

# AGENDA

## ASSEMBLY BUDGET SUBCOMMITTEE NO. 4 ON STATE ADMINISTRATION

**Assemblymember Rudy Bermudez, Chair**

**TUESDAY, MAY 6, 2003  
STATE CAPITOL, ROOM 447  
1:30 P.M.**

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**ITEMS ON CONSENT****1120 CALIFORNIA BOARD OF ACCOUNTANCY**

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**APRIL 1 FINANCE LETTER**

The Department of Finance has submitted a letter requesting that item 1120-001-0704 be reduced by \$999,000 to reflect decreased administrative costs related to the conversion of the Uniform Certified Public Accountant examination from a paper-based to a computer-based format.

**1130 CALIFORNIA BOARD OF ARCHITECTURAL EXAMINERS**

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**APRIL 1 FINANCE LETTER**

The Department of Finance has submitted a letter requesting that Item 1130-001-757 be increased by \$115,000 to provide funding to the landscape Architects Technical Committee for increases in examination costs and caseload.

**1450 BOARD OF PSYCHOLOGY**

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**APRIL 1 FINANCE LETTER**

The Department of Finance has submitted a letter requesting that item 1450-001-0310 be reduced by \$365,000 to reflect decreased administrative costs related to the conversion of the Examination for Professional Practice in Psychology from a paper-based to a computer-based format.

**2180 DEPARTMENT OF CORPORATIONS**

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**UNANTICIPATED RENT COSTS**

The Department has requested that Item 2180-001-0067 be increased by \$229,000 from the State Corporations Fund to pay for unanticipated rent costs associated with the decision by the Department of Managed Health Care (DMHC) to discontinue sharing office space with the Department of Corporations in Los Angeles and San Francisco.

**APRIL 1 FINANCE LETTER: TRANSFER SETTLEMENT FUNDS TO THE GENERAL FUND**

The Department is requesting that Item 2180-011-0067 be added and that \$3.6 million in settlement funds be transferred from the State Corporations Fund to the General Fund.

**8260 ARTS COUNCIL**

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**ISSUE 1: APRIL 1 FINANCE LETTER: RESTORE FEDERAL FUND AUTHORITY**

The Governor's Budget reflects a reduction to all local assistance funding for the California Arts Council (CAC). The CAC is requesting that this reduction not apply to the federal funds received for grants and subventions, since CAC anticipates receiving the entire amount of federal funding offered. Therefore, it is requested that Item 8260-101-0890 be increased by \$85,000 to restore the CAC's federal spending authority to a level consistent with the amount of federal funds being collected.

**ISSUE 2: APRIL 1 FINANCE LETTER: RESTORE SPECIAL FUND AUTHORITY**

The Governor's Budget reflects a reduction to all local assistance funding for the CAC. The CAC is requesting that this reduction not apply to the Graphic Design License Plate Account, which receives its revenue from specialized license plate fees. Therefore, the CAC is requesting that Item 8260-101-0001 be amended to reflect this change to restore the CAC's spending authority to a level consistent with the operations of the program.

**8955 VETERANS AFFAIRS**

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**ISSUE 1: APRIL 1 FINANCE LETTER: VETERANS HOME FUND CONSTRUCTION TEAM**

The Department has submitted a Finance Letter requesting that Item 8955-001-0701 be added in the amount of \$165,000 to provide funding for two limited-term positions assigned to supervise the construction and development of the new veterans homes.

**8940 MILITARY DEPARTMENT**

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**REIMBURSEMENTS SUPPORT**

The Department has submitted a Finance Letter requesting that Item 8940-001-0001 be increased by \$1.418 million, Reimbursements by \$36,000, and Item 8940-001-0890 be increased by \$1.038 million to provide an increase in State Active Duty compensation based on the federal military compensation increase that the United States Congress approved as part of the Department of Defense, federal Fiscal Year 2003 Budget. These increases are pursuant to Military and Veterans Code Chapter 5 that links the compensation for State Active Duty members to similar pay grades in the United States Armed Forces.

## ITEMS TO BE HEARD

### 0650 OFFICE OF PLANNING AND RESEARCH

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The Office of Planning and Research (OPR) is looked to by other state agencies as the coordinator for several environmental and state planning programs. OPR is also engaged in ongoing reviews of state policies that relate to community development. Integrating state services in these policy areas has proven to maximize the effective use of taxpayer dollars while improving services and quality of life in California neighborhoods.

The major activities of the office include: (1) recommending and implementing state policies with regard to land use and growth planning; (2) carrying out a program of policy research for the Governor and Cabinet; (3) providing technical planning advice to local governments; (4) advising project proponents and government agencies on provisions of the California Environmental Quality Act; (5) operating the State Clearinghouse for environmental and federal grant documents; (6) overseeing the California AmeriCorps Program; (7) managing the Governor's Innovation in Government program; (8) involvement in the Governor's Task Forces for Energy Reliability, Clean Energy, U.C. Merced, Brownfields, and e-Government; (9) anti-terrorism and homeland security; and (10) conducting such other activities as the Governor may direct.

<b>ISSUE 1: CESAR CHAVEZ GRANTS</b>
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OPR provides \$5 million in grants to local school districts to fund service learning activities and community service projects around the state in recognition of Caesar Chavez day. Grants are administered through OPR's office on Service and Volunteerism (GOSERV) on an annual basis.

