**Researcher's Digest** . . . . *John M. Capozzola, Editor*

# State Council Studies Departments

## Executive Reorganization Accelerates Nationwide

A current development in state government is the accelerated movement toward reorganization. *Reorganization in the States* (Council of State Governments, Iron Works Pike, Lexington, Kentucky 40505, 1972, 25 pages, $3.00) analyzes public, executive and legislative action in reorganizing the executive branch in 12 states where substantial restructuring has occurred during the past seven years.

George A. Bell notes that this is the largest number for any comparable time in our history, with the years 1917-1927 being the most active prior to the 1965-1971 period. The late 1940s and early 1950s produced the most studies and the least overall results, despite the establishment of "little Hoover Commissions" in over 30 states. None of these resulted in comprehensive reorganization but tended to bring about other management improvements, including the establishment of departments of administration or finance.

Bell asserts that the principles of public administration motivating reorganization have remained essentially the same for the past half century: grouping agencies into broad functional areas, fewer departments to improve the span of control and pinpoint responsibility, delineating single lines of authority, and single departmental heads. Such traditional principles, it was hoped, would produce a more rational structuring of governmental activities, reduce confusion and enable the public to determine where to go for services. The view propounded by the report is that while such principles might be modified by current organization theory and shift the emphasis they would not be nullified. Traditional principles are still held valid to pinpoint responsibility, improve accountability to the electorate, and enhance the communication and cooperation referred to by the "modern" theory of organization.

Several reasons are given for the comparative success of recent reorganization efforts. Interest has been spurred by the realization that poor structure tends to inhibit other reform activities. Ostensibly a new breed of legislator spawned by reapportionment changes acknowledges that the legislature is in a more effective position to effect changes when it "can deal with one responsible agency." Mr. Bell also postulates the existence of a new activist breed of governor interested in relevant issues, and being aware "that good administration can help define problems, find solutions and implement them." It is also held that federal officials now appreciate that the vast number of federal grant programs require strong state administration for effectiveness. State and local help is thus deemed essential to ease the task of federal officials. Indeed, federal funds under the HUD 701 programs have been used in several states to make the studies on which reorganization has been based. Finally the successful efforts during 1969 and 1970 in Florida, Massachusetts, Delaware and Maryland may well have encouraged the activity of Arkansas, Maine, Montana and North Carolina which was undertaken in 1971.

One chapter focuses on the major reorganizations that have occurred since 1965, beginning with the adoption of a new constitution in Michigan which required an administrative organization of no more than 20 principal departments. The legislature was authorized to enact a reorganization plan within two years, failing which the governor was mandated to adopt a plan via executive order within one year.

Beyond the dozen comprehensive plans

adopted, approximately 24 states have undertaken partial reorganization, establishing one or more departments to consolidate functions. Most of these reorganizations have sought to coordinate activities in health and social services, environmental concerns, community affairs, administration, corrections and law enforcement.

A major step has been the extension of the authority of governors to draft reorganization plans via executive order subject to a legislative veto. With the exception of California, Mr. Bell indicates that this procedure has been little used. Thus most reorganizations of a major nature have been accomplished through normal legislative processes.

The report analyzes some of the features of the major reorganizations. At least 11 states now have constitutional limitations on the number of executive departments, ranging from 14 to 25 with the most frequent limit being 20. There is a trend toward a smaller number of departments but the figures are deceptive since "independent agencies" raise the number of governmental units. Significantly the five states having the fewest number of departments were among the latest to reorganize. Initiated by California the superagency concept was adopted in part by four of the five states.

In many cases the reorganization efforts were not complete because of either constitutional or legislative exclusions. Even in those instances, for example the elective officer, the attempt to reduce the power or position of any official usually generates political opposition. The author concludes, however, that the "exclusion of such officials (elective) did not in most cases have adverse effects on the purposes of reorganization." The rationale is that in many state elective positions (e.g., state treasurer and secretary of state) the officers "perform administrative duties and are not involved in major programs or decisions and their agencies, in terms of staff and expenditures, are small." The major exception noted is the attorney general. Involved in such important problems as law enforcement and consumer protection the report concedes that the independently elected attorney general post could hamper a coordinated attack on these problems.

Most reorganizations with the exception of Delaware's also failed to alter significantly the role of many boards and commissions. Where reorganizational transfers of multi-member units occurred, the transfer "in" to a department left the boards' powers intact. Political opposition is inexorable in the case of agencies which have the support of strong clientele interest groups. The lack of progress in this area is "justified" by the report on the grounds that an attack on such groups might have jeopardized the reorganization plan. A suggestion is made that one method of handling this problem is by using the "umbrella" approach to reorganization. By simply shifting the boxes into "proper" slots in the proposed new structure, the concept envisions a second phase of reorganization which postpones disturbing the authority of existing agencies—at least the first step (the transfer of some administrative authority previously held by the agency to department heads) has been taken.

The report recognizes that something more than box shifting has to happen if reorganization is to make a positive contribution to "good decision-making, management and program accomplishment." One chapter deals with the problem of "Who Has Authority?" It acknowledges that regardless of statutory authority the ability to administer will rest on other factors: the willingness to use vigorously the authority granted, fighting against ingrained patterns of operations, and the development of effective working relationships both internal and external to the executive branch.

That reorganization alone is not enough is stressed in a separate section. The major objective behind all management reform is to enable the states to perform effectively the myriad functions which include edu-

cation, health, welfare, transportation and environmental matters. Yet reorganization remains an important indicator of the states' drive to improve operations, and only one major tool to accomplish basic objectives. These cannot be secured without other tools such as the analysis of needs and resources, planning, and the optimal mobilization of fiscal and human resources.

