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Executive Secretary

THE USE OF BOARDS AND COMMISSIONS IN THE RESOURCES AGENCY

STATE OF CALIFORNIA

STATE OF CALIFORNIA EDMUND G. BROWN, Governor

COMMISSION ON CALIFORNIA STATE GOVERNMENT ORGANIZATION AND ECONOMY
1209 EIGHTH ST., SACRAMENTO

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Executive Secretary

April 9, 1965

Honorable Edmund G. Brown
Governor, State of California

Honorable Hugh M. Burns
President pro Tempore, and to Members of the Senate

Honorable Jesse M. Unruh
Speaker, and to Members of the Assembly

Gentlemen:

The attached report on "The Use of Boards and Commissions in the Resources Agency" is the first of a series of studies and reports by this Commission dealing with "plural bodies" in the Executive Branch of the State Government. Subsequent reports will be concerned with the same subject in the other Agencies as well as with such bodies functioning without agency affiliation.

This study was conducted under the general guidance of a subcommittee of the Commission consisting of Messrs. Don Leiffer and Roy Sorenson. Mr. Sorenson, an acknowledged expert on the subject having authored one of the few books dealing with the use of boards in the executive process, was unable to participate beyond the conceptual stage, however, because of his serious illness. Mr. Leiffer's participation, therefore, was quite extensive and is particularly appreciated.

Staff work was performed by Mr. Donald Nemetz, Western Representative of Public Administration Service, under the overall direction of the Commission's Executive Secretary, L. H. Halcomb, Jr.

The findings and recommendations contained in this report are endorsed by all members of the Commission with the exception of Commissioner Sherwood, who expresses no opinion on it inasmuch as he was unable to participate in the study or in the preparation and consideration of the report. The judgments expressed in the report were reached only after careful review of all testimony received and deliberate consideration of the many extraneous but pertinent factors involved. Their early implementation will be another step toward making the state government more efficient, more effective and more responsive to the public.

Respectfully,

Harold Furst

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I. INTRODUCTION AND SUMMARY

In California State Government, as elsewhere, extensive use has been made of boards and commissions comprised of private citizens rendering a part-time public service. Historically, their role has changed from time to time without ever having been very well defined. Where formerly they were most often created out of legislative distrust of the executive, more recently emphasis has shifted to the need for broadening citizen participation in government.

In seeking to identify the principal problems in the administration of state programs, the attention of the Commission on California State Government Organization and Economy has repeatedly been directed to this subject. There became apparent a critical need to examine the use of these plural bodies, not with a view to their elimination but to define their proper role and assure their most effective utilization.

The number of such bodies presently existing in the executive branch of the State Government is not precisely known. The best current tabulation is that made by the Office of Legislative Analyst, based on a questionnaire circulated in early 1964 by this Commission, lists 276. There are probably more. Since this number is too large to study in any depth, the Commission decided to begin with the bodies attached to only one agency. The Resources Agency was selected for several reasons: its 41 statutory boards and commissions constitute a manageable number; they comprise a representative sampling of the different types of bodies and are concerned with varied programs of some importance (see Exhibit I); and Agency officials indicated an interest in the project. The study is being made with two objectives in mind. The first, and perhaps more significant, is the development of a set of criteria or guidelines for use in evaluating the usefulness of existing boards and commissions and when considering the creation of new ones in the future. These criteria cover such matters as the purposes best served and functions best performed, how the bodies are to be constituted and by whom, the interests to be represented on them, relationships *vis a vis* the most concerned executive department, and the like. It is believed that the boards and commissions in the Resources Agency are sufficiently representative to permit the setting of tentative standards for general application. *These will receive further testing in future projects of the Commission dealing with the same subject elsewhere in the state government.* The second objective is to determine, specifically, how plural bodies can at this time be used to best advantage in the Resources Agency.

EXHIBIT I

PLURAL BODIES ASSOCIATED WITH THE RESOURCES AGENCY STATE OF CALIFORNIA

January 1965

Conservation

State Board of Forestry
District Forest Practices Committees (4)
Board of Directors, Youth Conservation and Training Program
State Mining Board
District Oil and Gas Commissions (6)
State Soil Conservation Commission

Fish and Game

Fish and Game Commission
Pacific Marine Fisheries Commission
Marine Research Committee
Wildlife Conservation Board

Parks and Recreation

State Park Commission
Recreation Commission
Small Craft Harbors Commission
California Riding and Hiking Trails Advisory Committee
Historical Landmarks Advisory Committee
Mount San Jacinto Winter Park Authority

Water Resources

California Water Commission
Reclamation Board
State Water Quality Control Board
Regional Pollution Control Boards (9)
State Water Rights Board
Colorado River Board
California-Nevada Compact Commission
Klamath River Compact Commission
Goose Lake Compact Commission

GENERAL CONCEPTS

Experience with boards and commissions in California State Government supports several widely held concepts regarding this organizational form. These have sufficient general validity to deserve weight in the setting of guidelines.

Those concepts favorable to the use of boards and commissions would include:

1. *Broader Public Participation in Government*
   Boards and commissions bring into government citizens who would not otherwise be actively involved but who have a contribution to make. If the members are carefully chosen, this contribution can be of immeasurable importance.
2. *Open Manner in Which Affairs are Conducted*
   One appealing feature of the operations of a board or commission is the "open forum" manner of proceedings. Public meetings for the airing of competing or differing needs and viewpoints are in the best democratic tradition. The opportunity to be heard is appreciated—and important in our political system.
3. *Consensus of Views*
   In the consideration of public issues it is desirable to bring together, in a rather formal way, a

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group of persons to deliberate and seek a consensus, particularly if they represent a variety of interests and points of view which need or ought to be recognized.

4. *Buffer Against Undue Pressures*
   A board or commission can protect or give support to an executive against whom pressures may be exerted—from a variety of sources—for undue recognition of special interests. The ready example is in the allocation of funds among competing projects.

5. *Protection Against Arbitrary Action*
   A board or commission may lessen the possibility of "arbitrary" action by an executive official, through consultation before the action is taken or by hearing the appeals of affected or injured parties.

The case for the exercise of restraint or caution in the use of boards and commissions would include the following:

1. *Diffusion of Responsibility*
   The more people involved in a decision-making process, the more difficult it becomes to fix responsibility for results. Executives at times "use" a board as a shield to hide behind in avoiding responsibility.

2. *Slowness to Act*
   A plural body by its very composition cannot decide or act as expeditiously as a single executive.

3. *Division of Authority*
   Where authority is shared between one or more bodies and executives, a consistent and coordinated line of action is difficult. As in Item 1 above, deliberate advantage is sometimes taken of this division by officials who are reluctant to take action.

4. *Undue Special Interest Representation*
   A board on which is represented special interests may have a devisive effect with such interests opposing each other or the executive officials who are concerned with the broader public interest. If safeguards are not provided, the beneficiary interests may be recognized to the exclusion of the general public interest.

5. *Expense of Board Operations*
   Boards can be expensive, not so much because of compensation or expenses of the members, as because of the staff time required to prepare for meetings and respond to requests for information. Where boards have their own staff, duplications with the related executive agency are common.

6. *Isolation From Normal Processes of Government*
   Boards—particularly those concerned with one industry or occupational area—tend to become isolated from the normal governmental processes of legislative policy control, executive leadership, and administrative and fiscal audit.

The total cost of board and commission operation cannot be measured but may be considerable. To the extent that these bodies are influenced by special interests, obscure responsibility, and function free from certain of the restraints or checks exercised over executive agencies generally, their actions can commit the State to substantial expenditures not carefully related to overall financial plans or priority schedules.

ADMINISTRATIVE OR OPERATIONAL INVOLVEMENT

A natural sequel to the enunciation of the above concepts is a general observation, and recommendation, that plural bodies normally not be used to administer, manage, direct, or operate a program. The case for a single, responsible executive in this capacity is well known and documented. It need not be repeated here.

Although administrative boards have been used extensively in California State Government in the past, the recent trend has been away from their use. The history of several if not most of the major bodies now in the Resources Agency has been a steady withdrawal of administrative functions. Often boards were created to begin a new program, where the Legislature wanted a more "deliberate" approach, there being much that could not be anticipated or predicted. Basic policies had to be developed and tested. As a program took shape and grew, and an organization developed to carry it out, the role of the board necessarily changed. In certain situations this use could represent a justifiable exception to the above recommendation.

As boards and commissions have been relieved of administrative control, some members have argued that they still are saddled with responsibility but no longer have any authority. This need not be the case. Because of the present volume of actions or decisions to be taken in the average state agency, delegations of authority to act are being made downward through every organization. A department head can personally consider only the unusual or precedent-setting matters, even though he devotes his full time to the job. A citizen board meeting monthly can do little more than rubber-stamp staff recommendations on administrative or operational matters, taking uninformed actions yet being responsible for them. Such a body can be infinitely more useful, *and influential,* if it concentrates on policy deliberation, on offering guidance on referred problems, and on a continuing review of program results.

Several boards with predominant or significant administrative authority still exist in the Resources Agency, having successfully withstood past efforts to relieve them of this authority. That their continuance in this role does violence to accepted principles of good administration is not debatable, thus the decision as to whether or not corrective action is to be taken, and when, will be based on other considerations.

SUMMARY OF RECOMMENDATIONS—GENERAL CRITERIA

The principal recommendations developed in the body of this report are briefly summarized below. For an appreciation of the reasoning behind the recommendations, their need, and their expected impact, the reader is encouraged to go beyond this summary.

Functions Best Performed

The following functions are recommended as appropriate to be assigned to boards and commissions and to be exercised in the manner and subject to the conditions noted.

1. Participation in *policy formulation* by:
   a. Initiation of policy proposals or recommendations
   b. Review and comment on policy proposals initiated by executive authorities
   c. Solicitation of suggestions and comments from the public on policies under consideration
   d. Establishment of policies governing their own operations, consistent with legislative requirements
2. Participation in *rule-making* by:
   a. Consultation with executive officials in the formulation of rules, regulations, and standards
   b. Review of draft rules prepared by staff including conduct of public hearings
   c. Recommendation of rules for adoption by responsible authority
3. Act as an *Administrative Tribunal* hearing appeals from administrative orders or actions, subject to the following stipulations:
   a. Observance of the provisions of the Administrative Procedures Act whenever possible
   b. Disqualification of a board member from hearing a case in which he has a beneficiary interest
   c. Prohibition of majority representation on a body by the industry or interests being regulated or benefitted
4. *Allocation of funds* in the form of loans or grants to local jurisdictions or the division of appropriations among state agency projects, subject to staff recommendation and, where required, legislative approval.
5. Such single or *special purposes* as conduct of negotiations, new or pilot project guidance, or study and report on a particular subject, with the following stipulations:
   a. Definite time limits set
   b. Avoidance of overlap with already existing bodies (to which the special task could be assigned)

Manner of Creation and Membership Requirements

Once the decision has been made to create a plural body and agreement is reached on the functions to be assigned, the following recommended criteria should be observed in constituting the body.

1. *Appointments* to statutory boards or commissions in the executive branch should be made by the Governor.
2. The *number of members* should not normally exceed seven, with a lesser number on adjudicative bodies.
3. *Terms of office* should be definitely fixed, preferably at four years with a two-term maximum and with provision for overlap.
4. Members should not receive *compensation* (other than for full-time service) but should receive ample expense allowances.
5. Members should be *selected* first on their ability to represent the general public interest and only secondarily on their special knowledge of the subject area.
6. *Beneficiary or special interests* may be represented, but only when the need for their special knowledge or support is clearly demonstrated and then only as a minority of the membership.

Organizational Status

As regards the organizational status of plural bodies and the provision of staff services to them, the following standards are recommended:

1. Bodies should be linked to the agency at the level at which policy decisions are made—normally the Office of the Director—and advisory to the agency (not a particular official) in the specified subject area.
2. Department directors should maintain direct liaison with all bodies in their department, designating the appropriate division chief or others to coordinate department-board activities.
3. Bodies should not employ or supervise administrative or technical staff but should be provided all requested staff assistance by the department to which attached.

Interstate Compact Commissions

Compact commissions cannot be subject to the above criteria because of their interstate nature. Furthermore, there is not a sufficient variety of these bodies in the Resources Agency to permit safe generalization on their composition and functions, other than the following:

1. The development of policy regarding interstate cooperation and the approval of the creation of commissions to negotiate compacts should rest with the Commission on Interstate Cooperation.
2. Compact negotiating commissions should be comprised of both gubernatorial appointees and legislative members.
3. Although compact implementation commissions will be prescribed in the compact, wherever possible California's representation should be from or closely associated with the most concerned executive department.

SUMMARY OF RECOMMENDATIONS—RESOURCES AGENCY BODIES

Exhibit II presents in abbreviated tabular form the principal recommendations in connection with each existing board and commission in the Resources Agency. Since these have little meaning when divorced from the description of the present composition and role of these bodies, the pertinent report page reference is shown.

Taken together, the recommendations constitute a plan of action for overcoming several basic deficiencies in the present use of boards and commissions in this Agency. These can be summarized under the following general headings.

EXHIBIT II

PRINCIPAL RECOMMENDATIONS AFFECTING EXISTING RESOURCES AGENCY PLURAL BODIES

	Recommendation	Report Page Reference
Water Resources		
California Water Commission State Water Quality Control Board	Combine and modify functions	23, 24
Regional Pollution Control Boards	Modify functions	25
Reclamation Board	Reconstituted	27
Colorado River Board	Abolish	30
State Water Rights Board	Expand functions	28
Conservation		
State Board of Forestry	Modify functions	30
District Forest Practices Committees (4)	Abolish	31
Youth Conservation and Training Board	No change	34
State Mining Board	Modify functions	32
Soil Conservation Commission	Modify functions	33
District Oil and Gas Commissions (6)	Abolish	34
Parks and Recreation		
State Park Commission State Recreation Commission	Combine and modify functions	35, 36
Small Craft Harbors Commission	Modify functions	37
Riding and Hiking Trails Committee	No change	38
Historical Landmarks Committee	No change	38
Mt. San Jacinto Winter Park Authority	Seek termination of State's involvement	39
Fish and Game		
Fish and Game Commission Wildlife Conservation Board	Combine	40
Marine Research Committee	Retain (review program)	41
Interstate Compact Commissions		
Pacific Marine Fisheries Commission	No change	42
California-Nevada Compact Commission	No change	42
Klamath River Compact Commission	No change	43
Goose Lake Compact Commission	Abolish	42

Primary Purpose for Which Created Has Been Served

In several instances a body was created for a particular purpose which has been accomplished, thus there is no continuing need for the body. The continuation of it is not only pointless—and sometimes costly—but can and does obscure responsibility and complicate administration. The Colorado River Board and Goose Lake Compact Commission are examples.

Existence of Planning and Policy Gaps

Responsibility for policy formulation and planning of programs within a single functional area is often shared by two or more bodies in a way that gaps appear. Each assumes that the other is giving attention to a problem area—or should be—whereas no one is. This situation exists in connection with flood control (Reclamation Board and Water Commission), water quality control, and recreation.

Fragmentation of Program Responsibility

A number of the recommendations are directed to achieving combinations of existing bodies, or functions, to better serve the intended purpose. Combining the Park and Recreation Commissions is one illustration, uniting the Fish and Game Commission with the Wildlife Conservation Board is another. Broader-based, better coordinated efforts and balanced programs are certain to result.

A General Public Interest Not Being Served

Some bodies by their composition or performance do not represent or serve an identifiable public interest. Rather, they project a special interest or concern under the cloak of governmental authority. The recommendations contained herein call for either the dissolution of such bodies (Oil and Gas Commissions) or modifications in their composition and authority (State Mining Board).

Ambiguities in Functions and Authority

The statutory assignments of functions and authority to boards are often so ambiguous as to confuse responsibilities between boards and the departments to which they are attached (State Park Commission and State Board of Forestry). A recurring example is in the policy formulation area and the extent to which boards advise or decide (See Exhibit III).

Confused Board-Agency Relationships

The manner in which boards and commissions are provided staff services and arrangements for the implementation of board decisions are in many instances unsatisfactory. Where boards have their own staffs—sometimes created out of distrust of the regular agency staff—duplications and conflicts arise (water quality control at both the State and regional levels). Where a body's authority in the area of administration and operations is not carefully circumscribed, clashes may occur between it and the officials and staff of the related regular department. Many of the recommendations in this report seek to eliminate these sources of friction.

Possible Economies from Adoption of Recommendations

It is not possible to make detailed estimates of the economies that could result from the implementation of all the recommendations presented in this report.

The really significant savings would be those achieved through the creation of sound policies and coordinated programs in the public interest as well as through more effective, consistent, and controlled executive processes. Confused authority and divided responsibility unavoidably lead to costly delays, duplications, and commitment to expenditures not in the broad public interest. The many boards and commissions in the Resources Agency have a significant influence on practically all of the Agency's short and long-range programs which involve the commitment and expenditure of millions of dollars each year.

Several specific and immediate savings might be noted. Abolishing the Colorado River Board would represent an annual saving—at present expenditure levels—of $233,000. Those boards and commissions now engaging their own technical, administrative, and office staffs (Reclamation Board, Water Quality Control Board, Regional Water Pollution Control Boards, and Wildlife Conservation Board) spend nearly $1,750,000 annually on salaries and administrative expenses. The integration of these into the appropriate regular department organizations should permit saving a substantial portion of this total. Board consolidation and eliminations would, of course, produce modest savings in member expenses and staff time spent in preparation for meetings and development of informational reports to board members. Taken together, these could total conservatively from $500,000 to $1,000,000 annually.