The Governor's Budget is proposing to suspend funding for the Caesar Chavez Grants from July 1, 2003 to June 30, 2006.

**0840 STATE CONTROLLER**

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**ISSUE 1: UNCLAIMED PROPERTY**

Since 1959, it has been required by law that banks and other institutions remit unclaimed property to the state. Property is deemed unclaimed when an account has remained dormant for three years and efforts by the institution holding the account to locate the owner have been unsuccessful.

The current-year Budget includes about \$10.8 million General Fund (GF) and 140 positions to administer the unclaimed property program. The Governor's Budget is proposing the following:

- Trailer bill language to charge a 3 percent processing fee on the value of approved unclaimed property claims. This fee will result in approximately \$3 million GF in 2003-04 and \$6 million annually thereafter.
- Extension of the statutory deadline for reviewing unclaimed property claims from 90 days to 180 days.

**LAO RECOMMENDATION**

The LAO has recommended that the State Controller impose a fee amount that would adequately cover administrative program costs (\$10.8 million).

**STATE CONTROLLER RECOMMENDATION**

In lieu of the unclaimed property fee proposal, the Controller's Office is proposing that interest be eliminated from the payment of claims. Projected annual interest savings in the Budget year at the current interest rate is \$10.4 million if effective July 1, 2003.

**0890 SECRETARY OF STATE**

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**ISSUE 1: APRIL 1 FINANCE LETTER SUPPORT, SECRETARY OF STATE**

The Department of Finance has submitted a letter requesting that item 0890-001-0001 be increased by \$75,000 and 1.0 positions and Reimbursement by \$14,000, on a two-year limited-term basis, to provide support for the expansion for the Address Confidentiality Program for Employees of women's reproductive health services. Chapter 380, Statutes of 2002 (AB 797, Shelley et al.), requires the Secretary of State to extend the Address Confidentiality Program for Victims of Domestic Violence and Stalking (Safe at Home) until January 1, 2008, and also expands the benefit of an Address Confidentiality Program to employees of women's reproductive health service providers. The \$89,000 includes a one-time cost of \$21,000 for consultant and professional service associated with an Access database for the program. The ongoing costs for the program will be \$68,000 (\$54,000 GF and \$14,000 Reimbursements) and 1.0 position.

**1111 BUREAU OF AUTOMOTIVE REPAIR**

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The Bureau of Automotive Repair operates two major programs in the automotive repair sector that protect the consumer: the Automotive Repair Program and the Smog Check Program. These programs are designed to protect the consumer, promote consumer education, and discipline unethical service dealers and technicians.

**1760 DEPARTMENT OF GENERAL SERVICES****ISSUE 1: CAPITAL OUTLAY**

The Department of General Services is proposing the following Capital Outlay projects:

**1. Central Plant Renovation**

**Project cost: \$159,722,000**

This proposal responds to the Central Valley Regional Water Quality Control Board (RWQCB) Cease and Desist order issued March 2002 related to the discharge of heated water into the Sacramento River. In order to create a Closed Loop System and eliminate the discharge of heated water into the Sacramento River, this proposal will decommission the Ranney Well; construct multi-story cooling towers along the river front; construct an approximately 8 million gallon underground Thermal Energy Storage tank, integrating additional cooling towers at a downtown site still to be determined; demolish the existing gasifier building at the Central Plant; and expand the central Plant (approximately 22,000 gsf) to accommodate additional required equipment.

**LAO RECOMMENDATION**

The LAO has reviewed the Master Plan for the proposed DGS Central Plant project and is not opposed to the project. Nonetheless, it is concerned with providing funding for **all phases** of such a large complicated project in this Budget. The LAO is recommending the inclusion of the following proposed Budget Bill Language in Item 1760-301-0660 as a way to ensure the Legislature's oversight of the project:

7. The Department of Finance will provide written notification to the Joint Legislative Budget Committee, with ten days of receipt, of any requests for an augmentation of project costs, change in project scope, and any related change in project schedule, for projects identified in Schedule (1).

**COMMENTS**

The City of Sacramento has expressed concerns that the size and locations of the project will have a harmful impact upon the city. Currently DGS and the City are working to resolve this issue and develop a plan that has less impact on both the waterway and the city.

**1760 DEPARTMENT OF GENERAL SERVICES**

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**2. Structural Retrofit –Fresno State office building**  
**Total Request: \$2.237 million**

This proposal requests construction funds for structural strengthening in response to being selected to be retrofit under the State Building Seismic Retrofit Program.

**3. Structural Retrofit – Program Management**  
**Total Request: \$744,000**

This proposal provides continued funding for Program Management Services for the Structural Retrofit Program being conducted statewide.

**4. Structural Retrofit – Patton State Hospital, 30 Building**  
**Total Request: \$1.150 million**

This proposal requests a reappropriation of working drawing funds for the seismic retrofit of 30 Building at Patton State Hospital. Working drawing funds were appropriated in Fiscal Year 2002-2003, however, the re-sequencing of the construction schedule has delayed the start of working drawings.

**5. Structural Retrofit – CDC Soledad Dorms C,D,E**  
**Total Request: \$0**

The proposal requests the reversion of working drawings funds (\$205,000) and construction phase funds (\$2.087 million) back to the Seismic Bond Program.

