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MEMORANDUM

TO: GRA Legislative Committee

FROM: Hatch & Parent

DATE: August 13, 2004

SUBJECT: California Performance Review Report – Preliminary Overview

Short Summary

The California Performance Review's (CPR) recently released report recommendations, if fully implemented, will save Californians over \$32 billion dollars in the next five years. These savings will be achieved by consolidating state government into 11 departments and eliminating nearly 120 of the state's 300 boards and commissions. The report focuses on making California government more customer service focused and streamlining government to eliminate inefficiencies.

Three of the 11 departments will house all water and environmental programs. These departments include: Infrastructure, Environmental Protection and Natural Resources. Through this consolidation the SWRCB, Regional Boards, Colorado River Board, Reclamation Board, California Water Commission, Department of Toxic Substance Control and others will cease to exist.

Hearings will begin today in Riverside, covering the infrastructure and resource recommendations. Following a series of scheduled hearings, the Little Hoover Commission will make recommendations on the package presented to the Governor. The Governor will then present his package at the beginning of next session as part of his State of the State address. The real battle will occur in the Legislature, where this 2,500 page report has already been pronounced "dead on arrival" by Senate President Pro Tempore John Burton and where certain provisions have been sharply criticized by the democratic majority in the Assembly.

GRA will attend and participate in the hearings, and, wherever possible provide technical opinions and assistance on whatever implementation plans occur related to the protection and management of our State's groundwater resources.

Background

Governor Schwarzenegger committed to the people of California that he would “end business as usual in Sacramento.” In his State of the State address and subsequent Executive Order, the Governor established the California Performance Review with the mission to conduct a comprehensive examination and assessment of state government. He committed to “blowing up boxes,” eliminating boards and commissions and ending government inefficiencies. This 2,500 page report, titled “A Government for the People for a Change,” is the fulfillment of the first part of that promise – to identify the areas of California government that need to be “terminated” or at least reformed such that government will “put people first, save taxpayer dollars, be visionary and innovative, be accountable and efficient and be productive and performance driven.”

The report is in four volumes:

1. *Prescription for Change* – Summary of the Findings

This volume of the report focuses on the need to:

- adopt a “customer first” mentality in state government
- stop the inefficient use of taxpayer dollars
- reform state government to ensure that it is fiscally and administratively responsible to the taxpayers
- utilize technology to create synergies, transparencies and efficiencies
- streamline government

2. *Form Follows Function* – Outline for Government Streamlining

This volume of the report focuses on each of the 11 proposed department and sub-division management goals, functions, and transferred functions. The volume includes a list of all boards being eliminated and an index of the departments and their suggested disposition.

The streamlined government would include the following departments:

- Commerce and Consumer Protection
- Correctional Services
- Education and Workforce Preparation
- Environmental Protection
- Food and Agriculture
- Health and Human Services
- Infrastructure
- Labor and Economic Development
- Public Safety and Homeland Security
- Natural Resources
- Veterans Affairs



Additional programs such as the Governor's Office of Management and Budget and the California Tax Commission are also discussed in the report in further depth. The proposed Organizational Chart is attached.

3. *Keeping the Books* – The Audit

This volume of the report provides an analysis of the state's fiscal and performance management practices crafted by the team of auditors that reviewed the budgetary process, financial controls, and strategic planning efforts within state agencies.

4. *Issues and Recommendations* – Here's the Beef

The fourth volume of the report contains 279 government issues with over 1,200 recommendations that have the potential to save the state \$32 billion over the next five years.

Issues of Concern to GRA – Detailed Overview

The CPR consolidates all water, water quality and environmental functions under the Departments of Infrastructure, Environmental Protection, and Natural Resources. An overview of the proposed structure, function, reform recommendations, and transferred authority as relevant for each department or division are provided below.

Department of Infrastructure

Currently, infrastructure development is spread over 64 state agencies and multiple local government entities who participate in decision-making whether, what, and where to build infrastructure projects. The report concludes this causes a lack of single point accountability and states that there is a need for integration of infrastructure planning across areas such as transportation, water, energy, housing, and telecommunications. The report also notes that infrastructure investment lacks a stable funding stream or any long term planning and/or management process.

