

**Citizens' Economy and Efficiency
Commission
of Los Angeles County**

May 5, 1993



The Honorable Edmund D. Edelman
Chairman of the Los Angeles County
Board of Supervisors
Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisor Edelman:

The Economy and Efficiency Commission has formed a County Budget and Economic Growth Task Force to assist the Commission in presenting to your Board a citizens' perspective to confront the County budget crises and the economic well-being of Los Angeles County. The work of this task force is presented in this letter.

Los Angeles County and California face a financial and economic crisis.

Numerous groups -- from the Assembly Democrats to Senate Republicans to Governor Wilson's bipartisan Competitiveness Council to the Los Angeles County Grand Jury -- have already studied this crisis. There is remarkable consensus among their reports. Building upon their work, the Commission has:

- highlighted key policy reforms supported by each of these diverse groups;
- identified existing legislation which would enact these policy reforms; and
- suggested a strategy for the Board to achieve these critical reforms.

EXECUTIVE OVERVIEW

Over the past several years governments within the State of California and across the country have been facing severe financial crises. In response to these crises various bipartisan groups and the 1991-1992 Los Angeles County Grand Jury have undertaken studies to develop an

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agreed upon course of action to stimulate California's economic situation and maintain this state as a major financial power within the world community.

The Economy and Efficiency Commission has reviewed the following five studies:

1. Toward an ADEPT California. A Customer Satisfaction State, A Preliminary Report of the Assembly Democratic Economic Prosperity Team (ADEPT), October 6, 1992.
2. Are We Losing Our Competitive Edge?: A Study of California's Business Environment, The Senate Republican Caucus, March 1992.
3. California's Jobs and Future, Council on California Competitiveness, April 23, 1992.
4. Cutting Through the Red Tape - Together, California Council on Partnerships' Red Tape Task Force, December 3, 1992.
5. Exit LA Committee, Report of the 1991-1992 Los Angeles County Grand Jury, 1992

The County Budget and Economic Growth Task Force determined that the studies completed by these five groups have exhaustively covered all aspects of the issues. The Commission has concluded that nothing is to be gained by further study.

The time for study is over. The time for action is now.

The Commission is proposing to your Board what we consider to be an effective strategy to achieve those consensus reforms identified in the above studies. The top priority, at this time, is the passage of legislation in three critical areas:

- * Workers' Compensation
- * Civil Litigation Reform
- * Permit Streamlining

Our situation requires thoughtful, decisive and effective action on the part of your Board to lead Los Angeles County and the State of California out of this serious difficulty. This Commission recommends in the strongest terms possible that you take prompt and resolute action on the recommendations made in this letter.

DISCUSSION

The Federal Reserve Board recently confirmed that California's moribund economy is bogging down what would otherwise be a national recovery. The loss of nearly a million jobs since the beginning of the recession three years ago, is striking evidence that California's poor business climate continues to be eroded.

If government can be charged with being slow in responding to this crises, it has not been for lack of analysis. The Assembly Democratic Economic Prosperity Team, the Senate Republican Caucus, the a Council on California Competitiveness, the California Council on Partnerships and the Los Angeles County Grand Jury have each released studies on the California business climate and recommended a series of remedial actions.

The issues below have been identified by this Commission as those where action would be most effective in responding to our situation and where there appears to be the most broadly based support for action. Although each issue is important, we have ranked them in priority order to indicate where the Commission feels the greatest impacts can be achieved.

1. Workers' Compensation

The California Workers' Compensation Insurance System is a national model of inefficiency. Although this system is one of the most expensive in the country, it delivers some of the lowest benefit levels to injured parties. Workers' compensation costs are consistently cited by business leaders as a prime factor in decisions to relocate or expand outside of the State. Out of state employers also site workers' compensation costs as a reason for not locating their businesses in California.

The system's high costs and low benefits are partially a function of the number of claims. The rate of claims is higher in California, nearly twice as many permanent disability claims per 100,000 population, than in other states. Additionally, the increasing share of workers' compensation funds going to middleman or service providers, ie. doctors and lawyers, helps to inflate the costs to employers and decrease the benefits to injured workers. Medical costs for workers' compensation comprise nearly half of the benefit costs and have been increasing an average of 18% a year. Litigation has also has claimed an increasing share of the pie, growing at an average annual rate of 23%.