II. THE ROLE OF PLURAL BODIES

Plural bodies within the executive branch of California State Government are so differently constituted and serve such a variety of purposes in such varied ways, that they cannot be arranged into discrete classifications. The combinations are almost infinite. The explanation of this probably lies in these bodies having been created one by one over the past fifty or more years, and reorganized and reconstituted countless times, without having been subjected to a systematic, comprehensive review. The nearest approach to this was the study made by the "Governor's Committee on Organization of State Government" in the year 1959, which did not go to sufficient depth to fully resolve the problem. The Committee in its report stated that one of the general objectives of its reorganization proposals was to:

> "Retain the advantages of citizen participation in state government through the use of advisory boards and quasi-legislative and quasi-judicial bodies where appropriate, but minimize the administrative functions of such boards and commissions and locate them organizationally within the basic structure of the executive branch."

This statement accurately sets forth the consensus of informed specialists in state government administration.

There have been many attempts to *classify* boards and commissions; for example, as administrative, advisory, quasi-legislative, and quasi-judicial. In practice, it is unusual for any one such body to fit comfortably into one of these categories. The most meaningful distinctions to be made between these bodies are based on functions performed and objectives sought. The most significant corollary to these distinctions is the degree of finality of actions taken by the body. To what extent does, or should, the will of the plural body, as opposed to that of the concerned executive department, prevail.

In this chapter principal functions normally assigned plural bodies are discussed, present practice in the Resources Agency is summarized, and recommended general criteria and guidelines are offered. The application of these to existing bodies in the Resources Agency is made in the concluding chapter.

PARTICIPATION IN POLICY FORMULATION

The function most frequently assigned boards and commissions in California State Government is that of participating—in one of several ways—in the formulation of public policy. "Policy" is not easily defined. It has been used to identify anything from a basic principle of government enunciated in a constitutional provision to an administrative directive on the use of official vehicles. In this discussion the assumption is made that, in the first instance, the setting of basic policy is a legislative function. The State Legislature authorizes programs and services and prescribes, with varying degrees of specificity, how they are to be carried out. This includes the creation of needed administrative machinery and the assignment of authority to the components thereof.

As the State grows and develops, State Government becomes increasingly complex and the services it performs expand both in scope and number. It is no longer possible, even if it were desirable, for the Legislature to include in legislation all of the policy guidance needed by an executive agency. Programs and requirements are set forth in general terms, which must be interpreted and applied. Executive officials formulate policies within the framework of the legislation and are also expected to develop policy recommendations for legislative consideration. There is little accord on the extent to which a board or commission can effectively participate in this policy formulation function. Strong views are held, ranging from the belief such bodies should set policy, to the conviction that they should be in no way involved. Present state practice is best characterized by its lack of consistency.

Present Practice in the Resources Agency

As a part of the general trend, identified earlier, towards removing boards and commissions from the arena of administrative action, efforts have been made to clarify their role in the policy area. A great deal of confusion still exists.

Approximately one-half of the 41 plural bodies included in this study have a statutory assignment in the policy-making area. Among these there is no identifiable pattern, but there is an apparent legislative intent to emphasize the policy role in some instances and to minimize it in others. Examples are given in Exhibit III of typical state code provisions. In a number of cases the wording authorizes the formulation of "general policies for the guidance of . . ." and, in at least one instance (Fish and Game Commission), requires that "the director shall be guided by such policies." Various interpretations of the words "general" and "guidance" have resulted in many degrees of plural body involvement in agency administration. The State Park Commission, for example, interprets "general" as covering a broad range of matters, including administrative detail, and interprets "guidance" as a mandatory directive rather than a recommendation.

One commission little involved in departmental operations is the California Water Commission, which makes policy recommendations only on major issues and in broad terms. In defining its policy-making role the code provides that ". . . for the purpose of fixing responsibility . . . in the event of disagreement between the director and the commission . . . the views of the director shall prevail."

Conclusions

Boards and commissions can perform an increasingly important service in policy formulation in California State Government. This is especially true as State Government grows larger and, unavoidably, legislators and senior executives become less accessible to the ordinary citizen. The role to be played, however, requires careful definition and reasonably consistent application.

EXHIBIT III

STATE CODE PROVISIONS FOR POLICY FORMULATION BY RESOURCES AGENCY PLURAL BODIES STATE OF CALIFORNIA

January 1965

Agency — *Legislative Wording*

State Mining Board. "It is empowered *to establish policies* conforming to the provisions of state statutes *to govern the administration* of the Division of Mines and Geology."

Fish and Game Commission. "*General policies* for the conduct of the department *shall be formulated* by the commission. *The director shall be guided* by such policies and is responsible to the commission for administration of the department in accordance with the policies thus established."

Youth Conservation and Training Board. The function of the Board is to "*establish general policies*" governing the program . . . the State Forester (as Chief of the Division) shall be responsible for administration of the program, subject to policies established by the Board.

Recreation Commission. "The commission shall *recommend* to the director, *for adoption* by him, policies for the guidance of the Chief of the Division of Recreation in the performance and exercise of his powers and duties."

State Board of Forestry. "General *policies for guidance* of the Division of Forestry shall *be determined* by the Board."

State Soil Conservation Commission. "The commission shall *determine and advise* policies for the guidance of the chief of the division in the performance and exercise of his duties and powers."

State Park Commission. "The commission shall *establish* general policies *for the guidance* of the Director of Natural Resources, and the Chief of the Division of Beaches and Parks in the administration, protection, and development of the State Park System."

Small Craft Harbors Commission. "The commission shall *establish* general policies *for the guidance* of the division in planning, acquisition, construction, development, improvement, maintenance and operation of small craft harbors . . ."

Others. Several other plural bodies associated with the Resources Agency formulate policy for their own operations, but do not affect the administration of governmental agencies.

In the interpretation and application of legislatively established policy, and in the formulation of policy recommendations for legislative consideration, executive officials can benefit from the participation of a several-membered commission which brings together different perspectives, views, interests, and talents. Such a body, through the use of public meetings and hearings, provides an excellent opportunity for interested groups and agencies to present their views and to hear those of others. Public feeling and sentiment can better become known. Competing and conflicting interests can be more clearly identified, measured, and brought closer to agreement or at least mutual tolerance. In this manner the "record" is built on which informed judgments can be made and policies developed that are in fact more responsive to the wishes of the public.

A commission cannot "replace" the Legislature or a committee thereof. It is a part of the executive branch machinery and as such cannot be allowed to legislate. It may help crystallize support for or opposition to particular public programs or policies, and can thus be helpful both to legislative and executive authorities. Depending on its membership, it can be considered to represent the public interest generally, or a particular interest or group of interests. Its judgments and proposals will be given weight accordingly. The appointing authority should be empowered to take needed corrective action should a commission seek to exceed its bounds by bringing pressure outside legitimate channels for acceptance of a particular point of view. This does not mean that a board or commission should not be permitted to explain its position on an issue to a legislative committee when its recommendations differ from those of the associated executive department. Such would be an entirely legitimate channel of communication.

As a part of the executive branch of the State Government a commission cannot enjoy complete autonomy. It cannot comprise a fourth branch of government.

Recommendations

The following general criteria are recommended as those best designed to assure the most effective use of boards and commissions in the formulation of policy. Such bodies should be authorized to:

1. Initiate policy proposals or recommendations.
2. Review policy proposals initiated by executive authorities, on referral, and make recommendations thereon.
3. Invite suggestions and comments from the public on policies under consideration.
4. Establish policies governing their own operations and activities, consistent with legislative requirements.

RULE-MAKING

A fairly common function assigned plural bodies in the Resources Agency, and elsewhere, is that of formulating, reviewing, or adopting rules and regulations. In this connection, rules or regulations are those for general public application and concern substantive program matters; they are not involved with internal administrative affairs. This is viewed as a quasi-legislative function. Increasingly, the Legislature is delegating this authority to executive branch agencies. This elaboration or spelling out of legislative provisions is time consuming and often requires specialized talents and data. Bordering as it does the grey area between legislation and execution, a strong case can be made for maximum public participation in the rule-making process. The involvement of a board or commission in itself introduces some such participation; if that body conducts public meetings and hearings the base is further broadened.

The close relationship and distinction between policy formulation and rule-making should here be noted. In general, a policy is a basic course or plan of action to guide or determine future decisions by

administrative and operational personnel. Rules, as used herein, are more in the nature of instructions for general public observance having the force of law. They are a part of, or equivalent to, the Administrative Code, as defined in the Administrative Procedures Act.

The question of course is not simply whether or not boards or commissions should be involved in rule-making. As in the case of policy formulation, the question is in what way and to what extent. How is the function to be shared between the appropriate executive agency officials and the board?

Present Practice in the Resources Agency

As would be expected, the several plural bodies in the Resources Agency participate in the formulation and enactment of rules and regulations. The degree depends in part on the nature and substance of the programs with which they are concerned. Most active in this area are such bodies as the Fish and Game Commission, which closely regulates the taking of game, and the State Board of Forestry with its statutory authority to "make and enforce rules and regulations for the organization, maintenance, government, and direction" of the fire protection system.

Some bodies have rule-making authority in a specific and limited area only, as the Small Craft Harbors Commission in regulating the registration and operation of small craft, or the State Water Quality Control Board in setting water quality standards. In several instances specific code provisions charge a commission with recommending, rather than enacting, rules. The District Forest Practices Committees propose rules for the harvest of timber and reforestation by private companies which become effective only when approved by the State Board of Forestry. The State Park Commission indirectly enacts rules for park usage by either enunciating them as Commission policy or instructing the Department to issue them. Where rule-making authority vests clearly with executive officials in departments which have policy advisory bodies, those officials frequently consult with such bodies before issuing or modifying substantive rules.

An unusual statutory provision requires that within the Department of Water Resources, "All rules and regulations of the department, other than those relating exclusively to the internal administration and management of the department, shall be first presented by the director to the (California Water) commission and shall become effective only upon approval thereof by the commission." This is the only instance in which a board or commission is formally charged with the review, and approval or rejection, of agency prepared rules. Interestingly, here the commission's decision would appear to be final, whereas on matters of "policy" the Director's will prevails.

The Administrative Procedures Act sets forth the procedures to be followed in the enactment by State Government agencies of regulations, therein defined to include "rules, regulations, orders, or standards of general application." An exception is made of rules for the internal management of an agency. The Act requires, for example, the filing of notice of the proposed adoption with the Rules Committee of each House and with the director of the concerned department at least 30 days before adoption. Public notice is required with the public given an opportunity to be heard. These procedures have equal applicability whether the rule-making authority is a plural body or a single executive.

Conclusions

Boards and commissions can properly be used in the formulation of rules, regulations, and standards for general application. The distinction between rules of a substantive nature issued for general public observance and those having internal agency application is an important one that must be understood. Internal rules and regulations are essentially administrative and operational in nature and their issuance must rest with the responsible executive official, who may seek the consultation, advice, or review and comment of the appropriate body, but his decision should be final. Otherwise he cannot be held responsible for program administration.

Rules can be formulated and enacted in any of the following four ways:

1. By a plural body on staff recommendation.
2. By a plural body subject to executive approval.
3. By the executive agency with plural body consultation.
4. By the executive agency with plural body approval.

In some state governments approval of these kinds of rules by the Legislature or an agent thereof, is required. The California system of prior filing with the Rules Committees can serve this purpose, provided a review of some kind is made by the staffs of these or some other committees. Should the rules be found not in keeping with the legislation or legislative intent, the rule-making body could be so informed and be guided accordingly.

Recommendations

Since formal rule-making is a quasi-legislative function in which broad participation is generally desirable, and since it is closely related to policy formulation, it is recommended that boards and commissions participate as follows:

1. Consult with agency staff in the formulation of rules, on the request of the responsible executive.
2. Receive and review agency proposals, holding public hearings as necessary.
3. Recommend adoption to the responsible executive with such modifications as judged desirable.

ADMINISTRATIVE ADJUDICATION

Plural bodies are often given quasi-judicial responsibilities as a citizen protection, more readily available than the courts, against arbitrary or unduly harsh executive action. Similar responsibilities are also frequently assigned to special hearings officers or to sen-

ior executive officials, hearing appeals from actions taken by subordinate officials. Procedures employed by plural bodies in the performance of this adjudicative function vary from the highly formalized, approaching regular court proceedings, to quite informal meetings at which contesting parties are heard in an effort to bring about an acceptable agreement. This use of a plural body, in preference to a single official, assumes —rightly or not—there will result more deliberate and balanced judgment with less likelihood of arbitrariness.

Present Practice in the Resource Agency

The boards and commissions in the Resources Agency are not extensively engaged in adjudication. There are several important and a few minor exceptions. The Water Rights Board, for example, is almost exclusively concerned with the judging of water rights, which in California are of critical importance. Proceedings before this body are formal and decisions are administratively final—subject, as always, to appeal to the courts. Another type of adjudication is that performed by the Board of Forestry in hearing and deciding appeals from findings of the State Forester that a particular logging operation violates established forest practice rules. A second example of this type is the hearing and deciding by the District Oil and Gas Commissioners of appeals brought by private oil companies from orders of the Oil and Gas Division to comply with State Code provisions governing their operations. An interesting feature here is that the Commissioners are officials of and elected by the companies which are being regulated and which are the appellants.

A two-level appeals procedure applies in connection with the Regional Water Pollution Control Boards and the State Water Quality Control Board. Dischargers may be heard by Regional Boards on the waste discharge requirements set for them, with Regional Board decisions subject to review by the State Board on appeal or on the latter's initiative.

Finally, the Reclamation Board adjudicates, administratively, a variety of issues between its staff, local flood control districts, and property owners.

The Administrative Procedures Act prescribes an excellent system of administrative adjudication, including the use of professional Hearings Officers. It specifically names the State agencies required to observe the system, the only ones in the Resources Agency being the State Geologist, Fish and Game Commission, Department of Conservation, and the Department of Water Resources in the revocation of licenses to make or prevent rain. Other Resources Agency units are exempt from the system, which prescribes, in addition to the use of Hearing Officers, procedures for the entire adjudication process to assure a fair and orderly hearing. Such exemptions do not reflect any constant pattern or logic. Agencies covered by the act have the option of themselves conducting the hearing using a Hearings Officer as an adviser, or having him conduct it. In either instance his holdings are advisory.

Conclusions

A plural body can perform a useful service in hearing appeals from certain kinds of administrative actions. These would include: actions having an immediate pecuniary or economic impact on an individual, as the revocation of a license; situations in which considerable discretion can be exercised in interpreting the law or regulations; and cases in which access to the courts by the citizen is not feasible by reason of time or cost.

Recommendations

When a board or commission is assigned adjudicative duties, it is recommended that the following stipulations, wherever possible, be made:

1. The procedures set forth in the Administrative Procedures Act be observed to the maximum feasible extent, even though the law permits an exemption.
2. A Hearings Officer hears cases and presents the record with findings and recommendations to the board for its consideration.
3. Any member of a board hearing a case in which he has any direct or pecuniary interest be disqualified from participation.
4. Majority membership of a board having adjudicative functions not be from the special interests being regulated or benefitted. (The problem of special interest representation is discussed in Chapter III of this report.)

ALLOCATION OF FUNDS

In recent years there has been a marked increase in the amount of public monies distributed, as loans or grants, from federal to state and from state to local governments. This trend can be expected to continue at an accelerated pace. Often these funds are appropriated by legislative bodies in lump sum, to be allocated to local public agencies by projects and according to specified criteria. Since all requests can rarely be met, someone must judge relative merits and set priorities. Boards and commissions frequently are assigned this function for two closely related reasons: (1) this is a quasi-legislative action in lieu of line-item budgeting, and (2) a plural body can better withstand or respond to pressures of a political nature. For the same reasons, boards and commissions are often entrusted by legislative bodies with the internal allocation of funds to specific projects and activities from a single appropriation, particularly for capital improvement projects.

Present Practice in the Resources Agency

At least ten of the existing plural bodies in the Resources Agency participate in the allocation of funds. In some instances the selection of priority projects to receive loans or grants is the sole or primary function of the body. This is true of the Soil Conservation Commission, which allocates both federal and state funds to local conservation districts for specific projects, and the Wildlife Conservation

Board, which allocates funds for both state and local projects. Prior to the current year, the Soil Conservation Board received a lump sum appropriation, but under a new policy it will recommend projects and amounts for specific legislative appropriation. The Small Craft Harbors Commission administers a program of loans and grants to local public agencies for harbor development.

Both the California Water Commission and the State Water Quality Control Board allocate or approve the allocation of funds—both by loan and grant—to local jurisdictions for water development and quality control projects, although this is not a major function of either body. Several boards and commissions distribute funds for research projects undertaken by state agencies, universities, or others under contract. Finally, a board may have authority to control internal agency allocations as in the case of the State Park Board approving individual park land purchases from a single appropriation for this purpose.

Recommendations

The following criteria are proposed for board or commission participation in the allocation of funds:

1. Loans or grants to local public jurisdictions be provided in accordance with a program plan developed by agency staff with board or commission consultation. Priorities should be set by staff recommendation with board approval. These should be presented with annual budget submissions in support of funds requested for allocation.
2. In the internal allocation of monies for state agency projects or activities the procedure outlined in Item 1 be followed unless unusual circumstances require otherwise—emergencies, confidentiality, etc.—in which cases a board or commission would allocate on the basis of agency recommendations.
3. No board member having any official relationship with any agency requesting an allocation of funds participate in the consideration of that request.

OTHER FUNCTIONS

A potpouri of miscellaneous functions are from time to time assigned boards and commissions. Most common among these are directives to study, review, investigate, and report on a particular subject or problem. Other bodies are charged with the conduct of negotiations, as are certain of the interstate compact commissions. Still others participate in the initiation of a new program or activity, perhaps on a pilot basis, not yet ready to become a permanent element of a going program.

These may be assigned to an already existing board or commission as an additional function or may be cause for the creation of a new body solely for one such purpose. These latter, special purpose bodies range from interstate compact commissions—separately discussed in this report—which may engage in long-term compact negotiation to *ad hoc* investigative or study groups established to examine a specific problem, report on it, and disband. Such bodies exist in infinite variety.