The report presents a consolidated infrastructure department to address the absence of any statewide infrastructure vision and coordination. The department would provide and manage the full life cycle of the state's infrastructure network to achieve higher efficiencies for taxpayer dollars. The report recommends consolidating the operations of 32 current departments, boards, and commissions into the following divisions:

1. Water
2. Energy
3. Transportation
4. Housing, Building and Construction



5. Telecommunications
6. Boating and Waterways

The water division would be charged with operation, maintenance and construction of the state's water infrastructure, including the operation and construction of the State Water Project (SWP). The division would consolidate the functions of the SWP, State Water Commission and Bay Delta Authority which would also be transferred intact to the water division.

A summary of all CPR infrastructure recommendations is attached; the recommendations with the most impact on water resources are noted below.

1. The SWP Administration Needs Restructuring
 - a. The Governor should issue an Executive Order establishing the SWP as a separate authority within the current Resources agency.
 - b. Proper job classifications should be established to recruit and retain people who have the ability to market power and schedule water deliveries efficiently.
 - c. The SWP should contract with the State Water Contractors' (SWC) JPA, when it is the best alternative to provide specialized services.
 - d. The SWP should turn over limited portions of the project to SWC to operate if compatible and within the best interest of the public and the environment. The example given is to turn the Santa Ana Valley Pipeline, Perris Dam and Lake Perris over to MWD because they are the only SWC that receives water from the pipeline and lake.
2. The Cal Fed Bay Delta Program is not Functioning Efficiently
 - a. An independent financial audit should be conducted and quantifiable performance measures developed and implemented in accordance with the audit results.
 - b. The Governor should direct the adaptive management or technical performance analysis to be conducted under the direction of the CALFED Independent Science Board.
 - c. The California Bay Delta Authority should have approval authority for all strategic plans, quantifiable performance measures, prioritized implementation actions and budgets.
 - d. A long-term financing plan should be completed by CBDA leadership by 12/05.
3. California Needs a Strong Water Policy
 - a. The Governor should work with the Legislature on legislative proposals to update the California Water Plan.

- b. The California Water Plan should be integrated into a state general plan process through coordination between the Governor's Office of Planning and Research and DWR.
 - c. The Governor should work with the Legislature to promote regional water planning.
 - d. The Governor should reinstitute former Governor Wilson's Water Council to set state water policy and address water infrastructure planning.
4. Water, Parks and Wildlife Bond Implementation is Inefficient
 - a. The Governor should direct the Secretaries of Resources, Health and Human Services and Environmental Protection, or their successors, to centralize policy and administration of the grant programs aspects of the existing bond funds (Prop 50, 40, 13, and 12) into a single division within Resources or its successor. This streamlining would help alleviate the high overhead and administrative costs.
 - b. The said Secretaries should direct departments with technical expertise in the areas named within the bonds to loan staff to the newly created division to assist in setting criteria and reviewing proposals. Staff would be funded with the bond's administrative funds.

Department of Environmental Protection

CPR found that the current organization of the EPA has 4 key problems: 1) the current framework for environmental regulation lacks accountability and makes it difficult to implement a coherent environmental protection policy due to responsibility being disbursed between 16 legislatively created independent boards and commissions; 2) environmental decisions do not reflect an integrated understanding of different types of pollution and their effects; 3) there is significant overlap within and among EPA departments; and 4) environmental programs are disbursed outside EPA to DHS and the Resources Agency.

The proposed framework would transform EPA from a collection of separate boards and commissions into an integrated Department of Environmental Protection to effectively protect California's environment. Specifically, the Department of Environmental Protection is recommended to include the following organizational units:

1. Office of the Secretary for Environmental Protection
2. Division of Air Quality
3. Division of Water Quality
4. Division of Pollution Prevention, Recycling and Waste Management
5. Division of Site Cleanup and Emergency Response
6. Division of Pesticide Regulation



Three of the Divisions would have jurisdiction over the protection and management of groundwater resources.

Division of Water Quality

The Division of Water Quality should protect and restore water quality by issuing water discharge permits, regulating storm water runoff, protecting watersheds and producing water basin plans. The water quality functions from the State Water Resources Control Board and nine Regional Water Quality Control Boards and the Drinking Water Branch and the Shell Fish Monitoring Program from the Department of Health Services should be transferred to the Division of Water Quality.

Division of Pollution Prevention, Recycling and Waste Management

The Division of Pollution Prevention, Recycling and Waste Management should administer pollution prevention and recycling programs; permit and inspect facilities and operations; and create policies and enforce laws and regulations for solid, hazardous, radiological and medical waste. All solid waste management functions from SWRCB and the Regional Boards and the Office of Pollution Prevention from the Department of Toxic Substances Control should be transferred along with other specified functions and programs from the Department of Conservation, Integrated Waste Management Board, and Department of Health Services.