The report concludes with suggestions as to how to make reorganization work. While disclaiming universal application these may be summarized as follows: (1) study the needs with decisions tempered by political realities; (2) broad involvement of the legislative and executive branches along with public participation; (3) adequate gubernatorial authority; (4) adequate departmental authority with effective staff work; (5) provision of coordinative devices; (6) continuous study and efforts to improve, backed by a commitment to make necessary changes which will be implemented in the light of a state's particular needs.

## Council Surveys Laws on Age of Majority

*The Age of Majority* is a report issued by the Council of State Governments (Iron Works Pike, Lexington, Kentucky 40505, 1972, 35 pages, $3.00) which surveys recent changes in laws which lower the age of majority and confer some majority rights on minors. The report was prepared by Virginia G. Cook.

The changes in laws in 19 states within the past two years have considerably altered the legal status of young people. Illinois, Michigan, New Mexico, North Carolina, Tennessee, Vermont and Washington lowered the age of majority from 21 to 18. Since the publication of the council report California and Connecticut enacted legislation which alters the age of majority.

In several states 18 year olds may contract, own property, drink intoxicating beverages, marry without parental consent and make wills. The legislative action of these states along with the adoption of the twenty-sixth amendment to the U. S. constitution (which enfranchised new voters in the 18-to-21 age bracket) has directed attention to the age at which young people acquire majority rights.

The age of majority is usually termed the age whereby a person is entitled by law to manage his own affairs and enjoy specific civil rights. Also understood to mean the "age of emancipation" it refers to the surrender of parental rights in addition to the legal renunciation of parental duties. Over the centuries one form or another of legislation has existed regulating the age at which young people become adults in the eyes of the law. By virtue of the common law as well as statutory action minors incurred a number of civil disabilities set forth by law governing minors and parent-child relationships. While restricting minors the law also delineated the duties parents owed children.

Thus a range of legislation was designed to protect minors. Statutes attempted to limit the contact of minors with corrupting influences, e.g., laws related to the sale of intoxicating liquor and cigarettes, and entrance into pool halls. Legislation sought to prohibit actions contributing to the delinquency of minors. Other laws prevented or controlled the employment of child labor. Compulsory school attendance laws sought to secure the rights of minors in education, and parental-consent marriage laws were devised to inhibit rash decisions. Other legislation restricted the power of minors to enter into contracts, own or convey property and make wills.

Since our federal system placed determination of the age of majority within the province of the states, the diversity of legislation spurred increased challenges during recent years. The ambiguities, unintended inconsistencies and inequities stirred resentment in many segments of society. The council report discusses the background of majority legislation, sum-

marizes legislation designed to protect minors, points up the disparities in the laws, and recites the arguments for and against change at home and abroad.

A separate section details recent changes in legislation in seven states, noting that they are not entirely identical, although all the states discussed except Illinois made the change in wholesale fashion. Changes in other states were accomplished by the piecemeal approach. There is also a brief comparative analysis of legislation.

Because of the widespread interest and considerable uncertainty which existed about the residence of college students for registering and voting, a survey was made of the opinions of attorneys general on this issue and a section of the report is devoted to the issue. At one end of the spectrum it was held that the legal residence of a student is that of his parents. Those opposed to this view argued that a minor, emancipated or unemancipated, has the right to establish his own domicile with or without parental consent. As a corollary it was contended that the intent to stay permanently or temporarily is subjective in nature and best determined by the voter. A major decision prior to publication was that of the California supreme court which held "that compelling young people who live away from their parents' district to register and vote there, or to register as absentee voters, is an abridgement of equal rights and the twenty-sixth amendment to the U. S. constitution."

## Landlord-Tenant Legislation Studied

In *Landlord-Tenant Relationships: Time for Another Look* the Bureau of Municipal Research (4 Richmond Street East, Toronto, Ontario, 1972, 18 pages) examines the stresses and problems of these relationships in Ontario.

The landlord and tenant amendment act, 1968-69, became effective in January 1970. The act was an attempt to revise and modernize legal principles governing residential tenancies, which it was assumed would either deter or correct abuses. The bureau suggests that these assumptions do not sit well in today's context, and that in many instances social, political or economic solutions are more appropriate.

The analysis indicates that even where a legal remedy is appropriate "access to the system is not evenly distributed either between or among landlords and tenants. Those who can afford the time and money to take legal action need not do so. For the low-income, frequently those most in need of a remedy, however, the present legal alternatives may not be effective."

It is conceded that legislative changes have eliminated a number of centuries-old legal anachronisms. Some of these changes go a long way toward recognizing that the tenant as well as the landlord has a proprietary interest in the rented unit and, the report states, the building is the landlord's business but the tenant's home. While it is noted that some of the changes may have gone too far, on balance the bureau believes that they still have not gone far enough in protecting rights.

The bulletin reminds the provincial attorney general of his comment that experience with the new legislation would warrant a reconsideration. Essentially the bureau argues that the provisions of the act have worked a hardship on both parties which requires a more realistic balancing of interests. It is pointed out that:

> It may well be that the answer . . . demands not only changes in the legal relationship governing landlords and tenants, but changes in the character of the parties to the relationship. The bureau contends that an extremely important element in encouraging the change is the introduction of collective bargaining in landlord-tenant relations.

The analysis deals with issues such as rent deposits, privacy, assignment and subletting, substandard accommodation, distress and eviction, rent control and termination.