ensure that organizational reforms reduce costs, enhance coordination and improve services?
- What work is underway to ensure that state managers and staff have been consulted, and will continue to be consulted, to ensure that the people who are responsible for the success of the organizational reform understand the plan and have the tools needed to successfully pursue implementation?

Clarifying Language on Performance.

As discussed in this background paper under “performance,” the GRP 2 authorizes the Secretary of each agency to evaluate the performance of each department, office or other entity within the agency.

The Committees may wish to consider, through the implementing legislation, inserting the following to language to clarify how the evaluation would be performed, the time frames for that evaluation, and what information will be shared with the Legislature and made public.

The reviews and performance evaluations of departments, offices, or other units under the direction of a secretary, pursuant to 12800(b) shall occur at least once every four years, and shall be public information.

At least once every other year, beginning no later than 2015, each department, office, and other units shall prepare and make available on the public website of the agency, and notify the relevant policy, fiscal and oversight committees of the Assembly and the Senate of the availability of the following:

1. The mission and goals of the department, office or unit.
2. A description of how the mission and goals are to be achieved, including:
 - a. a description of the operational processes, management strategies, skills, training and technology, and the human, capital, information, and other resources in place to achieve those goals and objectives; and
 - b. a description of how the entity is working with other entities, including but not limited to local agencies, federal agencies and other entities, to achieve those goals and objectives.
3. Metrics that reflect desired outcomes for existing and proposed activities and a targeted performance level for the time period covered.
4. Beginning no later than 2017, data on achieved outcomes for the two prior fiscal years and an explanation of deviation from prior year targets.

5. Proposed changes in statute, including the creation of incentives or elimination of disincentives that could improve outcomes or hold down costs.
6. The key factors external to the agency and beyond its control that could significantly affect the achievement of the general goals and objectives; and
7. A description of the program evaluations or other strategies used in establishing or revising general goals, objectives or strategies, with a schedule for future program evaluations to be conducted.

If an agency, in consultation with the Director of the Department of Finance determines that it is not feasible to express the performance goals for a particular program activity in an objective, quantifiable, and measurable form, pursuant to Government Code 12800 above, the Director of the Department of Finance may authorize an alternative form.

Such alternative form shall:

- (1) include separate descriptive statements of the following:
 - (A)(i) a minimally effective program; and (ii) a successful program; or
 - (B) such alternative as authorized by the Director of the Department of Finance, with sufficient precision and in such terms that would allow for an accurate, independent determination of whether the program activity's performance meets the criteria of the description; or
- (2) state why it is infeasible or impractical to express a performance goal in any form for the program activity.

For the purpose of complying with this section, an agency may aggregate, disaggregate, or consolidate program activities, except that any aggregation or consolidation may not omit or minimize the significance of any program activity constituting a major function or operation for the agency.

For purposes of this section, the terms "metrics that reflect desired outcomes" mean a measure or indicator that quantitatively reflects the impact a program activity, policy or practice has, or is intended to have, toward its intended purpose;

For purposes of this section, the information made available on the agency's website shall be made available in a format that is searchable, and machine readable in a format that is consistent with the most readily available technology.

Attachments:

Past Reorganization Plans and the Legislative Response
Governor's Transmittal Letter and GRP Summary
GRP 2

Past Reorganization Plans and the Legislative Response

Governor's Reorganization Plan on human resources (Brown, 2011). Proposal to consolidate functions of the Department of Personnel Administration and State Personnel Board into a new California Department of Human Resources.

Legislative Action: Under implementation, SB 1308.

Governor's Reorganization Plan to consolidate information technology functions. (Schwarzenegger, 2009). Proposal to consolidate state information technology functions under the Office of the State Chief Information Officer.

Legislative action: Plan went into effect.

Governor's Reorganization Plan to create a California Department of Energy. (Schwarzenegger, 2005). Proposal to consolidation of the functions of several departments, commissions and offices that implement state energy programs into a new department.

Legislative action: Rejected.

Governor's Reorganization Plan to create a Department of Technology Services (Schwarzenegger 2005). Proposal to consolidate two general purpose data centers and its telecommunications unit into a new Department of Technology Services.

Legislative action: Plan went into effect.

Governor's Reorganization Plan to establish the California Department of Corrections and Rehabilitation (Schwarzenegger 2005). Proposal to consolidate and rename the Youth and Adult Correctional Agency (YACA) and its related departments, board and one commission, into a new cabinet level agency, the California Department of Corrections and Rehabilitation (CDCR).

Legislative action: Plan went into effect.

Governor's Reorganization Plan to consolidate or eliminate boards and commissions (Schwarzenegger, 2005). *Withdrawn by the Governor.*

Governor's Reorganization Plan on labor and workforce programs (Davis 2002). Proposal to establish the Labor and Workforce Development Agency to include EDD, Department of Industrial Relations, the Workforce Investment Board and the Agricultural Labor Relations Board.

Legislative action: Plan went into effect.

Governor's Reorganization Plan on general government (Wilson, 1998). Proposal to establish the Department of Managed Care, abolish the Department of Corporations and expand the role and rename the Department of Financial Institutions.

Legislative action: Rejected

Governor's Reorganization Plan on forestry and fire protection (Wilson, 1995). Proposal to merge the Office of State Fire Marshal with the Department of Forestry and Fire Protection.

Legislative action: Plan went into effect.

Governor's Reorganization Plan on energy agencies (Wilson, 1995). Proposal to reorganize the California Energy Commission and related governmental functions.