Present Practice in the Resource Agency

A majority of the plural bodies in the Resources Agency do from time to time engage in special studies of specific subject matter areas from which conclusions are drawn and recommendations made. These contribute to the body's capacity to render policy advice. Such activities or studies may be assigned by legislative or executive authority or may be undertaken on a board's own initiative.

In the Resources Agency there are several plural bodies, other than the interstate compact commissions, that fall in the special, single purpose category. The Youth Conservation and Training Board is illustrative of one type; it is directing a pilot effort in a new program area for an approximate two-year period set by legislation. The Historical Landmarks and the Riding and Hiking Trails Advisory Committees were each given a single, restricted, and specific function, as were the Marine Research Committee and the Mount San Jacinto Winter Park Authority.

Another group of the present bodies operating within restricted functional or geographic areas seem to have been created to meet a special need at the time and have successfully resisted subsequent integration into broader-based organizational entities. One ready example is the Reclamation Board, created in 1911 to cope with a flood control problem in a specific area, but continuing today despite the subsequent creation of statewide water plans, programs, and administering agencies. This is also the case of the Colorado River Board. To a somewhat lesser extent, the Small Craft Harbors Commission and the Wildlife Conservation Board illustrate the same approach, each concerned with but a single element of a much broader program.

Recommendations

The following criteria should guide the future creation of single purpose or special function bodies:

1. A definite time limit should be set after which the body would be dissolved and, as necessary, the function absorbed by the appropriate permanent agency.
2. Care should be exercised not to cause overlap or conflict with existing broader based boards or commissions in the same subject area.
3. Whenever possible, one-time study-and-report responsibilities should be assigned to existing bodies rather than creating new ones for such purpose.

III. ORGANIZATION AND OPERATIONS

The preceding chapter dealt only with the questions of when to establish boards and commissions and what functions to assign them. Once those decisions are made, questions of board membership, staff services to be provided, relationship of the board to the regular executive department, and the like require answering. In this Chapter criteria for resolving these questions are proposed.

CREATION AND MEMBERSHIP

All of the plural bodies included in this study were created by the Legislature, often but by no means always on the recommendation of the executive. One body, the Fish and Game Commission, was created by statute and later (1940) accorded constitutional status. A great many *ad hoc,* technical, coordinating, and otherwise designated plural bodies have been established by executive action—Governor, agency administrator, department director, or division chief. Although these were not covered in the present study, their proliferation throughout the executive branch constitutes a problem of such magnitude that certain observations regarding them are made herein. Such bodies will be included in future studies by this commission on this subject.

Present Practice in the Resources Agency

Appointment. In nearly all instances, members of statutory boards and commissions are appointed by the Governor. The six District Oil and Gas Boards represent the exception, with board members elected by the clientele public. Senate confirmation is required in eight cases, six being bodies with important policy formulation responsibilities. (See Exhibit IV on the page following.) There is an identifiable pattern here. Although there are exceptions, it has been usual legislative practice: to require senate confirmation of only those of the Governor's appointees who will be formulating policy; to permit the Governor to appoint those bodies created to perform or participate in a specific governmental activity which the Legislature has decided should not be entrusted exclusively to a regular governmental agency; and, to permit the Governor to appoint those people who will be advising him or his agents in program administration.

Legislation is generally silent on the conditions under which a board member can be removed, other than expiration of his term of office. In several instances such can occur, for cause, by joint resolution of the Legislature.

Number of Members and Tenure. There is no relationship between the function performed by a plural body and the number of members or their terms of office. Approximately one-half of the presently existing bodies are comprised of seven members, and on nearly one-half (but not the same ones) members serve for four-year overlapping terms. As Exhibit IV reveals, excluding the three water compact commissions, twelve plural bodies have 5 members, three have 9, two have 3, one has 6, and one has 14. Members of ten of the bodies serve for indefinite terms, six for three-year overlapping terms, two for four-year terms that do not overlap, and one for six-year overlapping terms. Although there is no consistency, the most common arrangement is the seven-member group with four-year overlapping terms.

Compensation. Of the boards and commissions in the Resources Agency only the Water Rights Board members draw regular salaries. Since these are in excess of $20,000 per annum, it must be assumed the members are expected to devote substantially their full time to Board duties. Members of ten other bodies receive per diem amounts ranging from $10 to $50, in addition to expenses. The remainder are entitled only to actual expenses—costs of transportation plus the modest expense allowance of $21 per day while away from place of residence on official business. There is no meaningful relationship between type of board (function) and compensation practices.

Member Qualifications. More than three-quarters of the plural bodies associated with the Resources Agency have specifically prescribed legislative requirements for membership (only 9 of the 41 do not). In twenty-three instances these requirements are for special clientele interest or industry representation, in four they are for special knowledge or skills, and several are ex officio. Geographic representation is specified for only three of the bodies having statewide jurisdiction, but nineteen are district bodies and, therefore, geographic by their nature.

Present practice as reflected in existing Resources Agency boards and commissions does not therefore present any discernible pattern. Some are constituted entirely of representatives of the most affected interests—such as the District Oil and Gas Commissions, District Forest Practices Committees, Reclamation Board, Colorado River Board, State Mining Board, and others. This composition is usually specified by law, but may simply reflect traditional practice. Some bodies are deliberately, by law or practices, comprised of members representing diverse—and at least potentially competing—interests. A ready illustration is the State Board of Forestry on which there are required to be representatives of logging operators, timber land owners, agriculture, range livestock, water users, and the public-at-large. In the case of certain commissions the legislation simply stipulates that the members have general knowledge of or interest in the subject areas, as the State Water Commission. In others the law stipulates specific geographic representation, and in still others no mention is made of any specific type of interest representation. The combinations are without limit.

EXHIBIT IV

COMPOSITION OF RESOURCES AGENCY PLURAL BODIES
STATE OF CALIFORNIA
January 1965

Title	*Members*	*Term*	*Appointed by*	*Representation Qualifications*
State Board of Forestry	7	4-year, Overlapping	Governor, with Senate confirmation	Various Industry (5); public (1)
District Forest Practices Committees (4)	5	Indefinite	Governor (4); Board of Forestry (1)	Industry and land owners
State Mining Board	5	4-year, Overlapping	Governor, with Senate confirmation	Mining industry
District Oil and Gas Commissions (6)	5[a]	3-year, Overlapping	Elected	Oil and gas industry
State Soil Conservation Commission	7	4-year	Governor, with Senate confirmation	District directors (5); Agriculture (2)
Fish and Game Commission	5	6-year, Overlapping	Governor, with Senate confirmation	None
Pacific Marine Fisheries Commission	3[b]	4-year	Governor, with Senate confirmation	Ex officio (1); Legis. (1); Citizen (1)
Marine Research Committee	9	4-year, Overlapping	Governor	Industry (5); Labor (1); Sports (1); Citizen (2)
Wildlife Conservation Board	3	Indefinite	Governor	Ex Officio
State Park Commission	7	4-year, Overlapping	Governor, with Senate confirmation	Interested citizens; geographic coverage
Recreation Commission	7	4-year, Overlapping	Governor	None
Small Craft Harbors Commission	7	4-year, Overlapping	Governor, with Senate confirmation	None
California Riding and Hiking Trails Advisory Commission	7	Indefinite	Governor	None
Historical Landmarks Advisory Commission	7	Indefinite	Governor	None
Mt. San Jacinto Winter Park Authority	7	4-year, Overlapping	Governor (3); County (2); City (2)	None
California Water Commission	9	4-year, Overlapping	Governor, with Senate confirmation	Knowledge, interest, or experience; geographic coverage
Reclamation Board	7	Indefinite	Governor	None
Regional Pollution Control Boards (9)	7	4-year, Overlapping	Governor	City, County, water, sewage, recreation, public
State Water Quality Control Board	14	4-year, Overlapping	Governor (9); Ex Officio (5)	City, County, water, sewage
State Water Rights Board	3	4-year, Overlapping	Governor, with Senate confirmation	Attorney (1); civil engineer (1)
Colorado River Board	6	Indefinite	Governor	Local Colorado River user agencies
California-Nevada Compact Commission	7[b]	Indefinite	Governor	Geographic (6); Ex Officio (1)
Klamath River Compact Commission	1[b]	Indefinite	Governor	Ex Officio
Goose Lake Compact Commission	5[b]	Indefinite	Governor (3); Legislature (2)	None

[a] Except that one district has 7
[b] California members—other states are also represented

Nor is there any consistency between the degree of special interest representation and the function or role of the commission. Those that are so dominated range from administrative, through policy formulation, to quasijudicial; some advise, others direct or decide. It should be noted that in addition to those bodies deliberately constituted to give majority control to beneficiary interests, others have in practice very nearly become "captives" of their clientele.

There is more controversy surrounding the question of special interest representation on boards and commissions than any other single issue, and, justifiably so. This is basic to the question of what purposes such bodies are to serve. Since all commissions do not serve the same purpose, it follows that no one answer can be offered. It would be unrealistic to expect that every member of every commission would represent the public-at-large; or, conversely, that no member of a commission have any kind of a "beneficiary" interest in the activity or program with which the commission is concerned, other than that of an ordinary citizen of the State. The problem is one of identifying the circumstances under which such interest representation is desirable, permissible, or unwise.

Recommendations

Appointment. The appointing authority for membership on all statutory boards and commissions in the executive branch should normally be lodged with the Governor, as Chief Executive. This is essential to the fixing of executive responsibility. Confirmation by the Senate may but need not be required. It is, on the other hand, appropriate for the authorizing legislation to specify the number of members, their terms of office, and general qualifications or interests to be represented.

Number of Members. In considering the optimum size of a plural body, there is no magic number. Present common practice of having seven members is quite reasonable, particularly when the body is involved in the policy formulation or rule-making processes, as most are. Lesser numbers—three or five—are recommended for quasi-judicial or single purpose bodies. More than seven is not advised, unless a number of important and distinct interests or groups must be represented. The larger a body, the more it is apt to be dominated by one or several of its members or divide itself into committees.

The number of members is in no way related to the volume of work of a board. If a board finds it cannot keep up with its work load, it should look to staff (or Hearing Officers) for assistance. In most instances resort to committees is not a satisfactory alternative.

Tenure. Assuming boards and commissions are not assigned administrative functions, in the interests of continuity and informed judgment the terms of members should be reasonably long with provision for overlap. The constitutional four-year maximum should normally be considered minimum. On the other hand, to avoid domination of bodies by individual members and their acquisition of bureaucratic expertness, there should be reasonable turnover of board membership. It is therefore recommended that two terms should—except in unusual circumstances—be considered the limit. In all cases a definite term should be fixed. This is not true of several present bodies.

Compensation. The State need not compensate members of plural bodies. Most persons qualified to serve on these bodies not only do not expect compensation but welcome the opportunity for service. It is important however that they be fully reimbursed for all expenses incurred as board members. This includes travel, communications, and an ample per diem to cover lodgings, meals, and incidental expenses while away from their normal place of residence on official business. It is recommended that no compensation other than this be granted.

Member Qualifications. Ideally a board member is an unselfishly motivated, broad-gaged person of demonstrated sound judgment. To these basic qualities can, as necessary, be added special qualifications; for example, training or experience of a particular kind, such as engineering, legal, business, or labor organization. These should simply permit a board member having the basic qualities to make *more informed* judgments. Because of the tendency of technically qualified board members to become involved in what ought to be staff activities, such qualifications should be imposed with caution and normally should apply to less than a majority of the members of any body. Board or commission members should therefore be selected first on their ability to represent the general public interest and render balanced judgments and only secondarily on their special knowledge of the subject area.

In many situations it is desirable, or even necessary, that members be selected from special interest groups. It is possible that such members can be motivated by a desire to serve the public interest generally; they may also actively "represent" the special interests of their group. This distinction is not easily drawn. The extreme cases of, for example, an industry exploiting an important resource under a self-regulating arrangement disguised as public control can readily be identified. The case is not often this clear. In determining the extent to which special interests or clientele groups are to be represented, it is recommended that the following criteria be applied:

1. *Extent of Representation.* Except in unusual circumstances a majority of a body should not be representatives of a special interest group or groups, and never the entire membership.
2. *Primary Function or Role.* If the commission has authority to set public policy, make administrative decisions, allocate public funds, or enact regulations having the force of law, the inclusion of members who might directly benefit from commission actions would be more hazardous than, for example, on a commission which serves in a technical advisory role. A commission may be created to articulate the feelings of a particular industry or citizen group, in which case these interests should be represented.
3. *Need for Specialized Knowledge.* If commission members are expected to have informed opinions on the particular subject matter and review staff recommendations which are of a predominantly professional or technical nature, they must have specialized training or experience. This often means they will have some direct beneficiary interest, which would lessen their objectivity.
4. *Variety of Special Interests.* If there exist several distinct and at least potentially competitive interest groups, they may more safely be represented than if the special interests are concentrated and complementary. In the former case, a commission offers a forum for airing and compromising competing interests; in the latter it simply becomes a spokesman for the most benefitted groups.
5. *Need for Public Cooperation.* To varying degrees, commissions have value and importance as bridges between government and particular industries or segments of the public. By reasonable representation, the understanding, cooperation, and desirable support of these interests in the enforcement of a public program can and should thus be obtained.

6. *Geographic Area Interests.* Aside from providing geographic representation of a very broad and general nature, restraint should be exercised in attempting to represent specific areas. In a state of as great a size and varied topography as California a diversity of interests based on geography can be expected. These can be strongly held and pursued, at times to the detriment of the general good of all citizens of the State. In many instances these competing local or area interests are natural and wholesome and would deserve appropriate representation on a commission with statewide responsibilities. In other cases these interests are divisive and their ill-effects can be increased by being given recognition. Experience in the Resources Agency has pointed to the danger of giving excessive attention to area interests, and at the same time to the difficulty—politically—of ignoring them.

Non-Statutory Bodies. It is mistakenly thought that non-statutory boards and commissions pose little problem since they can be created, modified, and abolished by simple executive action. The truth is that although they are easily created, they quite often get out of hand and are not at all easy to dissolve. There is such a proliferation of these bodies at all levels in the executive branch they probably confuse its structure and operations as much as do the statutory bodies. They are effective vehicles for diffusion, delay, and inaction, should an official wish to so use them.

Most of the recommended criteria for measuring the need for and role of statutory bodies presented in this report should be applied to non-statutory bodies as well. It is also recommended that members of such bodies concerned with matters of inter-agency scope be appointed by the Governor and all others by the appropriate Agency Administrator. It is the intent of this Commission to conduct an analysis of such bodies similar in scope to this study.

ORGANIZATIONAL STATUS

The difficulties encountered in identifying what plural bodies presently exist within the Resources Agency is indicative of the confused organizational status of boards and commissions generally. The terms "board" and "commission" as used herein refer to those considered to be in the executive branch; these bodies must therefore be "located" organizationally. Those few which are in law and fact the executive authority in their subject area—as the Reclamation Board—are indistinguishable from the organizational entity they head. Most, however, are somehow a part of or attached to an executive department or division in which general executive authority rests with the officer heading that unit. The nature of the link holding a plural body to the executive branch structure is important to the maintenance of clear lines of authority and responsibility. A somewhat secondary yet significant question is that of how plural bodies are to be provided the staff assistance they require for effective performance.

Present Practice

The several reorganizations which have in recent years altered the organizational structure for the execution of programs now assigned the Resources Agency have left the status of many of the boards and commissions ill-defined. The introduction of the Agency Plan alters traditional alignments, the extent to which is not yet clear. Most boards or commissions are attached to a department, until recently a separate organizational entity of cabinet status, or a division, one rung lower on the status ladder. Now the Agency Administrator has been introduced in the line-of-authority with the task of coordinating the efforts of several departments. The officials with whom the boards and commissions have direct relations—to advise or guide—are now administratively answerable to another executive officer, other than the Governor who appoints the board members.

At present none of the statutory plural bodies in the Resources Agency directly advises or guides the Agency Administrator. The actual point of tie-in to the regular executive structure is clear only in a few instances. Only the California Water Commission and the Fish and Game Commission have a department-wide jurisdiction or concern. Other central bodies—as distinguished from regional—are generally linked to a division within a department; illustrations include the State Board of Forestry, the State Mining Board, and the Soil Conservation Commission, all within the Conservation Department. In all these latter instances the board or commission does not engage a staff of its own but relies on the associated department or division for staff assistance.

Several of the special or single purpose bodies in the water resources area are organizational entities loosely bound to the Department of Water Resources. The attachment is not always acknowledged and nature of the binding is not clear.

The Reclamation Board, Water Rights Board, and Water Quality Control Board engage their own staffs and function with autonomy. In the case of the Water Rights Board, an adjudicative body, such would seem essential. The Regional Water Pollution Control Boards, although nominally under the State Water Quality Control Board and within the Department of Water Resources, are in effect local autonomous enclaves. The Colorado River Board and the Mount San Jacinto Winter Park Authority for all practical purposes are outside the Agency aegis and in practice outside the State Government structure. All of these bodies engage staff—office and technical—and direct their activities. In size these staff organizations range from several up to nearly 100 employees.

One means of tying a plural body to the executive organization is by statutory designation of a department or division head as executive secretary or executive officer of the body. This arrangement exists with nearly all of the bodies in the Conservation and Parks and Recreation Departments. Ex officio membership is employed for much the same reason in several instances—the Director of Water Resources is a member of the Water Quality Control Board and the

Director of Fish and Game sits on the Wildlife Conservation Board.

As noted above, several boards engage their own technical and office staff, usually under state civil service provisions, except for their executive secretaries who commonly are in the exempt category. Several other bodies engage only a secretary and the remainder are served by agency personnel.