**6. Structural Retrofit – Patton State Hospital, 70 Building**  
**Total Request: \$0**

The proposal requests the reversion of working drawing funds for the seismic retrofit of 70 Building at Patton State Hospital. Working drawing funds of \$1.150 million were appropriated in Fiscal Year 2002-2003.

**7. Structural Retrofit – Patton State Hospital, N Building**  
**Total Request: \$0**

The proposal requests the reversion of working drawing funds for the seismic retrofit of N Building at Patton State Hospital. Working drawing funds of \$718,000 were appropriated in Fiscal Year 2002-2003.

**1760 DEPARTMENT OF GENERAL SERVICES**

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**ISSUE 2: APRIL 1 FINANCE LETTER: CAPITAL OUTLAY**

The Department has proposed in an April 1 Finance Letter that provisional language be added to Item 1760-301-0660:

"The Department may contract for the lease, lease-purchase, lease with an option to purchase, acquisition design, design-build, construction, construction management, and other services related to the design and construction of the Central Plant Renovation."

The Department has proposed to add the following projects to Item 1760-490 to reappropriate funding and reduce the reappropriation of one project.

1. Bonderson Building Renovation, Sacramento – Working Drawings and Construction.
2. Office Building 8 and 9 Renovation, 714 P Street, Sacramento – Working Drawings and Construction.
3. Office Building 10 Renovation, 721 Capitol Mall, Sacramento – Working Drawings and Construction.
4. California Department of Corrections, San Quentin State Prison, Building 22, Modulars – Construction.
5. Department of Mental Health, Patton State Hospital – 30 Building.

The Department is requesting that Item 1760-491 be added to extend the liquidation period of nine projects due to outstanding encumbrances for architectural and engineering services, hazardous materials consultants, and punch list items.

The Department is proposing to add the following project to Item 1760-496 to revert \$730,000 of the working drawings as appropriated by 1760-301-0768, Budget Act of 2002, for the Department of Mental Health, Patton State Hospital – 30 Building, architectural and engineering: Structural Retrofit Project. These funds are unnecessary due to the reduced scope of the project. The construction for swing space has been eliminated as the Department of Mental Health will be able to provide the needed space within existing facilities.

**LAO RECOMMENDATION**

The LAO has expressed the concern the "design-build method of procurement does not necessarily result in a project being awarded to the lowest responsible bid, nor is the project scope fully defined at the outset of the project. However, notwithstanding LAO concerns, the Legislature has authorized the use of design-build in other state projects. While the LAO remains concerned about the use of design-build, if the Legislature is inclined to authorize the use of this procurement method we recommend that the proposed Budget Bill Language be amended to require DGS to use 'lowest price' as a criteria when deciding which design-build team will be awarded the project."

**1760 DEPARTMENT OF GENERAL SERVICES**

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**ISSUE 3: APRIL 1 FINANCE LETTER: REAL ESTATE SERVICES DIVISION**

The Department of General Services (DGS) is requesting in an April 1, 2003 finance letter that item 1760-001-0666 be increased by \$2.647 million as follows:

- \$1.147 million to correct an error reflected in the 2003-04 Governor's Budget. For Fiscal Year 2003-04, this funding was inadvertently reduced from the Department's budget twice. This technical adjustment will restore the Department's budget authority to the appropriate level.
- \$1.500 million to develop and provide a comprehensive training and certification program for state agency procurement and contracting officials.

DGS is also requesting that Item 1760-492 be added to the Budget Bill to provide a reappropriation schedule for funding authorized by Proposition 122, the Earthquake Safety and Public Building Rehabilitation Bond fund of 1990. This item would reappropriate up to \$2,391,259 for four local seismic grants that were reappropriated by Item 1760-491.

In addition, the Department notified the Legislature of a change to the proposed 2003-04 expenditures for the 911 emergency services program supported by the State Emergency Telephone Number Account (SETNA). The cost to reimburse the City of Los Angeles for the purchase of centers has increased by a total of approximately \$3.8 million. However, due to a delay in the implementation of the Enhanced Wireless 911 Program, no additional expenditure authority is unnecessary to fund the increased cost of these dispatch centers. DGS intends to redirect existing SETNA budget authority associated with savings from the delay in program implementation to support these costs.

**LAO RECOMMENDATION**

The LAO has expressed concern with the following issues:

DGS proposes that tuition costs be paid through its increased service fees. This means that only departments conducting procurements in Budget year will be paying tuition fees yet the administration has mandated that ALL departments send staff to these training courses. In addition, it is unclear at this time exactly how many staff and which departments will be attending these training courses. For these reasons, the LAO believes it is more appropriate for departments to pay their tuition fees directly to CSU for those courses that they attend.

The LAO is also concerned that DGS proposes this expenditure authority increase to be ongoing. The DGS states it needs this expenditure authority until such time all training programs have been developed. Yet, DGS has not fully defined its training and certification program. In addition, it is unclear how many staff will actually attend the training, what outcomes will be achieved from this training, and what additional training, if any, will be necessary.

