

Date of Hearing: June 7, 2012

ASSEMBLY SPECIAL COMMITTEE ON THE
GOVERNOR'S REORGANIZATION PLAN NO. 2

Joan Buchanan, Chair

GRP 2 - As Introduced: May 3, 2012

SUBJECT: GRP 2: Business and Consumer Services Agency.

SUMMARY: Creates the new Business and Consumer Services Agency (BCS) which consolidates entities that regulate and/or license industries, business activities, and professionals. Specifically, GRP 2:

- 1) Creates BCS with entities from the Business, Transportation and Housing Agency (BTH) and the State and Consumer Services Agency (SCSA).
- 2) Eliminates BTH and SCSA.
- 3) States that BCS is comprised of the following entities:
 - a) Department of Consumer Affairs (DCA);
 - b) Department of Housing and Community Development;
 - c) Department of Fair Employment and Housing (DFEH);
 - d) Department of Business Oversight;
 - e) Department of Alcoholic Beverage Control;
 - f) Alcohol Beverage Control Appeals Board;
 - g) California Horse Racing Board; and,
 - h) Seismic Safety Commission.
- 4) Adds the following entities to the Department of Consumer Affairs:
 - a) Bureau of Real Estate;
 - b) Bureau of Real Estate Appraisers;
 - c) Structural Pest Control Board; and,
 - d) State Board of Chiropractic Examiners (BCE).
- 5) Merges the California Housing Finance Agency into the Department of Housing and Community Development.
- 6) Merges the Fair Employment and Housing Commission into the Department of Housing and Community Development.
- 7) Creates the Department of Business Oversight by merging the Department of Financial Institutions (DFI) and the Department of Corporations (DOC).

EXISTING LAW:

- 1) Establishes BTH, whose portfolio addresses issues that directly impact the state's economic vitality and quality of life. Elements include transportation, public safety, affordable housing, international trade, financial services, and tourism.
- 2) Places the following entities within BTH:
 - a) Department of Housing and Community Development;
 - b) California Housing Finance Agency;
 - c) Department of Corporations (DOC);
 - d) Department of Financial Institutions (DFI);
 - e) Department of Real Estate;
 - f) Office of Real Estate Appraisers;
 - g) Department of Alcoholic Beverage Control;
 - h) Alcoholic Beverage Control Appeals Board;
 - i) Seismic Safety Commission;
 - j) California Highway Patrol;
 - k) Office of Traffic Safety; and,
 - l) The Board of Pilot Commissioners.
- 3) Establishes SCSA to protect consumers and deliver efficient, cost-effective and responsive services to internal and external State Clients.
- 4) Places the following entities within SCSA:
 - a) DCA;
 - b) California African American Museum;
 - c) California Building Standards Commission;
 - d) California Public Employees' Retirement System;
 - e) California Science Center;
 - f) Department of Fair Employment and Housing;
 - g) Fair Employment and Housing Commission (FEHC);
 - h) Department of General Services;
 - i) Exposition Park;
 - j) Franchise Tax Board;
 - k) Office of Privacy Protection;
 - l) Seismic Safety Commission;
 - m) State Personnel Board;
 - n) State Teachers' Retirement System; and,
 - o) Victims Compensation and Government Claims Board.
- 5) Establishes the Structural Pest Control Board within the Department of Pesticide Regulation in the Environmental Protection Agency.
- 6) Establishes BCE as an independent entity.

7) Establishes the California Horse Racing Board as an independent entity.

FISCAL EFFECT: Unknown.

COMMENTS:

Purpose of this bill: According to the Governor, “Entities that regulate or license industries, business activities, or professionals are currently spread throughout state government. Some entities regulating businesses are part of the current BTH; some entities that license professionals are part of SCSA; and others overseeing other businesses and professionals are scattered throughout government, many with little shared structural relationship. Consolidating these entities into a new BCS will improve service, consistency, and efficiency by facilitating shared administrative functions and expertise in areas such as automated systems, investigative practices, and licensing and legal processes. It will also help the public more easily know where to get information about entities regulating the businesses and professionals that they have direct contact with.”