Recommendations

In defining the desired organizational status of plural bodies in the executive branch the primary consideration should be the encouragement of responsible and responsive executive action. The point is stressed throughout this report that plural bodies are most effective in policy formulation and least useful in the administrative area. Generally therefore they should be tied in at the point at which executive officials are deciding policy matters, not in line-of-authority, not at low organizational levels, and not in a vacuum of autonomy. The following suggested criteria are intended to contribute to that broad objective.

1. Statutory bodies involved in policy formulation should be advisory to *the department* for specified program or activities, not merely to a particular official or sub-division of a department.
2. The department head should maintain direct liaison with each plural body attached to his department. His designee, normally the head of the most concerned division, would be responble for normal board-department operations and the provision of staff assistance.
3. The department to which a board or commission is attached should be required to provide all necessary technical and secretarial staff assistance.
4. Boards or commissions with heavy workloads may be authorized to engage a secretary to handle correspondence, confidential documents, and related secretarial matters.
5. Plural bodies should not employ or direct administrative, technical, or office personnel, other than as noted in Item 4, above.

Occasional exceptions to the above criteria will be necessary. One illustration in the Resources Agency—and the only one for which the justification is persuasive—is the Water Rights Board which at times is adjudicating disputed claims between state agencies, local public jurisdictions, and private persons.

In unusual circumstances a board or commission will wish advice from or consultation with some external source, normally in relation to substantive matters of program content or operations. Such would best be obtained on contract. It is recommended that an appropriation be made to the Office of Agency Administrator for this use. A board or commission would request of the Administrator the allocation of needed funds for each such specific project.

It is also recommended that an Agency Administrator, when wishing consultation or advice on policies or matters of agency-wide impact, convene as an advisory body to him the Chairmen of the several boards and Commissions within the agency having policy formulation responsibilities in particular program areas.

INTERSTATE BODIES

Plural bodies created to undertake or further cooperative action between California and neighboring states require special comment. Cooperative action among states to achieve regional solutions to governmental problems will increasingly be sought, both because this approach makes administrative sense and because failure to do so will inevitably lead to increased federal intervention.

There are peculiarities to these bodies which distinguish them from the others now under study. Because of their interstate character, decisions as to when and how they are to be created and for what purpose are matters to be negotiated and agreed upon by representatives of two or more states. Those bodies created to implement or administer a compact are created by the compact itself and normally have interstate membership. Certain of the recommendations made herein can be acted upon by the State of California, but others are more in the nature of objectives to be sought in negotiations in which California is but one of several parties.

In the furtherance of programs of the Resources Agency, interstate bodies have been used primarily in seeking the equitable division of water in interstate river systems. There are currently three such bodies: one administrating a compact, another negotiating one, and the third lying dormant. The only other such group in the Agency is the Pacific Marine Fisheries Commission which administers a four-state compact concerned with ocean fisheries. These constitute a very limited sampling of the variety of interstate bodies found in State Government.

Functions

These bodies are almost always created for one of two purposes: either to negotiate a compact with similarly constituted groups from one or more adjacent states, or to oversee the joint execution of such a compact once it has been agreed upon. The negotiating bodies of the concerned states, if and when they reach agreement, recommend a compact to their respective state legislatures for adoption. This done, approval of the Congress is sought, as required by the United States Constitution. Such a compact will include necessary provisions for its execution, which frequently, but not always, means an administering commission on which are represented the contracting states.

Composition

A "negotiating commission" may be comprised of any combination of concerned executive officials serving ex officio, legislators, and private citizens appointed solely for this purpose. The California-Nevada Compact Commission, for example, has citizen-appointee members, and the Goose Lake Compact Com-

mission has a combination of citizen and executive, ex officio, members. It is fairly common practice to have legislative representation on negotiating commissions, and frequently a non-voting U.S. Government representative is included since federal cooperation is usually involved and, of course, Congressional approval required. Commissions established to execute or administer an approved compact are somewhat more commonly comprised of ex-officio members, although this is true of only one such body covered in the present study (Klamath River Compact Commission). Here too, the presence of a federal representative is common. California's members on the Pacific Marine Fisheries Commission consist of the Director of Fish and Game, one Legislator, and one citizen-appointee.

Since a group negotiating a compact is presumed to be concerned with developing policy for subsequent legislative enactment, the case has been made for a relatively broad interest representation. This argument does not necessarily have the same force for bodies engaged in executing a compact in which policy considerations have already been resolved.

Operations

A compact negotiating commission does not pose any particular operating problems. This does not mean that its job is an easy one—the California-Nevada Commission is in its ninth year of difficult negotiations. Normally the group representing each state develops that state's position on each issue and comes together with their counterparts, from time to time, seeking agreement. They may have their own staffs, but more commonly look to the appropriate State agency for technical and/or clerical staff assistance. Public hearings are frequently employed to obtain divergent views and expressions from interested persons, groups, or agencies. A compact negotiating commission is considered to have a responsibility to explain the proposed compact terms to the executive and legislative authorities; this done, its job is completed.

Recommendations

Interstate cooperation will become increasingly important in the years ahead. This will commonly take the form of interstate agreements or compacts which must be negoiated, adopted, and executed. To assure maximum protection and furtherance of the interests of her citizens, the State of California must give careful attention to how the State shall be represented in these interstate dealings. General governing policies should be adopted and a systematic approach taken.

It should be noted that there now exists within the State Government an agency having general responsibility in this area. This is the Commission on Interstate Cooperation, comprised of seven representatives each of the Senate, Assembly, and Executive Branch. Logically, this body should coordinate efforts in this area and evolve needed general policy based on recommendations presented herein and other appropriate sources. It also should decide or advise on initiating negotiations with neighboring states on problems of common concern.

Compact Negotiations. The use of a commission—as distinguished from an individual—to represent the State in the negotiation of compacts is recommended. Preferably, the body would include both gubernatorial appointees and informed representatives of each house of the Legislature. Commission members should not represent narrow geographic or special interests, but the entire state and the broadest general public interest. There have been examples—none current in California—of failure to achieve desirable interstate cooperation because of narrow interest representation.

The negotiating commission need not be created by formal legislation act; but if it is, a definite time limit should be fixed and specific provision made for dissolution of the commission upon approval or rejection of the proposed compact. Should an agreement not be reached within the time limit set, an extension could be considered in light of then-existing circumstances.

A negotiating commission should be provided necessary technical and secretarial staff assistance by that department most concerned with the subject under negotiation. Needed funds should be budgeted for this purpose to assure that such assistance is provided.

Compact Administration. The execution or administration of an interstate compact requires different talents—and organizational arrangements—than its negotiation. The compact itself must provide for this. It is recommended that wherever feasible responsibility for compact execution be placed in the department of State Government most concerned, which would have the authority and staff best able to carry out the compact terms within the State, or in a body attached thereto. To keep the interstate body to reasonable size, each state's membership should be kept to the fewest possible—frequently one will suffice. Unlike a negotiating commission, a body charged with compact execution need not and ordinarily should not include legislative members.

In some instances a staff will be needed to serve the interstate commission. Such a staff may be employed directly by the commission or provided by one of the states; in either case costs should be equitably shared by the member states.

Special Comment. Since in the negotiation and execution of compacts two or more states are involved, there will be compromise on how the commissions are to be constituted and are to function. The above recommendations represent the arrangements California should seek, but may not always obtain. This is especially true in respect to compact administration. It should also be repeated that the compact commissions in the Resources Agency do not provide a representation of the various types of such bodies adequate for the development of specific criteria.

IV. RESOURCES AGENCY BODIES—FINDINGS AND RECOMMENDATIONS

This Chapter presents specific proposals aimed at increasing the usefulness of plural bodies in the Resources Agency. The present organization and functions of each existing body are described and, applying the criteria set forth earlier, recommendations are made in each case. It is important to note that individual boards and commissions cannot be viewed in isolation from the others (or from the regular executive departments). Frequently the functions of two or more are so closely related that consolidations or functional realignments are needed. As a minimum, therefore, in deciding whether to act on the recommendations affecting one body, those pertaining to the other bodies in the same subject area—water, parks and recreation, conservation, or fish and game—should be considered. Further, this is an agency-wide plan for management improvement, thus the extent to which the existence of forty plural bodies, conforming to no particular pattern, complicates the administration of a broad resource development program must not be overlooked. In many instances recommendations affecting particular boards or commissions can be acted upon singly, as opportunities arise. Such actions should however be related to and consistent with the broader objectives sought.

CALIFORNIA WATER COMMISSION

Functions

The functions of the California Water Commission are to:

1. Advise the Director of the Department of Water Resources—on his request, or on Commission initiative—regarding any matters or subjects coming under his jurisdiction.
2. Approve Water Resources Department rules and regulations intended for public observance—as distinguished from internal departmental regulations which do not require Commission approval.
3. Receive and approve or reject applications from both public and private users for the appropriation or unappropriated waters, or the release of state-held priorities thereto.
4. Approve Director of Water Resources declarations of public interest and necessity prior to eminent domain proceeding to take land for projects within the State's Water Plan.
5. Approve loans and grants to local public agencies for water development purposes (Davis-Grunsky Act).

The Commission also seeks to coordinate the efforts of various state and local bodies in the presentation of the State's needs for Federal financed water conservation projects.

Commission functions therefore embrace policy recommendation, approval of rules, review of specific executive acts, and the allocation of funds.

Organizations

The Commission is comprised of nine members appointed by the Governor, with Senate confirmation, for four-year overlapping terms. The State Code stipulates that in the selection of members their knowledge, interest, and experience in water control or use are to be considered, that an engineering background would be desirable, and that all parts of the State be represented. Members receive fifty dollars per meeting day, plus travel expenses.

The Commission engages an Executive Secretary, exempt from civil service, but relies on the Department of Water Resources for technical and clerical staff, which the Department is by law required to furnish.

A member can be removed from the Commission only by concurrent resolution of both houses of the Legislature.

Operations

The Water Commission offers a forum for the expression of views and interests by the many private groups and public agencies—Federal, State, and local—concerned with water conservation and usage. This is done through public hearings called by the Commission to obtain reactions to proposed policies or projects connected with the State Water Plan. Through this device the record is built against which proposals can be tested and recommendations formulated. Major policy conflicts between the Commission and the Department of Water Resources have been avoided, thus it has not been necessary to apply a procedure set forth in the Code for the reporting by both the Department and the Commission of disagreements to the Governor and Legislature.

The Commission meets an average of once a month and uses committees to study particular issues. Because of the extreme importance of water to both urban-industrial and agricultural growth in California, and the many competing using interests, meetings are well attended. The planned export of water from the northern to southern sections of the State has intensified interest in Commission affairs.

The Commission's role in the consideration of applications for the appropriation of unappropriated waters on which the State has filed, is to assure that the intended use is consistent with the State Water Plan. After the Commission approves an application, the water right requested must be granted (perfected) by the Water Rights Board. The latter body considers the application in toto, accepting only the Water Commission's finding as to consistency with the Water Plan. Should the applicant wish at a later time to alter his planned use, he must obtain the approval of both the Water Commission and the Water Rights Board. The hearing of these applications, and requested

changes in use, occupies much of the time of the Commission.

Action by the Commission in the approval of the declarations of public interest and necessity made by the Director of Water Resources prior to proceedings in eminent domain is routine or ministerial in nature. The Commission will naturally assume the property to be taken is needed. It is possible that the provision for this review by the Commission gives the public an added assurance that only the necessary property is taken. Similarly, the requirement of Commission approval of the loan and grant fund allocations is in keeping with the general practice in State Government in the distribution of such funds by plural bodies.

Special Considerations

The California Water Commission in its policy advisory role is the broadest based of the many plural bodies in some way involved in the State's water programs. To this primary function have been added responsibilities of an incidental nature, probably better entrusted to the Water Resources Department. At the same time, the existence of the State Water Quality Control Board and the Regional Boards removes from Commission concern an important and actually inseparable element of water resource development. The continuation of the Reclamation Board adds a further complication. The creation of the Water Resources Department sought to pull together and give emphasis to water programs and needs. The same kind of pulling together of the functions performed by the several plural bodies in this subject area is now needed. The California Water Commission would seem to be the logical vehicle for accomplishing this objective.

Recommendations

It is recommended that the California Water Commission be given an enlarged role in the formulation of policies governing the State's water programs, as the overall advisory body in this area. It should also be relieved of several present functions which are of an administrative or operational nature. Specifically, it is recommended that the Commission:

1. Be assigned the functions now performed by the State Water Quality Control Board in the setting of water quality standards and allocation of funds for local projects.
2. Following completion of the work of the Flood Control Commission recommended elsewhere in this report, be charged with the consideration of flood control needs and programs on a statewide basis to the same extent that it now advises on other water development programs.
3. Be relieved of responsibility for acting on applications for the appropriation of unappropriated waters (and release from priority), and this function transferred to the Water Rights Board.
4. Be relieved of passing on Department declarations of public interest and necessity re eminent domain proceedings.

Applying the general criteria proposed earlier in respect to plural body composition, the Commission membership should be reduced to seven members. Because of its size and involvement in such incidental activities as appropriation of unappropriated waters, the Commission has resorted to the Committee system. With the implementation of the above recommendations this practice will no longer be necessary. Future appointments to the Commission should assure representation of water quality interests, including at least one physician of public health orientation, and waste dischargers.

STATE WATER QUALITY CONTROL BOARD

Functions

The State Water Quality Control Board has as its primary responsibility the formulation and adoption of statewide policy for the control of water pollution and water quality. Incidental to this, the Board has appellate jurisdiction on decisions of the Regional Water Pollution Control Boards, as well as a measure of administrative control over them. It also controls certain loans and grants to local public jurisdictions for pollution control facilities. From the Board's creation in 1949 until 1963 it was concerned only with control of pollution from industrial and domestic waste. Legislation in 1963 broadened its authority to cover any and all factors affecting water quality. The regional boards still are restricted to control over pollution by industrial and domestic waste only.

Organizations

The Board is comprised of five *ex officio* members—the Directors of the Departments of Water Resources, Public Health, Conservation, Agriculture, and Fish and Game—and nine citizen members, one representing each of the following: irrigated agriculture, domestic water supply, industrial water use, recreation and wildlife, production of industrial waste, public sewage disposal, city government, county government, and the public-at-large. The appointive members are named by the Governor for four-year overlapping terms and serve without compensation. The Board employs a staff of eight headed by an Executive Officer and including four engineering or technical employees.

Operations

Although the primary responsibility of the Board is the setting of water quality standards, little has been accomplished in this area. The Board has disbursed more than $1,500,000 in support of various research projects which presumably would contribute to the setting of standards, but has experienced unusual difficulty in controlling costs and enforcing schedules for the completion of these projects. Most of the research has been done by universities, the remainder by the Department of Water Resources and other state agencies. The Board sought to provide guidance to the research program through a Research Consulting Board without success and in 1962 this body was abolished. The Board recently announced that it

would set water quality standards for the Delta area within two years. In light of the State Water Plan execution schedule affecting this area, water quality standards will be needed sooner.

The State Board possesses jurisdiction over the nine Regional Water Pollution Control Boards, which it to date has not been positively asserted. The Regional Boards are required to take cognizance of any standards set by the State Board, but in the absence of such statewide standards the Regional Boards proceed independently. Although the State Board has authority to review the budget requests of the Regional Boards, it has not made effective use of this control. It also can review the actions of Regional Boards and step in where it finds one has failed to prevent pollution or bring about corrective action. In fourteen years the State Board has reviewed eight such cases and ordered action in one.

The State Board administers two financial assistance programs, one state and one federal, involving grants and loans to local public entities for sewage collection and treatment facilities. In the federal assistance program the Regional Boards receive and transmit the local requests indicating their judgment as to priority need; the State Board decides and allocates the funds. During the current year $280,000 is available from the federal program. The state financial aid program is very small, the amount available to be loaned each year being approximately $50,000—the principal and interest (2%) payments on $1.1 million in outstanding loans.

The Board meets from six to nine times a year and makes use of study committees and public hearings on major issues or projects. Its operating budget for the current year approximates $200,000, plus $146,000 for contracted research. The combined budgets of the State and Regional Boards for 1964–1965 exceeded $1.3 million.

Special Considerations

Responsibility for water quality control is now diffused among the State Water Quality Control Board, nine Regional Water Pollution Control Boards, the Department of Water Resources, the Department of Public Health, the Department of Fish and Game, and waste dischargers under self-monitoring arrangements. The combined expenditures reportedly made for quality control is well in excess of $3.0 million annually. The close relationship between water *quality* and *quantity* is not sufficiently recognized because of this fragmentation of responsibility. The State Water Quality Control Board has been unable to provide the coordinating link, statewide, and the Regional Boards have not always produced a coordinated local approach. A major cause appears to be the dispersion of technical staff among the several agencies which prevents their being effectively utilized. Each agency complains of being understaffed, and probably is; but in total the combined staffs might well be able to do the job the State requires and which is not now getting done.

Recommendations

The dangers of the existing organizational separation of water quality control from the other water programs of the State are becoming more apparent with the implementation of the Water Plan. The existence of one central and nine regional bodies, each with its own staff and with standard-setting and decision-making authority in the quality control area, practically forecloses any possibility of coordinated action. The problem has reached critical proportions, particularly in the San Francisco Bay and Delta areas.

It is recommended that the State Water Quality Control Board be merged with the California Water Commission.

Water quality standards would be set, statewide and by river basin, by the Department of Water Resources subject to review by the Water Commission, which would hold needed public hearings in connection therewith. The Commission would assume the Water Quality Board's role in the approval of loans and grants for local projects and for research.

In future composition of the Water Commission there should be adequate representation of the quality protection point of view—public health, conservation, waste discharges, and local government.

REGIONAL WATER POLLUTION CONTROL BOARDS

The State is divided into nine geographic areas, or regions, each having a Water Pollution Control Board composed and functioning as described below.