Our review indicates that legislation to implement the following actions would significantly improve the workers' compensation situation within Los Angeles County and the State of California:

- Require that work be the predominant cause of compensable injuries. Currently, work need only be shown as a contributing factor.
- Limit the extent to which benefits are paid out for psychiatric injuries by shifting to a "sudden and extraordinary" standard and disallowing the "cumulative stress claim". This would be consistent with actions taken by 43 other states.
- Prohibit filing of claims after termination or layoff, except in specific cases.
- Introduce cost containment tools into workers' compensation medical care through the institution of a managed care system, preferably utilizing existing private managed care organizations.

2. Civil Litigation Reform

Our job base may be in decline, but litigation in California is a growth industry. In Los Angeles County the rate of filing civil lawsuits has doubled over the past decade, from 1 per 200 people in 1980, to 1 per 100 people in 1990. In Los Angeles County the number of civil filings in 1991 was over 94,000, down slightly from a high of 108,000 in 1986. In 1991, Californians filed a record 850,000 lawsuits. Simply stated, there is too much litigation in California.

This proliferation of litigation has fiscal implications, not the least of which is the cost to government of processing civil claims. The Los Angeles Superior Court estimated that the cost of processing a single civil lawsuit is \$509 per hour, or around \$3050 per day. A cost is also incurred in terms of the efficiency of the court system. The median time-to-trial for a civil case involving a jury in Los Angeles County has increased from 6 months in 1940 to 37 months in 1991. These delays undermine the public's access to justice.

Ultimately, the greatest cost of excessive civil litigation is paid through lost economic competitiveness for business and an added burden on all Californians. Legal reform is a major factor of the jobs issue. Surging liability insurance costs, huge legal bills, large and frequent settlements, and unpredictable jury verdicts impose a heavy "tort tax" on every business in the state. This tax is ultimately borne by all Californians in the form of costlier goods and services, fewer jobs, and less investment.

Civil litigation reform is one of the issues on which there was consensus among the various studies that were reviewed. There is a bipartisan desire for meaningful reform which is reflected in the studies of the Assembly Democrat Economic Prosperity Team, the Senate Republican Caucus, and the Council on Competitiveness.

Our review indicates that support of legislation which would implement the following actions would significantly reform tort litigation in California:

- Increase incentives for the use of Alternative Dispute Resolutions and Mediation. The cap for mediation should be raised from the current level of \$50,000 to \$100,000.
- Allow a party to file a request for mediation, in lieu of a formal response, within 30 days of being served with a civil suit or cross-complaint.
- Discourage frivolous litigation by:
 - Imposing sanctions on attorneys who knowingly file non-meritorious motions for the purpose of delay, and
 - Increasing the authority of a judge to dismiss non-meritorious suits by strengthening California's summary judgement law.
- Change the current law to give judges, rather than juries, the authority to determine the amount of punitive damage awards in cases where a jury had determined an award is appropriate. This will increase predictability and rationalize award amounts.

3. Streamlining the Permitting Process

The current system of environmental permitting in California often entails bureaucratic delays, unnecessary costs, duplicative efforts, and contradictory rules without necessarily ensuring adequate environmental protection. Decades of efforts to protect California's invaluable environment have resulted in a regulatory quagmire for business, from the smallest store to the largest corporation. Even the simplest type of business in Los Angeles County may be required to file over 70 permits with agencies at various governmental levels.

The Council on Competitiveness reports a proliferation of environmental regulatory agencies in Southern California. Currently, seventy-two separate agencies regulate the environment of the Greater Los Angeles Area, most of which derive at least a portion of their funding from fines and fees.

California's environmental regulation imposes a significant cost of compliance, a cost which many other states choose not to impose, or to impose to a lesser degree. However, there is also a cost of non-compliance, or environmental neglect, which is paid through a reduction in our quality of life and a diminished attractiveness to business.

First and foremost, the permitting process itself must be streamlined, in much the same manner as the County's participation in the state's new One-Stop Permitting Center located in South Central Los Angeles. A large portion of the cost of compliance is incurred in legal and consultant fees simply because the process itself is too complicated for entrepreneurs and business managers to negotiate. In short, environmental regulation has become an industry. Restructuring, reducing bureaucratic layers, and shortening the process can yield cost savings while maintaining our current environmental standards. The streamlining and consolidation of the current permitting process by instituting a lead permit agency process, and thereby introducing a one-stop permitting process, would be a major step toward the improvement of the current confused situation.