**1760 DEPARTMENT OF GENERAL SERVICES**

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For these reasons, the LAO recommends the Legislature (1) reduce the proposal by \$840,000 to eliminate tuition, (2) designate the expenditure authority as one time, and (3) adopt the following supplemental report language:

*The Department of General Services shall, by April 1, 2004, provide a status report to the chairs of the budget Subcommittees, in each house and the Chair of the Joint Legislative Budget Committee of the state's procurement training and certification program. The report shall include: (1) descriptions of training courses conducted over the past 12 months, (2) the number of state staff attending each training course by department, (3) description and status of the state's certification program, (4) the number of state staff receiving certification over the past 12 months by department, (5) descriptions of proposed training courses to be provided over the next 12 months and the estimated number of state staff to be trained, and (6) descriptions of additional training courses needed and being developed.*

**Budget Bill Language (BBL):**

The DGS has three BBL provisions (Budget Item 1760-001-0666, Provisions 3, 5, and 6) that allow DGS to augment its expenditure authority budget as required to provide services to departments. These provisions require DGS to notify the Department of Finance and the Legislature within 30 days *after* making such augmentations. The DGS' budget provisions are inconsistent with other Budget provisions (such as Section 27 and 28), which require the administration to notify the Legislature 30 days *prior* to making Budget adjustments. We believe it is important for the Legislature to be able to review proposed expenditure authority increases to ensure the increases are consistent with Legislative priorities. For this reason, we recommend DGS' BBL be revised to require DGS (or DOF) to notify the Legislature 30 days prior to making expenditure authority increases.

**1760 DEPARTMENT OF GENERAL SERVICES**

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**ISSUE 4: ZIGGURAT BUILDING**

Under provisions of SB 1270 (Johnston, Government Code Section 8169.5, Chapter 761, Statutes of 1997), DGS and the departments of Health Services and Education were to substantially consolidate their headquarters operations into the new East End Office Complex that is currently under construction. However, according to DGS, due to the growth in the number of employees in these three agencies it was not possible to completely consolidate in the East End Complex. DGS, in turn, identified the Ziggurat building to be the best fit for its space needs and respectively entered into an 18-year lease agreement, with no option to buy, to consolidate the majority of its operations beginning in November 2001.

Under direction from the Legislature, DGS reported to Assembly Budget Subcommittee 4 in 2002 that it was actively pursuing the inclusion of an option to buy clause in the lease agreement with the building proprietors.

**The Subcommittee would like DGS to respond to the current status of the Ziggurat building lease negotiations.**

**ISSUE 5: DGS MANAGED LEASES**

DGS has submitted to the Subcommittee information regarding DGS managed leases that are/will be cancelable by the state.

**The Subcommittee would like DGS to respond to whether there are any plans to renegotiate existing soft leases for better rates.**

**2180 DEPARTMENT OF CORPORATIONS**  
**2310 OFFICE OF REAL ESTATE APPRAISERS**

**ISSUE 1: CONSOLIDATION OF OFFICE OF REAL ESTATE APPRAISERS WITH  
 THE DEPARTMENT OF CORPORATIONS**

The Governor's Budget has proposed to transfer the Office of Real Estate Appraisers (OREA) to the Department of Corporations (DOC). The merger of OREA and DOC would not have GF impact.

OREA and DOC have also identified a total of \$293,437 in one time costs associated with the move. This includes \$189,000 in one-time costs associated with the move and \$104,437 in rent.

OREA should be able to absorb these costs within their 2003-04 Budget. These costs are based on the following:

- 120 day notification to vacate current space given May 1, 2003.
- September 1, 2003 move in date to the new space.
- Negotiation of an Interagency Agreement for the new space with Trade and Commerce, the current leaseholder.
- 5,770 sq ft at \$1.81 (\$1.75 + 0.06 CPI) x 10 months \$104,437
- One-time Tenant Improvements \$104,000
- One-time Wiring/Phone \$15,000
- One-time Moving Costs \$15,000
- One-time Reconfiguration of Cubicles \$30,000
- One-time upgrade for IT server room fire suppression \$25,000
- No purchase of additional modulars and using available modular stock

DOC and OREA are also identifying additional one-time costs associated with the purchase of new IT equipment. The Apple computers currently used by OREA will not interface properly with those PCs used by CORPS. The total one-time IT costs associated with the transfer of OREA to DOC are estimated to be \$101,000 (desktop PCs, firewall/file/print servers, backup/productivity software, misc. tapes, racks, UPS and switches) with ongoing costs of \$15,000 (license and software maintenance).

**SB 1866 (FIGUEROA, 2002)**

SB 1866 (Figueroa, 2002), which proposed to merge the OREA with the DOC, was passed by the Legislature in 2002; however it then vetoed by the Governor. Compared to the current Budget proposal, SB 1866 differs in that it required the California Research Bureau to study and report on whether to establish a single annual rate for licensing and certification of appraisers.

**2180 DEPARTMENT OF CORPORATIONS**  
**2310 OFFICE OF REAL ESTATE APPRAISERS**

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**COMMENTS**

There have been concerns raised that many provisions that are necessary to make the merger successful will not be addressed if the merger is completed within the Budget process rather than the legislative process.

The Subcommittee would like OREA to respond to the urgency of the issue and whether or not it could complete the transfer through the legislative process.