Functions

In broadest terms, these Boards were created to control the discharge of waste—industrial and domestic—into the waters of the State. They are to coordinate, at the regional level, the efforts of all public agencies having responsibilities in this field. In so doing, the Boards are expected to:

1. Formulate and adopt long-range plans and policies for regional control of water pollution.
2. Prescribe and enforce waste discharge requirements for dischargers—industrial, municipal, and others.
3. Seek coordinated action in the control of water pollution on the part of the Departments of Water Resources, Public Health, and Fish and Game, as well as county and municipal authorities.

Organization

The Regional Boards were first established in 1949 and are composed of seven members appointed by the Governor for four-year overlapping terms, one member "associated with" and representing each of the following: organizations dealing with water supply, irrigated agriculture, industry, municipalities, counties, recreation and wildlife, and the public-at-large. The members serve without compensation, receiving only travel expenses.

Each Board appoints its own Executive Officer, who is outside the classified civil service and who serves at the pleasure of the Board. The size of technical (engineering) and office staff—under the classified service—varies from three to fourteen, the nine Boards employing a total of 56 personnel.

A great deal of the work related to the activities of the Boards is performed by the staffs of the Departments of Public Health, Fish and Game, and Water Resources and the bulk of the special and research studies are conducted through contracts with these departments and universities.

Operations

The State Code requires the Boards to meet at least quarterly; most commonly they meet five or six times a year, with the San Francisco Bay Regional Board holding monthly meetings. Most of the work in prescribing and enforcing waste discharge requirements is quite technical in nature and so is performed by the staff, in conjunction with technicians from the above-named departments. A set of "requirements" is prepared for each discharger and submitted to the Board for approval. At its meetings the Board hears anyone wishing to offer comment and in the absence of strong opposition approves the staff recommendation. Refusal to do so is, understandably, rare.

Compliance with requirements once adopted is on a self-monitoring basis with selective verification and checking by Board staff. Normally, violations discovered are corrected at the staff level, being taken to the Board only when severe and when staff efforts to correct fail. The Board may, in effect, warn the offender, issue an order to cease and desist, or as a final step refer the defender for prosecution in the courts. Appeal can be taken to the State Water Quality Control Board, but in fourteen years this has occurred but eight times, the State Board concurring with the Regional Boards in all but one instance.

Board activity in the formulation of long-range plans or policy has been minimal. Studies or research projects on which such policy must be based are done by the Department of Water Resources, universities, or others under contract. The State Water Quality Control Board is also sponsoring research, as are other agencies and institutions. The Regional Board's role in this area is confused and the results of past efforts have been uneven.

Two additional, and minor, activities are: the receipt of reports of water wells drilled, and the processing of applications from local sewage system authorities for federal aid in constructing treatment plants. Nothing is done with the well drilling reports, other than to forward them to the Department of Water Resources. The applications for federal aid are rated by priority need and forwarded to the State Board which makes the final decision and allocates funds.

Each Board has considerable latitude, or independence, in how it will conduct its affairs, including the policies and standards it sets. There is limited exchange of information among regions and only a negative type of guidance from the State Board.

The total expenditures of the nine regions, including research and other contractual services, approaches $1,000,000 annually. The 1962–63 expenditures were approximately as follows:

Regional Boards (direct)	$563,000
Research Projects	140,000
Field and Laboratory Services	300,000
	$1,003,000

It should be noted that most of the funds in the latter two categories were controlled by the State Board, nearly $200,000 of which was federal money. Of the direct expenditures by the Regional Boards, $450,000 were for staff salaries.

Special Considerations

Although there undoubtedly are water pollution problems and control requirements peculiar to particular areas, water quality control is (1) a statewide problem, and (2) embraces more than industrial and domestic waste pollution. It would seem that statewide policy standards are needed, and can be so designed as to allow necessary flexibility to meet peculiar local or regional conditions.

The Regional Boards are small enclaves of administrative autonomy. As already noted, efforts toward control by the State Water Quality Control Board have been hesitant and without effect. Examples are given of particular Regional Boards which have taken a broadly-based, public interest approach and have functioned well. There are also instances of competent, well-directed staff work. This has not always been the case. With this type of organizational form considerable unevenness in policy and its administration can be expected.

The cost of administering the program through nine separate and independent entities is undoubtedly greater than need be. Under these circumstances effective personnel utilization is very difficult.

Recommendations

The recommendation has been made that the functions of the State Water Quality Control Board be assigned to the California Water Commission and Department of Water Resources. One of these would be the setting of statewide water quality standards, sufficiently flexible to permit variations tailored to regional and local conditions.

It is recommended that the Regional Boards be redesignated Regional Water Quality Control Boards and that at least one member—preferably the county or city representative—be a public health physician. The present Board staffs should be integrated into the Department of Water Resources. Finally, the Boards should have the following responsibilities:

1. Hear and decide requests for variations from or exceptions to the statewide quality standards. These requests could come from any State or local public body, industry, or interested citizen group. Findings and decisions would be filed with the California Water Commission and if not reversed by that body become effective in a specified period of time.

2. Hear and decide appeals from discharge requirements fixed by the Department of Water Resources and from orders issued in connection therewith. As in Item 1, above, decisions would be subject to review by the California Water Commission.

The effect of these recommendations would be to relieve the Regional Boards of quality standard setting, which they have done little of, and fixing of discharge requirements for individual waste dischargers, better done by staff technicians. The Boards would then become concerned with the local application of state water quality standards—not merely industrial and domestic waste pollution—and decide appeals from contested executive orders and actions.

RECLAMATION BOARD

Functions

The Reclamation Board was created in the year 1911 to succeed the Sacramento and San Joaquin Drainage District, with responsibility for managing a program of flood control along these two major rivers. The predecessor agency's jurisdiction was limited geographically to the delta and areas adjacent to the main streams, whereas the Board's jurisdiction is interpreted to encompass the entire basins of the two river systems. Most of the activity is, however, along the main streams and in the lower flood plains.

In general, the Board acquires, holds, and disposes of lands required for flood control activities and provides liaison with the U.S. Corps of Engineers which does most of the major construction work, acquiring for the Corps lands and easements, assuring it of freedom from liability, and guaranteeing the proper operation and maintenance of completed works. Actual operation and maintenance is done by local flood control districts or the Department of Water Resources under one of several kinds of arrangements with the Reclamation Board. The Board seeks to assure itself that agreed-upon maintenance is done, taking corrective measures as necessary. One device used is the creation of a local maintenance district in which the Department of Water Resources performs the needed work and is reimbursed through a local property tax levy.

Another function of the Reclamation Board is the granting or denial of permits for encroachments or construction of any type along the levees, banks, or channels of the rivers. The Board exercises police power in causing the removal of unauthorized encroachments.

In connection with its several functions the Board promulgates rules for general compliance and adjudicates appeals from orders issued or actions taken thereunder. In many such instances a party to the controversy is a local flood control or other district.

Organization

The Board is comprised of seven members named by the Governor for unspecified terms. Members receive twenty dollars per meeting day plus necessary expenses, meetings being held regularly twice each month. The Board staff, headed by a General Manager and Chief Engineer appointed by the Board, includes more than eighty engineering, legal, technical, and clerical employees.

All of the present members of the Board have been appointed since 1959 and have agricultural or farm land interests in the controlled area. Although attached to the Resources Agency, the Reclamation Board functions as an essentially independent body, positioned in between federal, state, and local jurisdictions having flood control responsibilities. In areas of the State outside the Board's jurisdiction flood control programs are, in general, coordinated by the Department of Water Resources, working with local districts and federal agencies.

Internally, the Board staff is organized into engineering, right-of-way, and administrative sections.

Operations

Meeting twice monthly as it does, the Board is essentially an administrative body. It delegates to the General Manager authority for the day-to-day direction of the staff, but reserves for itself all significant policy and management decisions. Formal agenda are prepared and staff presentations made; public hearings are held as required. A "consent calendar" is used to dispose of minor matters, with Board members questioning only those of particular interest to them.

Activity is largely on a project basis, the Board staff working closely with the Corps of Engineers on engineering planning and design. Construction is normally done by the Corps with federal funds, the state contributing land, right-of-way, and easements. (In some cases "matching" state funds are required.) On completion of a project, the facilities are first accepted from the Corps by the Board and then turned over to local districts for operation and maintenance, subject to a measure of Board supervision. As noted above, the Department of Water Resources may be called upon to do this work on a reimbursable basis.

No master flood control plans have been developed for the affected areas, with one recent exception. In the absence of such plans or criteria for general application, the Board functions under a considerable handicap.

As noted earlier, the Board sits as a quasi-judicial body in reviewing protests or appeals from Board decisions or regulations, or actions of its staff. These can relate to any of the Board's activities. Decisions of the Board are final, except for the usual right of the injured party to seek review by the courts. Where the Board's jurisdiction is challenged, the plaintiff may be told to seek a court ruling.

Special Considerations

The Reclamation Board poses several rather basic problems of organization and administration. These have been aired by various legislative and executive branch study groups and, based upon these studies, more than once the recommendation has been made that the Board be abolished. Briefly summarized, the problems are:

1. The existence of the Board as an agency of California State Government but with jurisdiction over a confined geographic area.
2. The possession by the Board of a combination of legislative, executive, and judicial functions, administered with considerable autonomy.
3. The confusion and conflict arising from the Reclamation Board possessing authority in one particular geographic area that is possessed by the Department of Water Resources on a statewide basis.
4. The Board—U. S. Corps of Engineers relationships which have raised the question of clear separate identification of the State's position and policy on proposed major projects.
5. The possibility of less than a fully coordinated implementation of the State Water Plan by the existence of this substantially autonomous body.
6. The continuation of right-of-way and engineering staffs performing identical work to that being done by larger and more versatile such staffs elsewhere in State Government.
7. The extent of involvement in normal administrative matters by a part-time citizen board.
8. The representation of the general public interest by a Board comprised of persons benefitted by the program they administer. (There is intended no implication that present members have ever acted other than in what they judged to be the public interest. Quite the contrary. This is simply the general policy question raised at several points in this report of how the public interest can best be represented.)

Recommendations

There is no doubt but that the Reclamation Board has played a vital and constructive role in flood control in the area of its jurisdiction. The present question appears to be: in light of the State Water Plan, the integrated Department of Water Resources, and other recent developments is there a continuing need for this body. It seems quite obvious that the regional approach to flood control represented by the Board must give way to a statewide plan, policy, program, and administrative system.

The three-dimensional pattern of relationships between the State, local public bodies (counties, cities, and special districts), and federal agencies (both Corps of Engineers and Bureau of Reclamation) requires clarification. This can be better achieved if as a first step the State straightens out its organizational problem and flood control recognized as a problem of statewide implications requiring a consistent policy and approach.

It is therefore recommended that the Reclamation Board be reconstituted as a State Flood Control Commission to advise the Agency on a statewide flood control policy and plan. The present staff of the Reclamation Board should be integrated into the Water Resources Department, thus permitting their better utilization. The proposed Commission should be created for a specified period of time—possibly three years—by when its work should be completed and made a part of the total state water development program.

STATE WATER RIGHTS BOARD

Functions

The State Water Rights Board has jurisdiction over the appropriation of unappropriated waters of the State, which it exercises through a system of applications, permits, and licenses whereby water rights are established and enforced. In so doing, the Board functions in a quasi-judicial capacity, holding hearings at which contesting and interested parties appear. Under the normal procedure the Board formulates and issues rules and regulations essential to the execution of its statutory responsibility. It has the added function of formally adjudicating water rights as an aid to the courts and water users. Finally, the Board performs an essentially ministerial function in recording and verifying the extraction of ground water in southern portions of the State.

Organization

The Board was created in 1956 by legislative act, to be comprised of three members appointed by the Governor, with Senate confirmation, for four-year overlapping terms. One must be an attorney and one a civil engineer. The Governor designates one as chairman. Removal of a member before expiration of his term can be only by concurrent resolution of the Legislature. Compensation of the members is fixed by law; at present the Chairman receives $21,000 and the two members $20,500 per annum.

The Board appoints an Executive Officer who serves as chief of the staff. The staff is comprised of four attorneys, some 45 engineering and technical personnel, and approximately the same number of clerical and fiscal employees, organized into Legal, Engineering, and Administrative units. The Board is therefore a self-contained agency staffed to operate without external assistance.

Operations

In carrying out its primary function—the appropriation of water—the Board receives applications from private or governmental petitioners for a permit to use a specified amount of water, from a designated source, for a stated purpose. A set procedure is followed for staff screening, public notice, and so on. A public hearing is held, if the application is protested and the differences cannot otherwise be resolved, at which all interested parties are heard and a full record taken. Depending on the case, the hearing may be conducted by one or two Board members or the entire membership. A hearing may take from one to 90 days. In each case, the staff prepares a draft recommendation, often in consultation with Board members, which is considered and acted upon by the Board. If the application is approved, a permit is issued to the applicant.

After issuance of a permit, the user is required periodically to report on the development of his project and Board staff conduct needed follow-up. On completion of the project a license is issued by the

Board for continued right to the amount of water put to beneficial use in accordance with the permit. Variations in use or volume must be referred to the Board for approval. Surveillance of the exercise of rights granted is maintained and failure on the part of the grantee to develop the use or observe the conditions set forth may result in Board action revoking a permit or license.

In the adjudication of water rights the Board may be requested by a court to investigate and report on the facts and issues involved in litigation. In other instances, the Board responds to requests of water users to adjudicate the water rights on, for example, a particular stream; the resulting Board order may then be adopted by the court.

Special Considerations

Several features of the operation of the Water Rights Board deserve particular attention.

Relations with State Water Commission: A problem arises in connection with what are called "state filings" that brings the Water Rights Board and the State Water Commission into an area of uncertain relationships. The State of California some years ago laid claim to most of the then unappropriated waters in the State—that is, all waters surplus to the then existing beneficial uses. The purpose was to bring about the orderly development of still available water resources to best promote the public welfare. Any private person or organization, or governmental agency —local, state, or federal—wishing to make use of any of this water on which the State has filed, must request its relase or appropriation by the State Water Commission. The Commission's concern is whether or not the requested use is consistent with the State Water Plan. It holds public hearings at which the petitioner and other interested parties appear. Rarely it is possible to limit the subject matter of the hearing to the question of consistency with the State Water Plan. If the Water Commission approves the requested appropriation, the party must then make a regular application to the Water Rights Board for a permit to develop the use. The Board proceeds in its normal manner, which frequently means holding a hearing which may in large part duplicate that of the Water Commission, causing expense to the State, the applicant, and other interested parties.

A further complication is introduced by the requirement that once an appropriation of water has been made, the grantee, should he wish to modify his project or use, must go back to the Water Commission for approval and then to the Water Rights Board.

Board Member Compensation: Whereas members of the other boards and commissions under study receive no compensation or a modest per diem allowance, members of the Water Rights Board are paid a substantial salary. This would imply that members are expected to devote either their full time or something approaching that to their Board duties. The present members—one an attorney, one an engineer, and one an experienced businessman—during the past year spent an average of approximately one week (5 days) per month in hearings or formal Board meetings. Other duties, including the study of records and materials preparatory to reaching decisions, probably occupy as much time. Water Rights Board membership requires therefore the devotion of considerably more time than is the case with other boards or commissions in the Resources Agency. During the 1963–1964 fiscal year, 463 applications were filed, 353 permits issued, and perhaps 500 actions taken on permits and licenses already granted. Considering the time devoted to study of the evidence and staff recommendations in reaching decisions, this is not an inconsiderable effort. There is also participation by members in certain inspections and informal negotiations between contesting parties.

Board-Staff Relations: The Executive Officer, Chief Engineer, and Chief Counsel generally direct the staff and administer the activities supporting the Board's operations. The Board approves budget requests, participates in the appointment of senior and technical staff, and receives and reviews monthly reports of staff activities.

Special Note: Prior to the creation of the Board in 1956 the functions now performed by it were a part of the activities of the predecessor agency to the Department of Water Resources. There was no board or commission involved in these processes. Reportedly, the Board was created to place the decision on these matters "outside" the regular executive structure of the Department which some felt was actively competing with other potential water users. In other words, the Department of Water Resources was in the water project development and water distribution business and could not be sufficiently objective in adjudicating rights to water in which the Department itself might be an interested party.

Recommendations

Two organizational alternatives are available for the conduct of the activities of the Water Rights Board. Both involve the continued use of a plural body. One is to continue the Board as now constituted with full salaried members. The other is to introduce the use of professional "hearing officers" as aids to and agents of a part-time Board. Under the second alternative, the hearings officers would develop the record and submit findings and recommendations to the Board for its approval, modification, or rejection. This arrangement probably would still require board members to devote more time to board duties than could reasonably be expected without some compensation. The choice between alternatives should be based on which is the more economical; this will require a detailed study of work volumes and other factors.

It is recommended that the Water Rights Board be assigned the function now performed by the California Water Commission in connection with the appropriation of unappropriated waters and priority releases. This will speed up the process by avoiding present duplication and reduce costs both to the State and petitioners. In these procedures the Department of Water Resources can adequately represent the State's interests before the Water Rights Board.

COLORADO RIVER BOARD

Functions

In broader terms, the Colorado River Board was created (in 1937) to represent the rights and interests of California, its public agencies and citizens, in the water of the Colorado River System. The Board, through its Chairman as Colorado River Commissioner, is authorized to study and investigate rights to and uses of the water of the river, confer and negotiate with representatives of the United States, other states and all users of Colorado River water, and make recommendations to the Governor and Legislature relating thereto.

Organization

The Board is comprised of six members, one representing each of the public agencies within California having established rights to the use of water or power from the Columbia River. These are: Imperial Irrigation District, Metropolitan Water District of Southern California, City of Los Angeles, San Diego County Water Authority, Coachella Valley County Water District, and Palo Verde Irrigation District. Each agency offers two or more nominees from whom the Governor appoints one as a member for an indefinite term of office. Normally the members are principal officials of the agencies they represent.

