

Little Hoover Commission Hearing, March 19, 2002
Written Testimony submitted by Willie Washington

March 7, 2002

Mr. James P. Mayer
Executive Director
Little Hoover Commission
925 L Street, Suite 805
Sacramento, CA 95814

Dear Director Mayer:

The California Manufacturers and Technology Association (CMTA) would like to thank you for the opportunity to participate in the discussion regarding Governor Gray Davis Reorganization Plan No. 1 of 2002. Our understanding of this issue is that the Governor's plan is an alternative to SB 25 (Alarcon) that would have created a Department of Labor and Civil Rights Agency which was vetoed.

CMTA followed SB 25 through the legislative process but did not take a position on the bill primarily because we knew of the administrations concerns. Similar legislation pertaining to reorganizing the state agency system has been introduced several times over the past decade, in 1993 AB 1800 (Friedman), 1995 SB 442 (Solis) and 1999-2000 SB 150 (Solis) without success. All of these bills called for the creation of a Department of Labor at the state level to administer labor issues in a more efficient manner.

The latest attempt, SB 25 (Alarcon) calls for the creation of the Department of Labor and Civil Rights Agency. The agency would include the Department of Industrial Relations, the Department of Fair Employment and Housing, the Employment Development Department, the Agricultural Labor Relations Board, the Public Employment Relations Board, and the Fair Employment and Housing Commission. The bill was approved in both houses but failed when the governor vetoed it because he disagreed with the creation of such a department. In his veto message, he stated "The Department of Industrial Relations and the Employment Development Department could provide better service by being combined within a single entity. More review, however is necessary to determine what other components of the state, if any, should be organized in this fashion." We agree with the Governor that more consideration should be given to the reorganization of the department to provide better service and we appreciate the opportunity to offer our comments.

CMTA believes that this is a great opportunity to create an agency with a title that truly reflects what the agency is organized to do. The proposed title in SB 25, Department of Labor and Civil Rights Agency would place together two very different departments with very different goals and objectives that would be misleading to employees and employers. Labor law and civil rights laws in California are significantly different in whom, how and what they cover and we believe they are more effective in separate agencies. For example, labor law specifically relates to the relationship between employees and employers whereas civil rights have a much broader application and are split between the Government Code and the Civil Code. Under SB 25, the perception would be that this agency is responsible for all civil rights issues, which clearly would not be the case.

To the extent possible, the name of the agency should be indicative of its areas of responsibility such as employment, training and development, and employment relations for the state of California. To that end the Department of Labor and Industrial Relations Agency is an appropriate name. Both of these terms are well known by workers and employers and they describe the entities covered. We believe this name clearly indicates whom the agency is designed to serve and, it would make workers and employers who provide the jobs equal partners.

Another problem posed by incorporating civil rights in the new agency would be contrary to the goal of improved service. In the system of labor law in California there is a set of administrative rules that an employer's human resource representative may follow in addressing work related problems of workers. An employer's human resources representative need not be a lawyer to address issues before the labor commissioner, various commissions and boards, while in the civil rights arena, one must be a lawyer to address the courts on behalf of an employer. The labor law system is a faster and more efficient system for resolving employment issues without the use of attorneys that would not be available under the Government and Civil Codes.

Other reasons why we believe civil rights should not be a part of the new agency is because it is much broader than labor issues. In our research of several other industrial states to see how they handle these two departments, not a single one incorporate civil rights and labor in a single agency and it is easy to see why. Putting them in the same agency could create problems of jurisdiction and competition between two similarly situated departments because of quasi-overlapping rules.

Civil rights law in California is far too broad and would be outside the scope of the new agency. For example, the agency is designed to deal with employer and employees. Under the Government and Civil Codes there are numerous issues that don't pertain to an employer and employee relationship. An example would be the housing provision under the Fair Employment and Housing Act that has nothing to do with employment or employers. So what would you do with the Fair Employment and Housing Commission who make rules and decisions on housing issues and the Department of Fair Employment and Housing (DFEH) who are responsible for investigating complaints and enforcement of the act. Discrimination under the Civil Code is even broader and may be enforced by DFEH, District Attorney or Attorney General. The Civil Code covers such issues as equal access to public places of business, hate crimes, domestic violence etc. that have no employee/employer relationship.

For the above reasons, we recommend that the agency title be "Department of Labor and Industrial Relations". Thanks again for the opportunity to comment on the Governor's proposed reorganization plan. If you have questions in regard to our comments, please give me a call.

Sincerely,

Willie Washington
Director, Human Resources