Legislative action: Rejected.

Governor's Reorganization Plan on state law enforcement functions (Wilson, 1995). Proposal to merge the State Police with the California Highway Patrol.

Legislative action: Plan went into effect.

Governor's Reorganization Plan on environmental agencies and functions (Wilson, 1991). Proposal to create an Environmental Protection Agency and transfer several departments and functions into the new agency.

Legislative action: Plan went into effect.

Governor's Reorganization Plan on waste management (Deukmejian, 1985). Proposal to create a cabinet-level Department of Waste Management.

Legislative action: Rejected.

Governor's Reorganization Plan on waste management entities (Deukmejian 1985). Proposal to create a Department of Waste Management, a State Waste Commission and three Regional Waste Boards.

Legislative action: Rejected.

Governor's Reorganization Plan on human resources functions (Deukmejian, 1984). Proposal to transfer certain civil service position classification function from the State Personnel Board to the Department of Personnel Administration.

Legislative action: Plan went into effect.

Governor's Reorganization Plan on personnel functions (Brown, 1981). Proposal to establish the California Department of Personnel Administration.

Legislative action: Plan went into effect.

Governor's Reorganization Plan on housing (Brown 1980). Proposal to transfer licensing and regulation of mobile home industry from DMV to the Department of Housing and Community Development.

Legislative action: Plan went into effect.

Governor's Reorganization Plan on corrections (Brown, 1979). Proposal to create the Youth and Adult Correctional Agency and consolidate correctional programs into the new agency.

Legislative action: Plan went into effect.

Governor's Reorganization Plan on state personnel functions (Brown 1979). Proposal to create a central agency on personnel.

Legislative action: Rejected.

Governor's Reorganization Plan on employment functions (Brown, 1979). Proposal to transfer and rename the Fair Employment Practices Commission and transfer, rename and elevate the Division of Fair Employment Practices from the Department of Industrial Relations to the State and Consumer Services Agency.

Legislative action: Plan went into effect.

Governor's Reorganization Plan on industrial relations and safety. (Brown, 1978). Proposal to abolish the Division of Industrial Safety and the Occupational Health Branch in the Department of Health and consolidate functions in a new Division of Occupational Safety and Health Administration in the Department of Industrial Relations.

Legislative action: Plan went into effect

Governor's Reorganization Plan on drug related entities (Governor Brown, 1977). Proposal to abolish the Office of Narcotics and Drug Abuse and transfer functions to the Health Department's Division of Substance Abuse and create an Advisory Council on Narcotics and Drug Abuse.

Legislative action: Plan went into effect.

Governor's Reorganization Plan on the alcohol related programs (Governor Brown, 1975). Proposal to merge the Office of Alcoholism with the Department of Alcoholic Beverage Control (ABC) and move the ABC into the Health and Welfare Agency.

Legislative action: Rejected.

Governor's Reorganization Plan on environmental agencies (Governor Brown, 1976). Proposal to establish an Environmental Quality Agency and consolidate all air, water quality and solid waste programs into the new agency.

Legislative action: Was not submitted to the Legislature.

Governor's Reorganization Plan on labor law enforcement (Brown 1975). Proposal to consolidate the Divisions of Labor Law Enforcement and Industrial Welfare into a Division of Labor Standards Enforcement.

Legislative action: Plan went into effect.

Governor's Reorganization Plan on environmental agencies (Brown 1975). Proposal to create a new Environmental Quality Agency and consolidate all air, water quality and solid waste programs into the new agency.

Legislative action: Was not submitted to the Legislature.

Governor's Reorganization Plan on natural resources (Reagan, 1971). Proposal to rename the Resources Agency to Environment and Resources Agency and create a Department of Environmental Protection within the agency.

Legislative action: Rejected.

Governor's Reorganization Plan on State Board of Dry Cleaners (Reagan, 1971). Proposal to abolish the State Board of Dry Cleaners.

Legislative action: Rejected.

Governor's Reorganization Plan on water quality control boards (Reagan, 1971). Proposal to rename water quality control boards.

Legislative action: Rejected.

Governor's Reorganization Plan on consumer affairs (Reagan, 1970). Proposal to rename the Department of Professional and Vocational Standards to Department of Consumer Affairs.

Legislative action: Plan went into effect.

Governor's Reorganization Plan on Department of Health (Reagan, 1970). Proposal to establish a single state Department of Health within the Human Relations Agency to administer Medi-Cal and consolidate functions from numerous health-related departments.

Legislative action: Plan went into effect.

Governor's Reorganization Plan on vocational entities (Reagan, 1969). Proposal to change staff titles and organization names in the Department of Professional and Vocational Standards.

Legislative action: Plan went into effect.

Governor's Reorganization Plan on harbors and waterways (Reagan 1969). Proposal to rename the Department of Harbors & Waterways to Department of Navigation & Ocean Development and rename the Harbors and Watercraft Commission to Navigation and Ocean Development Commission.

Legislative action: Plan went into effect.

Governor's Reorganization Plan on general government (Reagan, 1969). Proposal to eliminate 32 boards, commissions, committees and advisory councils, transferring some functions to other departments and reconfigure the membership of several other government entities.

Legislative action: Plan went into effect.

Governor's Reorganization Plan on general government (Reagan, 1968). Proposal to establish four agencies in the executive branch: Business & Transportation, Resources, Human Relations, Agriculture and Services.

Legislative action: Plan went into effect.