The Board appoints an Executive Secretary, exempt from civil service, and a Chief Engineer and other staff under civil service regulations. Having its offices in Los Angeles, the Board maintains liaison with the Department of Water Resources through the latter's Los Angeles offices. The annual operating budget has averaged approximately $230,000.

Operations

Prior to the establishment of the Board there had already been a long history of controversy and negotiation among the states within the Colorado River basin. In 1922 a seven-state compact was drawn up allocating the water between the upper and lower basins, but not among individual states. Incident to the construction of Hoover Dam, the All-American Canal (In Imperial Valley), and other works in the 1930's, agreements were reached which assured California users of certain amounts of water. The construction of the aqueduct to Los Angeles was then begun. The need at that time for a coordinating agency such as the Board was apparent.

Since its creation, the Colorado River Board has diligently represented the interests of California users in what have been extremely trying negotiations, particularly with the State of Arizona, California's principal competitor for the water. A prolonged legal controversy recently ended with a United States Supreme Court decree allocating specific volumes to the several states in the lower basin. The amount awarded California users does not meet present and future needs, which must be met by export of water from Northern California and other sources.

The Board and its staff are now engaged in varied efforts to obtain additional water for the area of the State served and to obtain through legislative or legal action further clarification and recognition of Colorado River water rights. Collection of stream flow and water use data continues and special staff studies are undertaken on a somewhat unplanned basis.

Recommendations

The Colorado River Board is no longer an appropriate agency to cope with Southern California's water problem and its dissolution as a State agency is recommended. Except for certain questions of interpretation of the Supreme Court decree, the allocation of Colorado River water has been made and is not subject to further negotiation. This supply will not meet Southern California's future water needs, nor would any other conceivable allocation of Colorado River water. Meeting these needs must become a part of the State's total water plan, involving export from the North and a broad regional plan embracing the waters of all western rivers and the ocean. A consistent statewide policy and approach is required.

To the extent that the several major public water agencies serving Southern California have common problems and interests, they can and should jointly pursue these through such an organization as the present Colorado River Users' Association. This organization could, for example, represent these sectional interests on and before any agencies with statewide responsibilities for water program development and administration. In no instance should such an association represent itself as being an official state agency. In the past, the joint membership feature with the Colorado River Board has resulted in confusion as to the official status of the Users' Association.

STATE BOARD OF FORESTRY

Functions

The State Board of Forestry is given by statute rather comprehensive, and specific, authority to establish forestry policies and control their execution. The Board, among other things, has authority to:

1. Establish a forest policy.
2. Select or approve the selection of lands for acquisition as State Forests.
3. Classify lands as to responsibility for fire protection.
4. Develop or approve a state fire protection plan, and control its administration.
5. Adopt rules and approve plans for management of state forest lands.
6. Establish pest control zones and hazardous fire areas and approve control programs therein.
7. Approve and adopt rules and regulations for logging and timber harvesting on private lands; authorize alternative plans for specific areas.
8. Hear and decide on appeals from certain actions taken by the State Forester.

The Board nominates, under civil service rules, the State Forester who is then appointed by the Director of Conservation.

The State Board of Forestry has, therefore, a combination of rule-making, policy, administrative, and

adjudicatory functions, giving it, should the Board choose to exercise them fully, a complete control of the State's forestry program.

Organization

The Board is comprised of seven members, appointed by the Governor, with Senate confirmation, for four-year overlapping terms. Members receive no compensation other than travel expenses. By State Code one member must represent—and have practical knowledge of and experience in—each of the following: pine producing industry, redwood producing industry, forest land ownership, range livestock industry, agriculture, and beneficial use of water. The seventh member represents the public-at-large.

The Board meets six to eight times a year, each meeting running from one to three days, frequently embracing an inspection of a particular area. The State Forester, who heads the Division of Forestry in the Department of Conservation, has been named by the Board as its Executive Secretary. This is not mandatory. The Board has no staff of its own, being served by the staff of the Division.

Operations

The Board exercises its authority normally through the review and approval of plans or recommendations placed before it by the Division of Forestry. It conducts public hearings prior to reaching final decisions on certain proposals, particularly where the interests of private forest land owners and loggers are directly affected. The Board establishes a variety of rules and regulations governing State forest land use, logging on private lands, fire protection, and pest control, holding the State Forester responsible for application and enforcement and hearing appeals from his actions or orders.

A considerable portion of the Board's time is devoted to reviewing proposed rules and regulations for control of logging operations, developed by the four District Forest Practices Committees, and requests for exceptions thereto. In the latter, a particular operator will propose an alternative plan for the harvesting of a specified area. If the appropriate District Committee approves, the recommendation goes forward to the State Board for final approval or rejection. The Forestry Division presents its recommendations concerning the plan before both the District Committee and the State Board. Reportedly, plans are not often approved if objected to by the Division.

Special Considerations

This is an example of a board having authority (a) to establish policy, (b) control its execution, (c) make most of the meaningful management decision, and (d) adjudicate disputes arising from policy execution. Although the law provides that the State Forester heads the Division of Forestry, under administrative direction of the Director of Conservation, he is at least by State Code provisions completely amenable to the Board. A provision of the Code such as, "The State Forester may, under the supervision of the Director of Conservation and in accordance with the policy of the Board of Forestry . . ." causes only confusion. Not only must the State Forester follow Board policy, he must also obtain Board approval of specific plans for the execution of that policy.

Without implying that the Board currently does so, it could control the day-to-day administration of the forestry program should it choose. Considering the extent of special interest representation on the Board, this poses a question of some relevance.

Recommendations

It is recommended that the State Board of Forestry be continued as now constituted, but with several modifications in its statutory authority. There is on the Board strong, but not majority, industry representation, as well as representation of other special interests —livestock industry, agriculture, and beneficial use of water. Since these interests are in a sense "competing," the representation is broadly based.

In respect to Board functions, it is recommended that the Board:

1. Advise on and recommend forest program policies, selection of land for acquisition, classification of lands for fire protection purposes, pest control zones, and fire hazard areas, but that final responsibility for decision rest with the Department of Conservation.
2. Continue to adopt forest practices rules and alternate plans, but without District Committee participation.
3. Continue its present quasi-judicial function of hearing and deciding appeals from actions of the State Forester.
4. Be relieved of responsibility for nominating the State Forester, for appointment by the Director of Conservation.

The sense of these recommendations is that the Board be relieved of authority to decide and act on administrative and operational matters, and become advisory on these and basic policy issues. It would retain present rule-making and adjudicative functions. It is believed that this will not diminish but will clarify and strengthen the role of the Board of Forestry.

DISTRICT FOREST PRACTICES COMMITTEES

There are four identical District Forest Practices Committees, each having the same responsibility for its particular district. These are Redwood, Coast Range Pine and Fir, North Sierra Pine, and South Sierra Pine Districts.

Functions

The District Committees formulate forest practice rules for utilization and conservation of forests on privately-owned land and approve alternate plans of forest practice presented by timber owners. All decisions of the Committees are advisory to the State Board of Forestry which must approve all rules and alternate plans.

Organization

Each Committee is comprised of five members. Four are appointed by the Governor for indefinite terms of office. Of these, two must be private timber owner-operators in the district, the third must be an owner of at least 1,000 acres of timber not logging such, and the fourth a farmer-timber owner. The fifth member, who votes only to break ties and who serves as Secretary to the Committee, is a designee of the State Board of Forestry. Staff work for the Committees is performed by the Forestry Division.

Operations

The Committees hold hearings in the formulation of forest practice rules, which are subsequently proposed for State Board approval. These rules are presented to private timber ownership for concurrence (two-thirds majority required) prior to submission to the Board. The Committees consider amendments to the rules, on petition of 50 percent of the timberland ownership or on request of the State Forester. They also receive and approve or reject requests from timber owners for alternate plans, as exceptions to the These also require State Board approval.
established general rules, to apply to specific areas.

The Committees meet only once or twice a year. Review and approval of alternate plans of forest practice is normally conducted by mail. Only the rule-formulation function is required to be executed in formal public meetings.

Special Considerations

A problem is posed by the majority, if not exclusive, industry representation on these committees, engaged as they are in fixing and recommending exceptions to rules for harvesting timber. The requirement of State Board approval of their acts somewhat tempers this apparent conflict of interest.

Recommendations

While there might have been ample justification for the District Committees initially, when general rules were being developed, such no longer exists. The use of the technique of approval-by-mail of alternate plans loses the principal advantages of the plural body device—deliberation, public airing, presentation of divergent views, and the like. The present functions of the Committees could be satisfactorily performed by the Division of Forestry, particularly if new rules are prepared in consultation with timberland owners and are finally reviewed and approved by the State Board of Forestry.

It is therefore recommended that the District Committees be dissolved and that forest practices rules be set by the Division of Forestry, subject to State Board of Forestry concurrence. Exceptions would be decided by the State Board, acting on industry requests and Division of Forestry recommendations.

STATE MINING BOARD

Functions

The State Mining Board is empowered to establish policies to govern the administration of the Division of Mines and Geology. The legislation creating the Board charges it with representing "the State's interest in the development, utilization, and conservation of the mineral resources of the State." It provides liaison between the mining industry and State Government and to a certain limited extent between the State and interested federal agencies. The Board is both policy-making and advisory to the Director of Conservation and the State Geologist.

Organization

There are five members on the Board, appointed by the Governor for four-year overlapping terms from among citizens "associated with or having detailed knowledge of" the mining industry. They serve without compensation, receiving only travel expenses. The present members of the Board are all directly involved in the industry: three in mining operations, one in petroleum, and one in the use of aggregates. The Board employs no staff; its secretarial and staff needs are provided by the Division of Mines and Geology.

Operations

The Board meets an average of four or five times a years to consider matters referred to it by the Division of Mines and Geology, the Department of Conservation, and industry representatives, or matters initiated by Board members themselves. It advises on any activities of the Division and reaches policy positions which presumably must be observed by the Division. The Division Chief (the State Geologist) keeps the Board informed of Division programs, activities, problems, and needs. The Division program is essentially one of gathering and disseminating geological information through surveys and other means and data on mining industry activities. It publishes a substantial amount of data and prepares and distributes geological maps. In very recent years it has undertaken geological surveys of urban areas to identify possible geologic hazards to building construction.

The Board is particularly active in representing the mining industry, and the State, in connection with the application of federal laws and regulations —or their revision—affecting mining interests. Similarly, the Board has concerned itself with state legislation in this same area.

There is no evidence that the Board has become involved in the routine administration of the Division of Mines and Geology. The State Code provides that the State Geologist shall be *nominated* by the Board, in accordance with civil service regulations, and appointed by the Director of Conservation.

Special Considerations

Since the Mining Board members are associated with the mining industry, it would perhaps be more accurate to say that the Board represents the industry's interests to the State, rather than the reverse as noted in the Code. There is no intention that the Board be a public-representative body. Its general position is that the function of the Division of Mines and Geology is to serve the industry, its development and growth. This is accomplished through the economic exploitation of mineral resources in the State.

There is nothing necessarily wrong with this approach; however, it raises the question of whether such a board should have authority to *establish* state policy and *nominate* a senior state official.

A second consideration is that of the rather narrow representation on the Board in view of the Division's increasing involvement in non-mining geological matters.

Recommendations

The State Mining Board is essentially an industry-oriented body and its most important contribution is the representation of the industry's needs and positions to the State and federal agencies. This being the case, the Board should advise on and recommend policies for the scope and substance of the State's mines and geology program, not establish policy as the State Code now provides. Further, the code provision lodging authority in the Board to nominate the State Geologist (for appointment by the Director of Conservation) should be repealed. Although this has caused no difficulty in the past, it is an unwise arrangement and could dilute the responsibility of the concerned department and agency heads. If greater attention is to be given geological problems and services not related to mining—for example, safety to structures—the representative nature of Board membership should be broadened.

SOIL CONSERVATION COMMISSION

Functions

The Soil Conservation Commission is charged with the formulation, in cooperation with other state agencies and interested organizations, of a soil conservation policy for the State and for policy guidance to the Chief, Division of Soil Conservation. The Commission administers a modest state program of financial grants to local soil conservation districts for approved projects, and a federal program of grants for the planning of watershed protection projects.

Organization

The Commission has seven members, appointed by the Governor for four-year terms. Five of the seven must, by law, be directors of local soil conservation districts drawn from the several geographic areas of the State. The other two represent the public-at-large, but may also be local district directors.

The State Code provides for a State Soil Conservation Advisory Board to consist of the Director of Agricultural Extension of the University of California, the Director of Water Resources, the Chief of the U.S. Soil Conservation Service for California, and the Chairman of the Agricultural Stabilization and Conservation Committee for California. This Board is to advise the Commission. Its members—more commonly their designees—attend Commission meetings and serve on its committees. From time to time, the Commission will refer a matter to the Advisory Board for study and report.

The Commission has no staff of its own, relying on the Soil Conservation Division for staff assistance. The Chief of the Division serves *ex officio* as Secretary to the Commission.

Operations

The Commission is occupied mostly with reviewing and acting upon applications for assistance grants and considering specific local district problems. The state program of aid for local district projects is now only $100,000 per annum, representing ten to twenty modest grants. Some years ago this was a much larger program with $1,000,000 available annually. In the past the Commission has received a lump sum appropriation for this program, but beginning with the 1965–66 fiscal year the Commission will identify each proposed project in its budget request and the appropriations will be by individual project.

Four or five applications for federal planning grants are acted upon in a year. These may lead eventually to federally-supported (Department of Agriculture) projects for the construction of watershed conservation facilities.

The Commission has not formulated an identifiable comprehensive soil conservation policy, but has enunciated a number of policies for the guidance of the Director of the Division of Soil Conservation. There are indications of Commission concern with matters which could more properly be handled by the Division without reference to the Commission. In its standing committee structure and member relations with local districts, the Commission appears to take a rather expansive view of its role.

Special Considerations

This Commission is, in effect, comprised of local soil conservation district officials who, necessarily, are locally oriented. It has more of the characteristics of an association of local districts than an agency of the State Government. A member's passing on a loan or grant of state or federal funds to his own district is probably not good public policy.

Considering the many ramifications of developing a "comprehensive" soil conservation policy for the entire State of California, and the many agencies of local, state, and federal governments directly or indirectly concerned, it is very doubtful if a group such as the Commission operating at the "division level" in a state department can successfully undertake this enormous task.

Recommendations

If the Commission is to participate significantly in the development of broad conservation policy, it should be reconstituted to reduce local district representation and include as members persons such as are on the Advisory Board. This body should then be made advisory to the Conservation Department. If this is not done, the Commission should be recognized as a special interest body existing primarily to encourage cooperative action among the local conservation districts and continued as now constituted.

The recently introduced requirement that individual projects be budgeted in the normal way places

final authority in the Legislature, with intermediate executive review of the Commission's proposed priorities. This is preferable to past procedure which placed final authority in a body with majority beneficiary interest representation.

DISTRICT OIL AND GAS BOARDS

The State is divided into six districts for purposes of administering the oil and gas program. In each district there is a Board of Oil and Gas Commissioners constituted and functioning as described below.

Functions

The District Boards are quasi-judicial bodies hearing and deciding appeals taken by operators from formal orders of the Supervisor, Oil and Gas Division, or his District Deputies. These orders relate to the correction of observed failures to adhere to established requirements in drilling, testing, or abandoning oil and gas wells. The decisions of the Boards are final, subject only to appeal to the courts. Although the State Code also provides that the Boards may call upon the Oil and Gas Supervisor or his Deputies for consultation and advice, and the reverse, this has not been done in recent years.

Organization

Each Board is comprised of five members (except District 4, which has seven) elected by the owners of the producing wells within the District. In the election of two members of each Board, owners cast multiple votes based on the amount of production; the remaining members are elected on the basis of one vote for each owner-producer. The intention was to assure representation of both large and small producers, whereas in practice—with only occasional exception—members are officials of the large oil companies. Board members, titled Commissioners, serve three year staggered terms and are subject to recall by the electors. They must be residents of the District and be engaged in the business of oil and gas development. They receive no compensation but may be reimbursed for travel and other incidental expenses. It is reported that members claim no such reimbursement, thus whatever expense they incur presumably is borne by the companies they represent.

The State Code provides that each Deputy District Supervisor, Oil and Gas, shall serve as Secretary to the Board in his district.

A special tax is levied on oil and gas production, calculated annually to cover the expenses of the Oil and Gas Division. The levy is collected by the State Treasurer and deposited in a special fund for this exclusive purpose.

Operations

The State Code spells out in some detail the State's program for conservation of the oil and gas resource, placing enforcement responsibility on the Oil and Gas Division, Department of Conservation. The District Commissioners become involved in the hearing of appeals. Their advisory function is exercised only occasionally, and in most districts not at all.

Formal orders from which appeals can be taken are issued infrequently. In recent years, appeals have averaged 2 or 3 annually for the entire state, some boards having not heard an appeal for several years. Orders from which appeals are taken most commonly deal with natural gas wastage incidental to oil production or with failure to observe due care in preventing water-oil contamination. The issues involved are of a technical nature, suggesting the desirability of engineering or geological training or background on the part of at least some of the Commissioners.

The Boards hear the Division's explanation of the orders issued and the appellant company's objectives in open meeting, deliberate in private, and issue their decisions, which are binding unless appealed by either party to the courts. The Code contains an unusual provision that a Commissioner is not disqualified from hearing an appeal where the company he represents has been charged with gas wastage. In at least one-half of the recent appeals the Boards have granted relief to the applicant, nullifying or—more often—modifying the order of the Division.

Each Board meets annually to elect a Chairman from among its members.

Special Considerations

The principal issue here is the exclusive representation, including even member selection, on the Boards of the industry being regulated. The fact that few orders of the Division are appealed, and that Division officials point to this as a sign of good industry cooperation, is not persuasive. The very presence of industry dominated appeals bodies must inhibit administrative action. If there is need for regulation in the public interest—and this would certainly appear to be the case—then it is poor policy to place ultimate control in a body on which there is no public representation. Specific examples of abuse of authority by these boards were not found, nor were they sought. Present concern is with the underlying principle.