Division of Site Cleanup and Emergency Response

The Division of Site Cleanup and Emergency Response should oversee the cleanup of sites contaminated with hazardous substances, conduct prevention programs and provide emergency cleanup response for oil spills, hazardous substance releases and illegal methamphetamine "labs." The following functions would be transferred to the Division:

- State Water Resources Control Board: Underground Storage Tank Program, site cleanup responsibility for Department of Defense sites, site cleanup functions in the Spills, Leaks, Investigations and Cleanup Program
- Department of Toxic Substances Control: Emergency Response Program; site cleanup and corrective action functions; Human and Ecological Risk Division; site cleanup responsibility for Department of Defense sites
- Integrated Waste Management Board: Remediation, Closure and Technical Services Branch
- Department of Fish and Game: Oil Spill Prevention and Response Program
- California Coastal Commission: Spill prevention and response functions
- Office of Emergency Services: Hazardous Materials Program

A summary of all CPR resource and environmental protection recommendations is attached; the recommendations with the most impact on water quality are noted below.

1. Consolidate funding programs for clean water. Currently SWRCB and DHS each manage portions of the State Water Revolving Funds. The report suggests consolidating the program into one funding agency within EPA with the loan committee to include: Secretaries of EPA, Natural Resource, Business, Transportation and Housing, Food and Agriculture and Department of Finance. (Res. 6)
2. Consolidate all administrative functions and field offices so that all Resource and Environmental offices are housed together for efficiency purposes. (Res. 7, 10)
3. Redirect local conservancies back to local control – remove state majorities on their board and state designated fee support leaving them free to apply for bond funding like other projects. The only three that would remain intact would be the State Coastal Conservancy, Tahoe Conservancy and the Santa Monica Mountain Conservancy. Together with the local JPA, Resources and Fish and Game should develop a statewide master plan for land acquisition and resource protection. (Res. 12)
4. As part of a recommendation on promoting smart growth through land recycling it is recommended that:
 - The SWRCB should modify its Underground Storage Tank Cleanup Fund criteria to make redevelopment a high priority for receiving reimbursement, to reimburse only risk-based cleanup levels appropriate for the anticipated land use, and to reimburse only for semi-annual groundwater monitoring beginning FY 2005- 2006.
 - The Governor should work with the Legislature to allow public and private third-party entities to apply for reimbursement of cleanup costs from the Underground Storage Tank Cleanup Fund.
 - The SWRCB should expand the Clean Water Revolving Loan Program in FY 2005-2006, to include brownfields redevelopment.
 - The Governor should work with the Legislature to amend Senate Bill 493 during this Legislative Session to provide groundwater cleanup liability relief for developers who acquire development rights through long-term ground leases with the ground lease payments used as an income stream to pay for groundwater cleanup without impacting the developer's financial return on the development.
5. Streamline and eliminate duplicative reporting by repealing duplicative reporting on bond proceeds and develop e-reporting online. This would repeal the three bills that have been passed since January 1, 2004, to ensure agency reporting on Prop 40, 50 and all grants.

Department of Natural Resources

The Report finds that activities performed by the Resources Agency are duplicated by other departments, boards, or commissions and those similar functions are often



separated within the Resources Agency and across the state. Additionally, some legitimate resource management functions are not within the Agency at all. Water rights are currently managed by the SWRCB. The Report believes this confuses the distinct issues of managing water rights and keeping water clean. It also prevents water rights management from being integrated into a larger examination of the use of California's natural resources.

The report proposes that the department manage and protect California's natural resources by consolidating and aligning overlapping program responsibilities and eliminating duplicative functions with a "primary mission [being] monitoring, regulating and providing expert advice on the impact of human activities on the environment and natural resources. Consolidation should enable the Department to work in an integrated fashion with state agencies responsible for public health protection and those responsible for housing, transportation, water and energy infrastructure to create sustainable communities that respect nature and use natural resources responsibly."

The Resources Agency should be consolidated and reorganized into an integrated Department of Natural Resources with the following organizational units:

1. Office of the Secretary
2. Division of Land Management
3. Division of Wildlife Management
4. Division of Parks, History and Culture
5. California Coastal Commission
6. San Francisco Bay Conservation and Development Commission
7. State Conservancies

Additionally the Department would have all SWRCB functions related to water rights under its jurisdiction and be tasked with allocating water rights in a "fair, equitable and open way" and with developing strategies to utilize the state's water resources in a manner consistent with protecting vested rights, water quality and the environment.