Our review indicates legislation implementing the following actions would significantly improve the permitting process within the County of Los Angeles and the State of California:

- Reduce the total time currently required for permit application approval or rejection. Even minor reductions in delay could potentially result in substantial cost

reductions for the applicant. It appears that this would be most effectively accomplished by instituting a one-stop permitting process.

- Instill a greater sense of "customer service" in government.
- Institute a proactive program to assist project proponents in identifying the types of permits they are required to file. Ultimately, it is envisioned that this program be a precursor to a single-permit system.

CONCLUSIONS

Enacting legislation to initiate needed reforms is preferable to legislating new and unpopular tax plans, which would in most instances require a super majority vote. History within California has proven that an overtaxed public has no hesitation to limit government's taxing authority. The solution to California's economic difficulties and the annual budget shortfalls which governments at all levels in California continuously face lies in economic growth.

Los Angeles County has recognized its responsibility to insure that all expenditures are made in the most economical and efficient manner possible. It must also insure that all programs on which expenditures are made are truly needed by the citizens it serves. The long term fiscal health of the County depends on increasing revenues wherever possible, prior to considering any increase in taxes. Los Angeles County government and its essential services cannot survive without fundamental changes to the way that business is conducted. The business of county, city, and state government should be to create an atmosphere which fosters economic growth and commerce.

Business and investment growth achieve the objective of increasing revenues without tax increases. The creation of jobs produces greater revenues from individual income tax, sales taxes and property tax as employed persons earn greater incomes. These individuals buy more products and are able to purchase homes. Business and investment growth result in increased revenues from corporate income taxes and improving property values. These fundamental principles are obvious, but they are often overlooked

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in a helter-skelter scramble by government to impose new taxes and regulatory fees. New taxes and fees may result in short term income, but will strangle long term growth. This process exacerbates its own failures as the businesses and individuals who are the sources of revenue are taxed and regulated out of existence or out of the State.

We all are trying to insure that available taxpayer dollars are spent wisely and on programs which have the highest priority and the greatest public good. Each of us also recognizes that the availability of increased revenues resulting from a growing economy should not be considered a mandate for increased spending, but any such funds should be used in a prudent, business-like manner in planning long-term budgets which include contingency accounts to respond to unforeseen expenses. This Commission wants to assist the County in the development of a budgeting process that is orderly, effective, and long term in nature.

RECOMMENDATIONS

The Los Angeles County Economy and Efficiency Commission urges the Board of Supervisors to strongly advocate legislative reforms which will help to create a climate for business growth within Los Angeles County and throughout the State of California. Specifically, we unanimously recommend that your Board:

1. Aggressively support legislation in those areas considered to have both the highest priority for reform and the largest degree of consensus, specifically:

Workers' Compensation Reform

- a. Senate Bill 55 (Leonard)
- b. Senate Bill 30 (Johnston)
- c. Assembly Bill 110 (Peace)

Civil Litigation Reform

- e. Assembly Bill 108 (Morrow)
- f. Assembly Bill 147 (Richter)
- g. Assembly Bill 498 (Goldsmith)
- h. Assembly Bill 2299 (Morrow)
- i. Assembly Bill 2300 (Morrow)
- j. Assembly Bill 2302 (Morrow)

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Streamlining the Permitting Process Reform

d. Senate Bill 1185 (Bergeson)

2. Implement a strategy for supporting the above legislation that includes the following:

a. The Board should invite the entire Los Angeles County legislative delegation to attend and participate in an emergency meeting to approve this legislative agenda.

b. Each Supervisor should personally contact members of the Los Angeles County legislative delegation to reinforce their support for these reforms.

c. The Board, collectively, and the Supervisors individually, should urge other counties, cities, and state organizations, such as CSAC, to join in this advocacy.

The Commission recognizes that the legislation for which we are recommending support is subject to amendment and/or procedural delays within the legislative process. At the time this letter is being submitted, the Bills listed above respond to the substantive recommendations contained within this letter. If any of these Bills are amended to the point to which they no longer respond to our substantive recommendations, those Bills should no longer be supported and other legislative vehicles should be considered.

This Commission is pleased to present this letter to the Board of Supervisors and we are ready to assist you in implementing these recommendations.

Sincerely,

Gunther Buerk
Chair

Enclosures

C: Each Supervisor
Each Commissioner
Bruce J. Staniforth