Recommendations

For the reasons noted above, it is recommended that the District Oil and Gas Boards be dissolved. The alternative of modifying their membership to include non-industry representation is not endorsed for two reasons. First, the subject matter is of such a technical nature that it would be very difficult to find persons not associated with the industry competent to serve and, second, the appeals are so few that court reviews can conveniently be sought in those instances in which industry and the Division cannot reach agreement.

BOARD OF DIRECTORS, YOUTH CONSERVATION AND TRAINING PROGRAM

Functions

The Board of Directors, Youth Conservation and Training Program, establishes policy for a pilot project of increasing the employability of unemployed young men. Eligible participants are provided six to

twelve months of educational and work experience in a forestry camp operated by the State Division of Forestry. The Board sets policies governing admission, educational and work program content, camp discipline, and the like.

Organization

The Board is composed entirely of *ex officio* members: Director of Conservation (Chairman), Superintendent of Public Instruction, Director of Youth Authority, the Director of the Department of Employment, and the Director of the Department of Industrial Relations. The statute establishing the Board and the program was enacted in 1963 and fixed a termination date of 90 days after adjournment of the 1965 Legislative Session. Administrative responsibility is placed in the Division of Forestry and, by designation of the Board, the State Forester acts as Executive Secretary to the Board.

The one camp in operation—in Riverside County—is staffed by 23 Forestry Division personnel. Somewhat under one hundred young men are currently in the program for which $391,000 is budgeted for the current fiscal year.

Operations

The Board is required to meet at least four times a year. It has established a general, but reasonably comprehensive, set of policies covering selection of boys, educational programs, vocational training, work assignments, discipline, and so on. These were based on recommendations made by staff representatives of the interested state agencies, the heads of which are on the Board.

Special Considerations

The *ex officio* membership technique, although not generally recommended, appears to have suited this particular situation. The several concerned agencies of State Government have thus been brought together and coordination achieved. There is some question if the time allowed to test the program is sufficient for a considered judgment as to its value. Some information on results—what happens to the participants on completion of their training—would seem necessary to a determination of program usefulness.

Recommendations

Once the demonstration phase is completed and the program placed on a permanent basis (or abandoned), the policy board will no longer be required. The most appropriate agency of State Government should be given undivided responsibility, with any desirable inter-agency agreements entered into. An advisory committee with interested agencies represented by professional staff members could be created to give technical advice to the administering department. (Current negotiations are in process with Federal Government Labor Corps representatives on the possibilities of a joint program. Should this be agreed upon, the above recommendations would still have pertinence.)

STATE PARK COMMISSION

Functions

The State Park Commission has responsibility for establishing general policies for the guidance of the Director of the Department of Parks and Recreation and the Chief of the Division of Beaches and Parks in the development, administration, and protection of the state park system. It also has responsibility for classifying each unit of the state park system into one of five categories: state park, scenic or scientific reserve, historical unit, state recreation area, or state beach. It may authorize the multiple use of state recreation areas.

Prior to 1959 the State Park Commission had much broader powers. It nominated the Chief of the Division of Beaches and Parks for appointment by the Director of Natural Resources, and through this Division Chief, it administered all phases of the state park system. The transfer of State Park Commission functions to the Department of Natural Resources, in 1959, and the later creation of a Department of Parks and Recreation affected the functions of all plural bodies involved in park and recreation activities.

Organization

The 1959 legislation limiting the powers, duties, and responsibilities of the Commission at the same time increased its membership from five to seven. Members are appointed by the Governor, as they have been since the first State Park Commission was created in 1927. The State Code requires that members be selected from areas distributed throughout the State and because of their interest in park, recreation, and conservation matters. They serve, without compensation, for four-year overlapping terms. The Commission employs no staff, but its staff needs are met by the personnel of the Division of Beaches and Parks. The Chief of the Division is statutorily designated Secretary to the Commission.

Operations

Although divested of its administrative authority and duties, as mentioned above, the Commission has continued to play a major role in the administration of the park system through broadly interpreting its responsibility to establish general policies for the guidance of the Director. The Commission adopts rules and regulations governing the administration of parks, and "Declarations of Purpose" regarding park usage. Some rules and regulations are made as policy statements of the Commission and others are in the form of precise recommendations to the Director of Parks and Recreation. It also directs that specific studies and reports be made, approves individual park projects, and makes detailed recommendations to the Director regarding park programs. In recommending park acquisition, the Commission is specific in terms of dollars and in the exact description of boundaries.

The Commission meets monthly at various locations throughout the State, and makes use of committees and public hearings on major issues or projects. Although it has no budget of its own, the Commission has a voice in the expenditure of the Division of

Beaches and Parks' budget—$12 million operating budget and $4 million capital funds for fiscal year 1964–1965. The Commission expects to play a major role in the $85 million state park system property acquisition program approved by the voters in the recent (November, 1964) General Election, and to be involved in at least some other aspects of the remainder of the $150 million total bond issue authorized at that election.

Special Considerations

Although 1959 legislation sought to relieve the Park Commission of administrative and operational functions, this objective has not been fully achieved. Progress has however been made.

An undesirable division, and overlap, of jurisdiction exists between the Parks Commission and the Recreation Commission and to a lesser, but important extent between these two and the Small Craft Harbors Commission and the Wildlife Conservation Board. A coordinated approach to the development of comprehensive recreational policies is all but impossible under present arrangements.

Some confusion and administrative uncertainty has resulted from the Commission's being authorized to "give policy guidance" to both the Director of the Department and the Chief of the Division of Beaches and Parks, the latter being administratively subordinate to the former.

The State Park Commission, in establishing policy for the Director and for the Chief of the Division of Beaches and Parks, is extremely influential in the operation of state parks and related facilities. It cannot guide the Director, however, in related areas in which he has responsibility but where policy is established by other boards, commissions, or committees.

Recommendations

The needs of the State in the broad area of parks and recreation can better be met by having a single advisory body interested in all aspects of parks and recreation. It is recommended that this be accomplished by merging the Parks Commission and the Recreation Commission into a broadly-based, policy advisory Parks and Recreation Commission. To this body should also be assigned the policy formulation function now lodged in the Small Craft Harbors Commission, so that no major subject area be omitted. The findings of this body should be recommendatory to the Department—not a division thereof—and much more indicative of broad policy proposals than of administrative direction. The Commission should, for example, advise the Director of the need to adopt regulations to accomplish a major objective, but should not spell out those regulations in detail. It would recommend the acquisition of park property in a particular area, but not decide upon the precise boundaries nor seek to establish or negotiate the price. In those subject areas not now the concern of the Commission, it would provide the Director with policy guidance geared toward a coordinated parks and recreation program. It need not supplant all other existing appointive bodies in this general subject area but, if the Park Commission is to become the Department's general policy advisory group, the role of other bodies must be limited to technical advice, allotment of funds, or other specific functions.

It is recommended that in constituting the new combined body, particular attention be given to providing fully adequate representation of the "recreation" viewpoint—as distinguished from the more restrictive property acquisition and physical maintenance emphasis.

RECREATION COMMISSION

Functions

The Recreation Commission has three basic areas of responsibility: it is charged by Code to cause to be studied the whole problem of recreation of the people of the State of California; it is responsible, in cooperation with others, for the formulation of a comprehensive recreational policy recommendation to the Director of the Department of Parks and Recreation; and, it is responsible for recommending to the Director, for adoption by him, policies for the guidance of the Chief of the Division of Recreation. The State Code also requires that the Commission confer with the Director and the Chief on matters relating to recreation, and that it submit, through the Director, an annual report to the Governor on state and local needs for recreational facilities, programs, and activities.

Organization

The Commission consists of seven members appointed by the Governor for overlapping four-year terms. One of the members is designated by the Governor to serve as chairman. All serve without pay.

Originally created in 1947 as an independent agency responsible directly to the Governor, the Commission was made a part of the Department of Natural Resources in 1959. It presumably was retained in the Department of Parks and Recreation by the 1961 reorganization of resources units which specifically provided for a Division of Recreation but made no mention of the Recreation Commission. The Chief of the Division serves as Secretary to the Commission, but this is not a statutory requirement.

Operations

In discussing the Recreation Commission it must be borne in mind that the term originally applied to the seven-member appointive body and its staff, jointly, but now refers only to the appointive body. The failure of the Commission to recognize this distinction has resulted in its involvement in functions assigned to the Division that are not statutorily a part of the Commission's duties, such as the promotion of training programs and establishing standards for local agency recreation personnel. Little emphasis has been given such mandatory responsibilities as studying statewide needs. Although it has no separate budget of its own, the Commission—in effect—supervises the expenditure of the approximately $120,000 operating budget of the Recreation Division. There is no capital budget for recreation apart from that

of the Division of Beaches and Parks, which includes recreation as well as park items and is expended under the policy direction of the State Park Commission. The Recreation Commission intends to make recommendations on projects requested under the bond act approved under Proposition No. 1 at the November 1964, General Election.

Special Considerations

The Recreation Commission, like the State Park Commission, operates under legislation which permits, or even requires, a degree of participation in departmental operations. The authority of the Department of Parks and Recreation is recognized in the area of routine administrative and fiscal control, but policy determinations flow directly from the Commission to the Division, rather than from the Director of the Department, on advice of the Commission.

The problem arising from the existence of more than one commission actively engaged in recreational policy formulation are noted in the report section covering the Park Commission.

Recommendations

As has been recommended in the section dealing with the State Park Commission, there should be only one policy advisory group for the Department. Other plural bodies, if needed, should provide technical guidance in a particular area of specialization. Since the State Park Commission is composed of members selected "because of their interest in park, recreation, and conservation matters" it is not necessary or desirable that recreation interests be interpreted by a separate body. The two activities are inseparable and it is therefore recommended that the two bodies be combined. This step was no doubt anticipated, since the word "recreation" was added to Park Commission qualifications by the recent reorganization legislation, which also omitted reference to the Recreation Commission in prescribing the functions of a Recreation Division in the Department of Parks and Recreation.

SMALL CRAFT HARBORS COMMISSION

Functions

The Small Craft Harbors Commission establishes general policies for the guidance of the Division of Small Craft Harbors of the Department of Parks and Recreation. It is also responsible for the transfer of harbors constructed with state funds to local agencies, for the making of loans to local agencies, the registration of vessels, the regulation of the operation and equipment of vessels, and the adoption of rules and regulations pertinent to these activities. In so doing, it administers the Small Craft Harbor Revolving Fund. The Commission causes studies and surveys to be made of the need for small craft harbors and connecting waterways throughout the State and for the identification of the most suitable sites therefor. In addition to establishing general policy for making loans to local agencies, the Commission has permissive authority to grant funds for the development of boat launching facilities. It must establish general policies for determining the selection of projects which will serve the greatest public recreational boating need and which would not be constructed except through such a grant. The Harbors and Navigation Code charges the Commission with responsibility for registering undocumented vessels, and permits the adoption by it of rules and regulations governing a variety of boating operations.

Organization

The Small Craft Harbors Commission, together with the Small Craft Harbors Division (and the Small Craft Harbor Fund), was created by legislative act in 1957. Its seven members are appointed by the Governor, with the advice and consent of the Senate, and serve without pay for overlapping four-year terms. The Commission is empowered to appoint, with the advice of the Director of the Department of Parks and Recreation, the Chief of the Small Craft Harbors Division, who serves, by law, as Secretary to the Commission. The Commission has no other staff but, to an even greater extent than is true of other plural bodies associated with park and recreation activities, it controls the personnel, budget, and program of a Division of the Department. Originally supported in part by General Fund appropriations, the Division's entire current operating budget of more than $600,000 is appropriated by the Legislature from the Small Craft Harbors Fund, which received $2 million of "earmarked" gas tax revenues annually—the estimated amount paid by motor boat users.

Operations

The Commission meets eight times annually—monthly, except in March, June, September, and December—at various locations throughout the State. In its less than eight years of existence, the Commission has approved more than 60 loans amounting in the aggregate to approximately $18 million. These are made from the Revolving Fund which is supported by boat registration fees and a share of the gas tax. Although the Commission follows a liberal loan policy, it seldom exercises its authority to make grants. To date, only one grant has been completed and two others are being processed—each of the three for about $50,000. The State Code authorizes the Division of Small Craft Harbors to make loans under policies established by the Commission, but mentions only the Commission in reference to grants. In practice, the Commission acts on all loan or grant applications with staff work done and recommendations made by Division personnel. The Commission performs its other statutory duties through the establishment of general policy for implementation by the Division. It does not appear to get involved in administrative detail.

Special Considerations

An organizational entity which operates under policy directives of a body appointed by the Governor and exercising expressed statutory powers can be expected to function with considerable independence. It is not surprising therefore that this division

is somewhat isolated from other Department of Parks and Recreation activities. The Director of the Department therefore receives no coordinated policy advice and establishes no department-wide policy—only administrative procedures. The broad question of policy decision, rather than policy recommendation, by appointive bodies is involved, as is that of the placement of policy groups below the departmental level.

Recommendations

The Small Craft Harbors Commission currently has responsibility for establishing policy, evaluating projects, and regulating pleasure boats and boating. In the interests of consistency with the general recommendations resulting from this study—and for the reasons presented in connection with those general recommendations—it is suggested that the Commission's policy-making responsibility be assigned to the Parks and Recreation Commission. The proposed Parks and Recreation Commission should in its participation in policy formulation on a department-wide basis relate pleasure boating needs and activities to the State's total recreation program. Considering the number of boating enthusiasts and the extent of their organized activity there would be no question of their needs being ignored.

The Small Craft Harbors Commission should be continued to perform two important services. First, the approval of loans and grants for the construction of boating facilities by local jurisdictions. It would be desirable if loans or grants of $10,000 or less could be approved by the Division, without reference to the Commission but in accordance with Commission set guidelines. (Existing legislation, but not Commission policy, permits the processing of all loans in this manner). Secondly, the Commission should formulate or approve rules and regulations governing boat registration and small craft operations within the waters of the State.

CALIFORNIA RIDING AND HIKING TRAILS ADVISORY COMMITTEE

Functions

The statutory responsibility of the California Riding and Hiking Trails Advisory Committee is defined in one sentence of the law requiring it to "investigate all matters pertaining to the proposed project" (establishment, development, maintenance, and use of a statewide system of riders' and hikers' trails) and to prepare an annual report. The legislation included a declaration of policy to (among other related activities) "encourage increase in riding and hiking as influences for the improvement of the health of the people."

Organization

The Committee was authorized in 1945 by legislation adopting a report of the Riding and Hiking Trails Project Committee of the Reconstruction and Re-employment Commission. The Committee is comprised of seven members appointed by the Governor for indefinite terms without compensation. Appointments are to be made on a geographical basis for six members—two each from the northern, southern, and central sections—and one at-large from lists submitted, on invitation, by civilian organizations interested in a State Trails System. The Committee has no budget, and its staff needs are met by the Division of Beaches and Parks.

Operations

The scope of the Committee's operations varies with the scope of the program of the Department. There is currently an informal two-year moratorium on the program, imposed through budgetary limitations, and the Committee has not met for about 18 months. When active, it met quarterly.

Program curtailment resulted from an apparently quixotic approach to the acquisition of right-of-way for a 3,000 mile trail encompassing the entire state. Staff right-of-way negotiations would convince a string of property owners to grant access across their land for no financial consideration and usually without guarantee of protective measures to safeguard cattle and possessions. Then a recalcitrant property owner would balk, necessitating the relocation of the route negotiated to that point. Without the power of eminent domain and without funds to pay for right-of-way, a surprisingly large segment of the plan was completed but it became obvious that these conditions precluded total implementation. The program is now at a standstill pending administrative plans to reorient the program toward urban areas and action by the Legislature on proposals to grant eminent domain (with local government involvement) and property owner protections.

Special Considerations

The Governor is charged by the State Code to abolish the Committee when, in his opinion, its services are no longer required. That he has not done so—even though he has permitted vacancies to remain unfilled—is indicative of a belief in the need for this type of citizen participation in specialized aspects of park and recreation activity. That the program has not moved ahead faster, is indicative of the lack of a vocal group of beneficiaries. The people who enjoy hiking and riding simply are not as well organized as are those interested in certain other recreational pursuits.

Recommendations

This Committee, when active, functioned clearly within the proposed criteria for an advisory body restricted to a well-defined activity. If the riding and hiking trails program is rejuvenated, the Committee should again be activated.

The terms of office of Committee members desirably should be fixed—rather than indefinite as at present—preferably for four years with provision for overlap.

HISTORICAL LANDMARKS ADVISORY COMMITTEE

Functions

The Historical Landmarks Advisory Committee is responsible for making a census of all registered or privately-marked historical buildings or landmarks

and for conducting a continuing survey of important historical sites. The Committee is authorized to receive and consider all applications for the official designation and registration of such buildings or landmarks and to propose to the Department the qualifications for their acceptance. It may also suggest the type of plaque to be used for marking and the descriptive material to be included thereon.

Organization

The Historical Landmarks Advisory Committee was created in 1949 to advise the State Park Commission which, at that time, administered the programs now the direct responsibility of the Director of the Department of Parks and Recreation. The seven members of the Committee are appointed by the Governor and are to include persons deemed "best qualified to carry out the purposes" of the law. They serve without compensation and for no specific term. The Committee has no budget and employs no staff. Its limited staff needs are met by the Division of Beaches and Parks.

Operations

The nature of the work of this Committee permits infrequent meetings—usually three or four annually. The meetings are held at various locations in the State to hear applications for the designation and registration of historical buildings and landmarks. Applications are received through and investigated by Division of Beaches and Parks personnel, but applicants are expected to do their own research to support their proposals. Criteria have been established to assure conformity with a pattern and to minimize the consideration of obviously ineligible applications.