Other Boards, Commission, Departments and Services

Some of the Boards, commissions, and services that are slated for elimination with their functions incorporated into an executive branch function include:

- Air Quality Board
- Colorado River Board (recommended to be managed by the Governor's office directly, assisted by the Secretary of Natural Resources)
- Delta Protection Commission
- Geologists and Geophysicists Board (functions to transfer to the State Mining and Geology Board)
- Integrated Waste Management Board



- SWRCB and 9 Regional Boards (recommended to be replaced by 10 gubernatorial appointees who will oversee water quality regulations, water monitoring and issuance of discharge permits. Basin plans can be developed via ad-hoc committees which will exist for 6 months and then be disbanded.)
- Board of Reclamation
- California Water Commission
- Department of Toxic Substance Control (except for their Criminal Investigations Unit)
- Department of Fish and Game
- Watermaster services

Preliminary Response to CPR by Sacramento Leadership/Stakeholders

- Assembly Speaker Fabian Nunez: "As we review the operations of government, we need to be careful that, in the name of efficiency, we don't shortchange the public's ability to influence its own government. We need to be careful that we don't put too much control in the hands of the few at the expense of the many. Furthermore, we need to reject any changes that would serve to weaken our state's landmark environmental and consumer protections, undermine the progress we've made in education or harm the aged and disabled, who depend on us for their health and safety."
- Treasurer Phil Angelides: "It is good news that this long-awaited report has finally made its way out of the back rooms and into the open sunshine for all Californians to see. California government needs reform – and it needs it now. With the release of this report, we can now determine whether the Governor's recommendations will truly give us a government for the people, or a government by the special interests."
- Controller Steve Westly: "Consolidating and streamlining government is long overdue....Clearly, we don't need a Service Agency Advisory Committee to check the scales at supermarkets. And unless the old movie "the Swamp Thing" is for real, we don't need an Interagency Aquatic Invasive Species Council. There are elements of the proposal I cannot support. The proposal to eliminate the Air Resources Board concerns me. Streamlining government is no reason to short-circuit sound environmental controls. Also, as a parent, I'm concerned to see the closing of the county offices of education. We don't want to sacrifice local control over our schools to Sacramento."
- Allan Zaremborg, President of the California Chamber of Commerce: "During this initial period, the California Chamber of Commerce was asked to provide comments and input on issues affecting California's business climate. We look forward to working with the Governor during the next phase of the process, and providing input and information to help facilitate the California Performance Review and the goal to eliminate waste and fraud in government."

- Victoria Rome, Advocate for the Natural Resources Defense Council: “Many of the state’s independent boards and commissions have been the very first line of defense for the environment. We should not dismantle the public agencies that have most successfully balanced environmental protection and economic prosperity....Dismantling regional boards in favor of a centralized environmental department could dramatically reduce public participation in environmental policy-making and give undue influence to special interest[s].”

What’s Next?

The report having been submitted to the Governor, it has now been turned over to the 21-person Commission he appointed which includes business, labor, local government and public policy experts. The Commission will hold public hearings on the report beginning today at UC Riverside, focusing on the infrastructure, resource and environmental protection recommendations. The other four hearings will focus on other elements of the report and are tentatively scheduled to occur on August 20 (UC San Diego), August 27 (CSU San Jose), September 10 (CSU Long Beach), September 17 (CSU Fresno – Resource and Environmental Protection) and September 24, (TBD).

The report and record of the hearings will be presented to the Little Hoover Commission for its recommendations. After their review, the matter will be presented to the Governor who plans to release his final proposed reforms in the State of the State Address in January 2005 and as part of his 2005/6 spending plan. At that time his options include:

1. Attempt to enact the package under the “executive reorganization process,” forcing the Democrats to pass a resolution disapproving of the plan before it becomes effective on the 61st day of continuous session. If it were to become effective, Legislative Counsel would draft a bill to make the statutory changes necessary within 90 days;
2. Work on implementing parts and pieces of the plan with the Legislature;
3. Enact parts of the plan under Executive Orders; and/or
4. Package some elements (e.g., multi-year budgeting) into the initiative process on the 2006 ballot.

This is only a preliminary summary of this 2,500 page document and attempts to address those issues of most concern to GRA. For further information, please contact me at cfrahm@hatchparent.com or visit www.cpr.ca.gov to view the report in its entirety.