**ITEM 8660 PUBLIC UTILITIES COMMISSION**

The Public Utilities Commission (PUC) regulates investor-owned utilities, including gas, electricity, telephone, water, and railroads, and certain passenger and household goods carriers to ensure the delivery of stable, safe, and economic services. The commission has traditionally met this responsibility through enforcement of safety regulations, controlling industry rates for services, and promoting energy and resource conservation.

**PROGRAM/FUNDING SUMMARY**  
**PUBLIC UTILITIES COMMISSION**  
(dollars in thousands)

	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Estimated</b>	<b>Proposed</b>
	<b>1998-99</b>	<b>1999-00</b>	<b>2000-01</b>	<b>2001-02</b>	<b>2002-03</b>	<b>2003-04</b>
<b>REGULATION OF UTILITIES</b>	<b>\$92,521</b>	<b>\$77,927</b>	<b>\$105,165</b>	<b>\$319,299</b>	<b>\$416,567</b>	<b>\$330,564</b>
General Fund	28,000	-	2,278	148,247	-	-
PUC Utilities Reimbursement Account	53,983	58,724	71,313	77,154	86,818	70,191
0890 Federal Trust Fund	669	1,002	877	901	971	997
0995 Reimbursements	9,869	18,201	30,697	8,125	15,121	12,528
Gas Consumption Surcharge Fund	-	-	-	84,872	313,992	246,848
<b>UNIVERSAL SERVICE</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>\$954,560</b>	<b>\$1,023,401</b>	<b>\$892,513</b>
<b>TELEPHONE PROGRAMS<sup>A</sup></b>						
California High Cost Fund-A	-	-	-	28,284	42,978	59,230
California High Cost Fund-B	-	-	-	756,997	535,139	483,196
Universal Lifeline Telephone Service Trust Fund	-	-	-	166,936	284,784	239,901
Deaf & Disabled	-	-	-	-	-	69,117
Telecommunications Program Fund	-	-	-	571	1,030	1,065
Payphone Service Providers Fund	-	-	-	1,772	159,470	40,004
California Teleconnect Fund	-	-	-	-	-	-
<b>REGULATION OF TRANSPORTATION</b>	<b>\$13,489</b>	<b>\$14,001</b>	<b>\$12,981</b>	<b>\$15,054</b>	<b>\$14,585</b>	<b>\$14,127</b>
State Highway Account, State Transportation Fund	2,106	2,381	2,134	2,613	2,543	2,466
Public Transportation Account, State Transportation Fund	2,385	2,436	1,647	2,420	2,383	2,315
Transportation Rate Fund	1,793	1,873	1,851	2,032	1,836	1,845
PUC Transportation Reimbursement Account	17,205	7,311	7,349	7,989	7,488	7,501
Personnel - years	752.3	773.1	804.1	889.4	896.8	895.8

<sup>a</sup>Universal Service Telephone Programs were off-budget prior to 2001-02.

**ITEM 8660 PUBLIC UTILITIES COMMISSION****(continued)**

The Budget proposes a reduction in the commission's budget from \$1.5 billion in the current year to \$1.3 billion in the Budget year, reducing expenditures by \$217 million, almost 15 percent, compared with the current year. The commission's proposed staffing for 2003-04 is 895.8 personnel-years (PYs), 1 PY less than in the current year. The commission receives no GF support. Its funds primarily come from administrative assessments and program charges added to utility bills.

The spending reduction in 2003-04 results from net decreases of \$131 million for Universal Service Telephone Programs and \$67 million from the Gas Consumption Surcharge Fund. These reductions appear to primarily reflect the budgeting of the expenditure of large accumulated balances in these funds in the current year.

**ISSUE 1: PUC ENERGY SURCHARGES HAVE INCREASED**

The PUC's major source of funding for its staff and operations is the PUC Utilities Reimbursement Account. The account receives revenue from surcharges imposed by the PUC on utility bills. The PUC recently increased surcharges imposed on electricity and natural gas utility bills as shown below:

	<b>July 1, 2002</b>	<b>January 1, 2003</b>	
	<b><u>cents/kilowatt-hour</u></b>	<b><u>Cents/therm</u></b>	<b><u>Percentage Increase</u></b>
<b>Electricity</b>	0.012	0.0314	162%
<b>Gas</b>	0.076	0.1988	162%

**COMMENTS**

- The Governor's Budget shows a 2003-04 year-end reserve of \$7.2 million in the PUC Utilities Reimbursement Account. However, all of this reserve would be consumed by Finance Letter requests for additional spending authority (primarily the \$8 million requested for PG&E bankruptcy litigation (discussed in Issue 2 below).
- As the Program/Funding Summary above shows, spending from the account has increased substantially in recent years. The PUC should provide the Subcommittee with a response on the following points:
  - What are the reasons for the rapid increase in spending and the need for such large increases in the surcharge levels?
  - Will the January surcharge increases be permanent or temporary?

**ITEM 8660 PUBLIC UTILITIES COMMISSION**

(continued)

**ISSUE 2: FINANCE LETTER REQUEST: PG&E BANKRUPTCY LITIGATION**

In an April 1 letter, the Director of Finance requested an augmentation of \$8.030 million to the PUC's 2003-04 budget from ratepayer funds in the PUC Utilities Reimbursement Account. The additional funds will be used for continued representation in the bankruptcy proceeding by the law firm of Paul, Weiss, Rifkind, Wharton & Garrison (Paul, Weiss), and for expert witnesses and consultants.