Background: GRP 2 creates a new BSC which consolidates entities that regulate and/or license industries, business activities, and professionals. BSC is comprised largely of entities previously housed in BTH and SCSA. These latter two agencies are now eliminated.

DCA: Many of these changes are logical and noncontroversial, as in the case of the changes to DCA. Transforming the Department of Real Estate and the Office of Real Estate Appraisers to bureaus and including them under DCA will likely create economies of scale that reduce costs and improve efficiency. Chiropractor groups have expressed concern about BCE's inclusion, however, because BCE was created by initiative as an independent entity. BCE's chair believes that only the BCE can decide whether and when to move to an agency. BCE placed itself under administrative oversight of DCA's predecessor in 1947, but then voted to remove itself in 1976. Although organizationally autonomous, BCE currently contracts with DCA for information technology and personnel services. Whether the chair's assertion is accurate may not be relevant, as the Governor appoints all BCE members and may consider future appointments based on applicants' amenability to the structural change. Legal opinion on the Governor's ability to compel BCE's reorganization through the GRP process is pending.

Department of Business Oversight: GRP 2 creates the Department of Business Oversight to consolidate the State's oversight of financial businesses by merging DFI and DOC. While the former departments would be preserved as divisions under the new department, there have been many concerns expressed about this merger, including from former commissioners and specialists in the banking industry. Arguments against the merger include:

- Consolidation will weaken California's dual banking system. Banks currently choose to be either chartered by a state or by the federal banking system. Reducing DFI's status to a division will weaken its regulatory focus, which may impede innovation and cause California-chartered banks to leave.

- DFI and DOC are not good candidates for consolidation because they have different regulatory focuses. DFI regulates depository institutions, ensuring the safety and soundness of their business practices, and DOC handles more consumer and retail-oriented financial transactions, such as licensing securities brokers and dealers, investment advisers and financial planners, consumer and commercial lenders, payday lenders, escrow companies, and certain other fiduciaries. Some argue there are no efficiencies to be found in consolidating these functions.

Housing provisions: GRP 2 incorporates the functions of the California Housing Finance Agency with the California Department of Housing and Community Development. Because these two entities share a common vision, to provide leadership, programs, and policy direction to expand affordable housing opportunities, this is a logical shift towards greater coordination. The combination will preserve the entities intact and the California Finance Agency will retain its separate finances.

The Fair Employment and Housing Commission will be located in the Department of Housing and Community Development, and the Department of Fair Employment and Housing (DFEH) will reside in BCS, as well. The Fair Employment and Housing Commission and DFEH advocate for civil rights, including discrimination in employment, housing, and public accommodations.

The Fair Employment and Housing Commission and DFEH were previously located in SCSA, and a continuity argument may be made for keeping them in a similar agency. However, the addition of the other housing provisions within BSC does not conform to the Governor's stated goal to consolidate entities in BCS that regulate and license individuals and businesses. This is particularly awkward when a more logical programmatic placement within the California Transportation Agency is available.

The separation of transportation and housing departments is a significant concern with GRP 2. Collaboration between these policy areas is particularly important due to the requirements of SB 375 (Chapter 728, Statutes of 2008), which requires coordination between housing, transportation and land use policies to lower carbon emissions. GRP 2 removes the structural support for the coordination of transportation and housing planning by separating those provisions in different agencies: housing resides in BSC, and all transportation-related entities are relocated to the Transportation Agency. Although the administration has suggested that the Strategic Growth Council could facilitate coordination, it was not designed for this purpose.

Finally, most states acknowledge the importance of housing policy and elevate these concerns to an agency level office. Particularly now, as cities see the benefits of infill and transit-oriented development, state guidance is necessary to align priorities for the next generation. Separating housing and transportation and adding housing as an odd appendage to a consumer licensing-oriented agency does not bode well for California's strategic growth.

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