Recommendations

The Historical Landmarks Advisory Committee is an example of the effective use of appointive bodies in State Government. The Committee acts in an advisory capacity to the head of a department in a particular sphere of interest. Its recommendations are based on information it hears and evaluates as a body of citizens appointed on the basis of their special qualifications.

It would be preferable if members were appointed for a specific term of office would overlap provided. This is recommended.

MOUNT SAN JACINTO WINTER PARK AUTHORITY

Functions

The Mount San Jacinto Winter Park Authority operates and maintains the Palm Springs aerial tramway from Valley Station in the foothills to Mountain Station near the peak of Mount San Jacinto. The Authority was created "to construct and operate systems for the transportation of persons and property to Mount San Jacinto State Park" and given power to issue the necessary revenue bonds.

Organization

The Authority as created by Legislative Act in 1945, which provides for a seven-member body to serve without pay for four-year overlapping terms. Three of the members are appointed by the Governor, two by the Riverside County Supervisors, and two by the Palm Springs City Council. None of the appointing authorities retains any control over or receives any report from the members. It is—as is generally true of such authorities—completely independent of all other appointed or elected public bodies. The Authority meets monthly at its Valley Station offices. Some use is made of committees; currently active are personnel, Advertising and Public Relations, and Finance Committees.

Operations

The Authority appoints a General Manager who prepares a budget, hires a staff (now 35 employees), and directs the operation of the facility in accordance with policy formulated by the Authority. The Authority adopts the annual budget but is sharply limited in its fiscal policy determinations by the bond agreements. It cannot make any changes in the rate structure even though it might feel, for example, that lower rates would produce greater revenue.

The operating budget for the current year is approximately $720,000, divided almost evenly between tramway operation and maintenance costs and general administrative expenses. The Authority is reportedly having difficulty meeting its bond obligations (Financial data were not available to the survey staff.)

Special Considerations

From the time the Authority was created in 1945 until construction operations commenced in 1961 there was a need for a closer association with the Department of Parks and Recreation (and its predecessors) than apparently took place. The legislation creating the Authority permitted, and perhaps intended, a contractual relationship which could have provided the State a continuing role in the Authority's operations—but this has not happened.

The Mount San Jacinto Winter Park Authority is only remotely associated with the Resources Agency, and even less with any other agencies of State Government. Experience to date would suggest that the use of this device for recreational facility development and operation should be discouraged. A preferred approach would be state construction and ownership, with concessionaire operation.

Recommendations

It is recommended that the law and bond agreements be reviewed to determine if the State can withdraw from participation in this operation and, if this is possible, serious consideration be given to doing so.

FISH AND GAME COMMISSION

Functions

The Fish and Game Commission regulates and may license the taking or possession of birds, mammals, fish, amphibia, and reptiles, and formulates general policies for the guidance of the Director in the administration of the Department of Fish and Game. It holds public hearings to consider the recommendations

of interested citizens and groups before the enactment of regulations.

Organization

The Fish and Game Commission is a constitutional body composed of five members appointed by the Governor for six-year overlapping terms. Senate confirmation of appointment is required. Members receive ten dollars per day of actual service—not to exceed $50 in any month or $600 in any year—plus their actual expenses. Six meetings annually are statutorily required with the purpose, time (month), and location (city) prescribed for four of these. Meetings are actually held more often and in various locations throughout the State.

The Commission's staff consists of an Assistant to the Fish and Game Commission and three office employees.

Operations

The Commission is given no specific authority by the constitutional provision creating it; rather, the Legislature is authorized to delegate to the Commission such powers relating to the protection, propagation, and preservation of fish and game as it sees fit. The Legislature has seen fit to delegate authority to regulate the taking or possession of birds, mammals, fish, amphibians, and reptiles, except for commercial purposes. Each successive Legislature grants these powers for a two-year period only, and the frequently amended fish and game legislation establishes the framework within which the Commission may operate.

The agenda for meetings are prepared by the Commission's staff and are accompanied by an analysis of agenda items which includes departmental comments and recommendations, the opinions of a Deputy Attorney General where needed, and the suggested wording of motions on items which require Commission action.

Special Considerations

The Fish and Game Commission exists primarily to exercise legislative authority in a specific field. It discharges the resulting responsibility in a manner that would not be practical—or, perhaps, even possible—for the Legislature to do by itself. The Commission's policy role is general and advisory. Legislation specifically precludes the involvement of either the Commission or its secretary in departmental administration. There seems to be little justification for the creation of such bodies by constitutional amendment; however, since the 1940 amendment giving constitutional status to the Fish and Game Commission left it without powers except as delegated by the Legislature.

Recommendations

The retention of the Fish and Game Commission with its present functions and composition is recommended. It is recommended that the legislative authorization for the Commission's regulatory function be made on a continuing basis, subject to periodic review, rather than with the present two-year limitation. It is also suggested that the degree of detail in the legislation regarding time and place of Commission meetings be eliminated as unnecessary.

It is also recommended that the present function of the Wildlife Conservation Board of approving wild life conservation projects be transferred to the Fish and Game Commission.

WILDLIFE CONSERVATION BOARD

Functions

The essential function of the Wildlife Conservation Board is to determine what lands and facilities are to be acquired and developed at state expense for fish and game conservation, propagation, and utilization. The purpose is to develop recreational opportunities for hunting and fishing. Within the limits of available funds, the Board decides upon the projects to be undertaken and provides for their implementation.

Organization

The Board members are, *ex officio*, the President of the Fish and Game Commission, the Director of the Department of Fish and Game, and the Director of Finance. A Legislative Advisory Committee of three Senators, appointed by the Senate Rules Committee, and three Assembly members, appointed by the Speaker, sits with the Board. The staff employed by and responsible to the Board includes an executive officer, one assistant, a field agent, and several clerical workers.

Board and Advisory Committee members receive no compensation; the latter constitute, by law, an interim committee of the Legislature for the subject area.

Operations

The Board currently receives $750,000 per annum from earmarked pari-mutuel revenues to finance the projects it approves—land acquisition and facilities development. Prior to 1955 the program was funded by an initial $9 million (1947) appropriation augmented several years later by $3 million. In 1955 the support was fixed at the present level. Some $5 million of the new bond money (Proposition No. 1, 1964 election) is committed to the Board's program.

The Board receives proposals for wildlife projects from various sources, governmental and private. Nearly one-half of these in number, representing substantially more than one-half of the total funding, originate in the Department of Fish and Game and are for fish hatcheries, waterfowl management areas, angling or hunting access, stream flow maintenance dams, and the like. Most of the remainder are initiated by local public jurisdictions, principally counties and cities. Many of the projects merely provide access for sportsmen to fishing or hunting areas.

The staff of the Board, in conjunction with department staff and local agency officials, reviews the proposals and conducts feasibility studies, on its own initiative or on Board instruction, and makes its recommendations. The Board makes the final decision. A part of each project plan is the arrangement for operation and maintenance of the facility by an

appropriate public agency. Land and right-of-way acquisition is commonly done by the Board staff. The $750,000 annually is transferred into a special fund called the Wildlife Restoration Fund, expenditures from which are board-controlled.

The Board meets four or five times per year. The members of the Legislative Advisory Committee sit with the Board and actively participate in discussions and votes. It is reported that an average of 100 proposed projects are considered annually and thirty or so approved. In sixteen years of Board activity, approximately 200 projects have been undertaken at a total expenditure of nearly $20 million.

Special Considerations

Among the unusual features of the Wildlife Conservation Board are the active participation of Legislators in the Board's operations (but possessing only advisory and investigative authority) and the *ex officio* composition of the Board.

At the risk of oversimplification, it can be said that the Board's purpose is to allocate funds from a lump-sum legislative appropriation to specific projects. The Legislative Advisory Committee's presence assures a measure of legislative influence and oversight, in the absence of line-item or individual project appropriation. A reasonable defense of the special fund device can be made on the size of the projects (most are quite small) and the opportunity to acquire land and rights for less outlay than might be the case were the projects publicized in advance.

One obstacle to obtaining maximum equity and resource utilization has been the lack of a comprehensive plan for wildlife conservation. Such a plan may be developed as an element of the contemplated overall resources plan.

Recommendations

In the interests of a more consistent policy and a better coordinated program, it is recommended that the Wildlife Conservation Board be merged with the Fish and Game Commission and its staff transferred to the Department of Fish and Game. The Department should study applications for projects and recommend priorities to the Commission for approval. The Legislative Advisory Committee could advise the Commission, as it now does the Board, but this is not recommended since it confuses legislative-executive responsibilities.

MARINE RESEARCH COMMITTEE

Functions

The Marine Research Committee promotes research in the development of commercial fisheries and marine products through the allotment of research funds obtained from a special privilege tax paid by processors of sardines and certain other ocean fish. The work is conducted under contract with public agencies and educational or research institutions.

Organization

The Committee, created by 1947 legislation, is comprised of nine members appointed by the Governor for four-year overlapping terms and serving without compensation. Five members must be actively engaged in the canning or processing of sardines; one represents organized sportsmen's groups, one organized labor, and two have no specified affiliation.

The Committee engages a "Coordinator of Research" under contract to perform such staff service as it requires. The Department of Fish and Game performs accounting and similar services, for which it is reimbursed from Committee-controlled funds.

Operations

The special tax on processors produces approximately $90,000 annually for disposal by the Marine Research Committee. This is allocated for projects which in the Committee's view best serve the stated purpose. Principal contractors are the Department of Fish and Game, the California Academy of Science, Scripps Institute, and U. S. Fish and Wildlife Service. Generally, the allocations provide partial funding for larger research efforts. The Committee in this way seeks to bring about a measure of coordination among the several research agencies and institutions. It is reported that total annual expenditures in California for research in this area approach $1.2 million, making the Committee-controlled share less than eight percent.

The Committee meets three or four times per year and acts on project proposals by majority vote. Meetings are public, as required by 1959 legislative amendment. A report of activities is published on an average of once every two years.

Special Considerations

The creation of the Committee and the imposition of the special tax took place at a time of sharp decline in the sardines catch and was industry-sponsored. Initially, the tax was to apply for only four years and the terms of Committee members were set at two years. By repeated amendment, two to four year extensions have been granted, the most recent being enacted in 1963 extending the life of the tax through 1965. The tax rate itself after several changes has remained fixed since 1953 at $0.05 per 100 pounds. Originally, the President and Executive Director of the Fish and Game Commission and the Director of the Bureau of Marine Fisheries served, *ex officio*, as Committee members, but were dropped in 1955.

Recommendations

This history—and present operating practices—suggests the lack of a thought-out program or consistent approach. The continued support by the industry implies that useful results are being obtained, since the industry foots the bill. The question does arise, however, if the problem is being adequately met by this rather casual approach.

Whether or not the Committee should be continued must be based on a substantive review of the State's responsibility in this area and the scope of program it wishes to support. It is recommended that this review be made by the Agency. The present arrangement seems haphazard and may not meet legitimate needs. Aside from this broader question, which is beyond the scope of the present study, the continuance

of the Committee in its present role would not seriously violate the general criteria proposed in this report.

PACIFIC MARINE FISHERIES COMMISSION

The Pacific Marine Fisheries Commission was established in 1961 by an interstate compact—joined in by California, Oregon, Washington, and Idaho—to promote better utilization of fisheries in those waters over which the States have jurisdiction. The objectives are prevention of waste and conservation through cooperative effort.

The California members are the Director of Fish and Game, one Legislator, and one private person having knowledge of fisheries. The other states are represented by from one to eight members, but each state has only one vote. The Commission employs a Secretary and operates on a budget of $42,000, contributed by the states in proportion to the value of the fish taken—California's share is now 65 percent.

The Commission meets on an average of twice a year. Its decisions take the form of recommendations to the signatory state governors, legislatures, or concerned administrative agencies for needed control or protective measures. The Commission sponsors modest research projects and collects and disseminates information on fishing activities in the waters under its jurisdiction. It also serves as the vehicle by which administrative and technical personnel of the fisheries agencies of the states are brought together to discuss mutual problems and coordinate their programs.

Recommendations

This Commission represents an example of desirable interstate cooperation, and should be continued in its present form.

GOOSE LAKE COMPACT COMMISSION

The California Goose Lake Compact Commission was created to negotiate an interstate compact with a similar Oregon Commission to control the water resources of Goose Lake Basin. The essential objective was to prevent the export of water from the Basin. The two commissions were established in 1961 and agreed upon a draft compact the following year, which was ratified by the Legislatures of Oregon and California in 1963. The compact simply recognizes existing water rights and uses and prohibits export.

Before the draft compact was submitted to the two legislatures for approval it was referred to the Federal Government for comment. The Justice Department asked for the addition of an article recognizing and protecting all federal rights and powers in the basin. California did not object but Oregon did. The compact, approved by the two states without this article, is before Congress for final confirmation, but since the U. S. Justice Department advises against its adoption and the State of Oregon will not accept the Justice Department's proposed additional article there is little likelihood of passage.

It is interesting to note that the California Commission was by legislative act comprised of two members designated by the Legislature and three appointed by the Governor. The legislatively-designated members are representatives, *ex officio,* of the Departments of Water Resources and Fish and Game. No provision was made for the termination of the Commission, thus it remains in existence although no meetings have been held for more than two years.

Staff work has been performed by an engineer on loan from the Department of Water Resources who also does the staff work for the California-Nevada and Klamath River Compact Commissions.

Recommendations

The California Goose Lake Compact Commission was well constituted and the compact—admittedly non-controversial—arrived at expeditiously. Since its work is completed, the Commission should be formally abolished. Even if the present legislative impasse were overcome and the compact approved, no special body would be needed for its implementation.

CALIFORNIA–NEVADA INTERSTATE COMPACT COMMISSION

Functions

The California-Nevada Compact Commission was created—along with a similar Commission in Nevada—to formulate an interstate agreement on the distribution of the waters of Lake Tahoe and the Truckee, Carson, and Walker Rivers.

Organization

The Commission was established by legislative act in 1955. Although not specifically so provided, the presumption is that it shall be abolished once the compact has been approved, or finally rejected. There are seven members appointed by the Governor to serve without compensation for indefinite terms—the duration of the task to be performed. Five represent specifically named counties in the affected area, one represents the Lake Tahoe district, and the seventh is the Director of the Department of Water Resources.

For a period of time the Commission employed an Executive Secretary, but now obtains needed staff and technical assistance from the Department of Water Resources on contract. An Executive Director, assigned by the Department, serves as chief of staff to the Commission.

Operations

The Commission does most of its work through committees, each working closely with a Nevada counterpart group. Joint meetings are held from time to time by the full commissions of the two states, presided over by a Federal Government representative, as agreed to by the two states. During the nine years of negotiations, nearly 50 such joint meetings have been held; the California Commissions and its committees have met approximately 300 times.

Among the problems which have prolonged the negotiations have been: providing adequate water supply for the Lake Tahoe basin; avoiding pollution of Lake Tahoe; identifying and recognizing existing water rights and uses; determining reasonable and

fair distribution of estimated "surplus" waters between the two states; and administrative arrangements for the enforcement of the compact should it be adopted. There is every indication that agreement will soon be reached on all pending matters with legislative action by the two states possible in 1965. Negotiations have been costly, the annual budget averaging approximately $90,000.

The Commission takes the position that it should continue to function at least until Congressional hearings are held, following approval by the States. This would be mid-1966 at the earliest.

Special Considerations

This Commission was, in effect, an outgrowth of a U.S. Bureau of Reclamation plan for the distribution of these waters arrived at, with what was felt to have been insufficient local participation. California proposed the "compact" approach and this was agreed to. This appears to have been a wise move. It is doubtful, however, if the commissions created to undertake the negotiations represent the most efficacious agents for such a task. (The Nevada Commission was comprised of representatives of the major water users, thus the California Commission had a broader-based representation in terms of general public interest.) To gain the knowledge necessary intelligently to carry on the negotiations, the California Commissioners had to devote more time than could reasonably be expected of persons who at the same time must make a living through unrelated business or professional activity.

The draft compact contains provision for what seems an awkward administrative arrangement for executing and enforcing the final compact. A permanent California-Nevada Compact Commission is to be created with five members from each state plus a non-voting Chairman appointed by the President of the United States. That commission will appoint an administrator, subject to the approval of the Federal District Court of Nevada.

Recommendations

No specific recommendations can or should be offered at this point. The experience with this Commission does, however, serve as a caution for the future against undue special interest representation and unwieldy bodies in compact negotiation and implementation.

KLAMATH RIVER COMPACT COMMISSION

Unlike the California-Nevada and Goose Lake Compact Commission, the Klamath River Compact Commission is engaged in administering an approved compact, negotiated in 1954–56 and finally ratified in 1957. The Commission is an interstate body created by the compact, consisting of a non-voting Federal Representative named by the President of the United States, the Director of Water Resources, representing California, and the State Engineer of Oregon.

The compact provided for the recognition of existing water rights, the orderly development of the water resources in the upper basin of the river, the allocation of waters for irrigation in the two states, joint efforts toward pollution control, and the prohibition of export of water from the basin other than in certain specified cases. Provision was made for the now-functioning Commission and for the equal sharing of administrative expenses. The compact requires that when the two state representatives cannot agree on a matter before them it will be arbitrated by a three-member group, one selected by each state and the third selected by these two.

To date, the Commission has concerned itself primarily with pollution from plant growth and has sponsored some research in this area. It will be many years before water users in either state will approach taking the amounts allocated—in the absence of any export—thus no serious enforcement problems exist. The staff work is performed on a part-time basis by a Water Resources Department engineer on loan, for whose services the Commission makes reimbursement. The annual budget is under $20,000, most of which is spent on research, and is equally shared by the two states.

Recommendations

In many ways, this represents an example of desirable interstate cooperation and commission operation. Although present activity is very modest, it can be expected to increase as use of the governed waters more nearly approaches the amounts available. The possibilities of export of water from the present basin will eventually become an issue.

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