**BACKGROUND**

**History of the Bankruptcy Case.** On April 6, 2001, PG&E Company (the regulated utility subsidiary of PG&E Corporation) filed for Chapter 11 bankruptcy protection as a result of creditor claims stemming from the extremely high prices charged for electricity during the electricity crisis of 2000 and 2001. PG&E filed a proposed plan of reorganization in September 2001. That plan calls for the creation of three new companies to own and operate PG&E's electricity generation, electricity transmission, and gas transmission assets. These three companies would be subject to federal regulation, but not state regulation. Only PG&E's electricity and gas distribution assets would continue as a state-regulated utility. The deregulated generation company would receive guaranteed funding from ratepayers to cover its operating costs and pay creditors through a long-term contract with the distribution company. The PUC contends that PG&E's reorganization plan would illegally remove utility assets from state rate regulation and from operational restrictions (particularly for hydroelectric resources) that benefit the environment and it would impose an unfair financial obligation on ratepayers. The Attorney General also has intervened in the bankruptcy case to represent other public interests, especially regarding environmental issues.

In April 2002, the PUC filed an alternative reorganization plan with the bankruptcy court that would preserve state regulation over utility assets, and, according to PUC staff, save ratepayers \$8 billion over a 12-year period compared with the company's plan. The PUC plan, with some modification, has garnered the support of the unsecured creditors' committee. PG&E also has modified its original plan. Discovery and trial have proceeded on both plans. However, on March 4, 2003, the bankruptcy judge (Judge Montali) stayed all trial activities and ordered the parties to participate in settlement discussions. Judge Montali recently extended the stay until June 16, 2003. If these discussions are not successful, then the bankruptcy trial will resume and is likely to extend through the summer according to the PUC.

**Related Litigation.** Two other actions are related to the bankruptcy proceeding.

- **Appeal of Bankruptcy Court Ruling on State Preemption.** As part of the bankruptcy proceeding, PG&E argued that federal bankruptcy law permits the broad preemption of state laws. Judge Montali ruled against PG&E, which then won a reversal in U.S. District Court that the state has appealed to the federal Ninth Circuit Court of Appeals, with oral arguments scheduled for May 14.

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- **PG&E v. Lynch.** In this federal lawsuit, PG&E contends that it is entitled to recover approximately \$8 billion from ratepayers for excess electricity procurement costs that it incurred during the rate freeze. A commission motion for dismissal of all issues was denied by the district court and has been appealed to the Ninth Circuit. If the appeal is not entirely successful, then the commission anticipates that trial will take place in district court during 2003-04.

**Spending to Date.** The \$8 million Finance Letter request for 2003-04 is in addition to the following PUC costs already incurred or approved for the PG&E Bankruptcy:

- \$6.9 million in 2001-02.
- \$14.8 million in the current year – consisting of \$5.8 million approved in the 2002 Budget Act and a \$9 million deficiency authorization approved in December.

**COMMENTS**

- **Request Assumes Settlement Talks Are Unsuccessful.** The \$8 million request assumes that there is no settlement, and trial resumes in the bankruptcy proceeding. It also includes funding for existing appellate proceedings and for some post-bankruptcy implementation costs and an appeal of the bankruptcy decision. However, actual costs could vary considerably from the amount requested, depending on developments in the case.
- **Expensive Help.** During some months, billings by Paul, Weiss have exceeded \$1 million, and most of the expert witnesses retained by the PUC are paid \$500 per hour. The PUC argues that billions of dollars of ratepayer money are at stake, as well as basic issues of state jurisdiction, justifying the need for the best legal and technical assistance. Also, the commission points out that PG&E has spent several times the amount that the state has spent on legal and technical assistance.
- **What Are the PUC's Own Costs?** The Finance Letter request only requests contract funds. The PUC also should identify the amount of staff and support funding that it has diverted to overseeing bankruptcy-related work.

**ISSUE 3: OFFICE OF ECONOMIC DEVELOPMENT**

The commission has indicated that it has informally established an Office of Economic Development through the redirection of staff. However, no budget change proposal has been submitted to describe this redirection or request legislative authorization for it.

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**COMMENTS**

- The PUC should describe the purpose of the Office of Economic Development, and the staff and funding devoted to it.
- The PUC and the Department of Finance should explain why no budget proposal was presented for this redirection.

**ISSUE 4: 2001-02 UNIVERSAL SERVICE TELEPHONE PROGRAM LIABILITIES**

The PUC oversees the following six programs intended to promote universal access to telephone and telecommunications services.

- High-Cost Fund A and High-Cost Fund B subsidize service in rural and other high-cost environments. The A Fund subsidizes service in areas served by smaller providers and the B Fund subsidizes services in areas served by the major telecommunications providers, including SBC and Verizon.
- The Deaf and Disabled Telephone Program provides special equipment and services to provide access to telecommunications services for deaf and disabled persons.
- The Universal Lifeline Telephone Service (ULTS) Program provides subsidized service to low-income persons.
- The Teleconnect Fund subsidizes telecommunications rates for schools, libraries, hospitals, and certain other nonprofit organizations.
- The Public Policy Payphone Program subsidizes the location of payphones in critical areas with limited access to regular service.

The PUC establishes additional surcharges on telecommunications services support these programs.

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**SOME 2001-02 LIABILITIES REMAIN UNPAID**

In 2001-02, most of the Universal Service Telephone Program funds were moved from trust accounts to the State Treasury and made subject to Budget appropriation pursuant to SB 669 (Polanco) of 1999. Confusion in converting from the former cash accounting systems to budgetary accrual accounting resulted in the PUC underestimating the amount of appropriation authority needed for a number of funds. According to the PUC, the following amounts owed to telecommunications providers for valid 2001-02 claims remain unpaid:

- High-Cost A Fund – \$2.5 million.
- High-Cost B Fund – \$39 million
- Universal Lifeline Service Fund – \$6 million.

The PUC did not discover this problem in time to seek deficiency spending authority or a supplemental appropriation last year.

**COMMENTS**

- AB 1457 (Utilities and Commerce Committee) is now in the Senate and appropriates \$2.5 million to pay High-Cost A Fund claims.
- The PUC should inform the Subcommittee whether the other 2001-02 unpaid claims are being addressed in other legislation or whether the 2003-04 Budget Bill should be amended to appropriate these past-year amounts.

**ISSUE 5: IS THE TELECONNECT FUND BALANCE EXCESSIVE?**

The PUC estimates that the California Teleconnect Fund will have a reserve of \$70 million at the end of 2003-04, whereas annual spending is only about \$40 million. Currently, the PUC has eliminated the surcharge for this fund.

**COMMENTS**

- The PUC indicates that spending from this fund has been lower than originally anticipated. Potential reasons for the lower spending may include delays in the filing of payment claims by telecommunications providers and delays experienced by schools in obtaining funding and carrying out projects to install telecommunications equipment.

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- The PUC, Department of Finance, and the Legislative Analyst's Office should inform the Subcommittee of (1) the likelihood of spending the surplus in the account in 2003-04 or 2004-05 and (2) the potential for transferring all or a portion of the balance to GF.

**ISSUE 6: RURAL TELECOMMUNICATIONS INFRASTRUCTURE GRANTS**

The Budget requests \$79,000 for one position, and \$10 million in grant funds to implement AB 140 (Strom-Martin, Chapter 903, Statutes of 2001). All of the requested funds are from the High-Cost A Fund. AB 140 establishes a grant program of up to a total of \$10 million annually to establish regular telephone service in areas that currently are not served. The commission plans a two-phase application process for communities to ensure that communities meet the basic income and local support requirements of the program prior to the second phase, which will include engineering feasibility studies.

The commission expects to issue a decision on guidelines for the program in August and to award the first grants in February 2004.

**ISSUE 7: FACILITY SPECIAL REPAIRS**

The Budget requests \$526,000 from PUC special funds for special repairs to the PUC headquarters building in San Francisco. Most of the money (\$393,000) is to replace the original roof of the building. Other repairs include the following:

- \$72,000 to replace the public address system.
- \$23,000 to replace the doors in both lobbies.
- \$10,000 to strip and clean marble in main lobby.

**COMMENTS**

The PUC should address the following questions:

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- What is the urgency of the repairs?
- Would delay pose a threat to life or safety?
- Would delay increase future costs—by how much?

**ISSUE 8: FINANCE LETTER REQUEST: DECISION SUPPORT POSITIONS**

A Department of Finance letter requests an augmentation to the Budget of \$197,000 from PUC special funds to reestablish four positions in 2003-04 (and one position in the current year) to provide clerical and administrative support to the commission's administrative law judges (ALJs). The positions have been vacant and were eliminated under Control Section 31.60 of the 2002 Budget Act.

The PUC cites difficulties in meeting statutory requirements and deadlines due to a lack of support staff for the ALJs. The commission also indicates that it has been unable to find other PUC employees with the appropriate skills who could be redirected to these positions.

**COMMENTS**

The PUC should comment on its previous efforts to fill these positions and the prospect for filling them if this request is approved.

**ISSUE 9: OTHER BUDGET REQUESTS**

The PUC's 2003-04 budget also includes the following additional requests (all from PUC special funds):

- \$223,000 and three positions in 2003-04 (and \$222,500 and 1.5 positions in the current year) to implement AB 2838 (Canciamilla, Chapter 1147, Statutes of 2002) which requires

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the commission to perform a comprehensive review every three years of the rates charged by regulated water corporations. The current-year funds were appropriated by AB 2838.

- \$200,000 to replace off-budget funding for the Low-Income Oversight Board in accordance with SB X2 2 (Alarcon, Chapter 11 of the 2001-02 Second Extraordinary Session).
- Reinstate permanent status for 18 positions in the Telecommunications Branch of the Office of Ratepayer Advocates (ORA). These positions previously were permanent, but were limited to two years in the 2002 Budget Act. ORA has submitted its required annual staffing report and workplan.

<b>COMMENTS</b>
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No issues were raised by LAO regarding these requests.

## ITEM 8665 CALIFORNIA CONSUMER POWER AND CONSERVATION FINANCING AUTHORITY

Senate Bill 6X (Burton, Chapter 10, Statutes of 2001, First Extraordinary Session) created the California Consumer Power and Conservation Financing Authority. The purposes of the authority include augmenting electric generating facilities and to ensure a sufficient and reliable supply of electricity; providing financing incentives for investment in cost-effective energy-efficient appliances and energy demand reduction; to increase power reserves; financing for the retrofit of inefficient electric powerplants, renewable energy and conservation; and, where appropriate, developing strategies for the authority to facilitate a dependable supply of natural gas at reasonable prices to the public.

The following table summarizes the Power Authority's funding history and its spending plans for 2003-04:

### California Power Authority Funding History - FY 01/02 through FY 03/04 (Dollars in Thousands)

	<u>2001-02</u>	<u>2002-03</u>	<u>2003-04</u>
<b>State Operations</b>			
Personal Services	\$ 314	\$ 1,150	\$ 1,155
Operating Expenses	3,918	3,126	3,166
<b>Totals</b>	<b>\$ 4,232</b>	<b>\$ 4,276</b>	<b>\$ 4,321</b>
<b>Funding/Revenue Sources</b>			
General Fund Loan	\$ 4,502	\$ -	\$ -
Renewable Resources Trust Fund Loan	-	8,900	-
Energy Resource Programs Account Loan	-	-	6,165
Origination Fees from Revenue Bond Sales	15	140	1,150
Proceeds from Revenue Bond Sales (pass-through)	-	(28,005) <sup>1</sup>	(130,000)
Proceeds from Solar Schools Settlement (pass-through)	-	(9,750) <sup>2</sup>	(500)
Proceeds from Kern River Gas Turbine Project	-	37	30
Proceeds from San Francisco Gas Turbine Project	-	15	130
Interest from surplus money investments	59	60	60
<b>Total Funding Sources</b>	<b>\$ 4,576</b>	<b>\$ 9,152</b>	<b>\$ 7,535</b>
<b>Repayment of Loans</b>			
General Fund	\$ -	\$ 4,690 *	\$ -
Renewable Resources Trust Fund	-	1,000	3,255
Energy Resource Programs Account	-	-	-
<b>Total Repayments</b>	<b>\$ -</b>	<b>\$ 5,690</b>	<b>\$ 3,255</b>
<b>Authorized Positions</b>			
	17	14	14

<sup>1</sup> \$28,005,000 Energy Efficiency Bonds Series 2003A sold April 10, 2003; \$100,000,000 in bonds estimated to be sold in 03/04, as well as \$30,000,000 in Industrial Development Bonds (bond proceeds shown as project pass-through funding).

<sup>2</sup> All Solar Schools Settlement proceeds are transferred directly to the CEC (pass-through).

\* Repayment includes \$4,502,000 plus \$188,000 in interest.

**ITEM 8665 CALIFORNIA CONSUMER POWER AND CONSERVATION FINANCING  
AUTHORITY**

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**ISSUE 1: WHEN WILL THE POWER AUTHORITY BE SELF-SUFFICIENT?**

**Budget Proposes Continued State Funding.** The Budget proposes an additional "loan" of \$6.2 million from the Energy Resources Programs Account (ERPA) in the GF to the authority to help cover operating expenses in 2003-04. Because ERPA funds are fungible with the GF, the Budget proposal amounts to a reinstatement of General Fund support for the authority, raising the question of when, if ever, the authority will be self-supporting as intended. A portion of this new ERPA loan will be used to repay \$3.3 million of an \$8.9 million startup loan from the Renewable Resources Trust Fund (this loan replaced an earlier GF loan) – leaving \$2.9 million for support of the authority in 2003-04. The remainder of the authority's support Budget will be funded by \$1.2 million of assumed revenue bond origination fees and \$260,000 from the proceeds of settlements with electricity generators obtained by the Attorney General and allocated by him to the authority.

**Legislative Analyst Withholds Recommendation.** The Legislative Analyst has withheld recommendation on the Budget proposal due to concerns about the authority's prospects for attaining financial self-sufficiency, and pending receipt and review of two reports – one addressing the authority's long-term budgetary needs and the other being the authority's annual Energy Resources Investment Plan.

**Revenue Bonds Plans Still Developing.** The authority's support Budget includes \$1.2 million in origination fees associated with \$130 million of revenue bond sales. The purpose and feasibility of these revenue bond sales currently are uncertain, however. The authority has indicated to committee staff, for example, that it is exploring the possibility of issuing bonds to facilitate the financing of an Energy Commission approved Otay power plant by the Calpine Corporation. The authority believes that construction of recently approved power plants is crucial to avoiding an electricity shortage in a few years and that its assistance may be helpful to generators whose weakened financial position restricts their access to construction capital. The authority also is seeking proposals for 300 megawatts of peaker capacity in the PG&E service territory to improve reliability.

**COMMENTS**

- The authority should provide the Subcommittee with a review of its current plans for 2003-04 and identify the uncertainties that it faces in carrying out those plans. The authority also should present its contingency planning in the event that the anticipated revenue bond financing does not occur or is delayed past 2003-04.
- The Legislative Analyst should update the Subcommittee on the status of the reports that were to be provided by the power authority and their current recommendation regarding the authority's Budget request.

## ITEM 8665 CALIFORNIA CONSUMER POWER AND CONSERVATION FINANCING AUTHORITY

### ISSUE 2: SETTLEMENT FUNDS—ARE THERE ALTERNATIVE USES?

The Attorney General has designated that a portion of the payments obtained in litigation settlement agreements with certain electricity generators (Constellation, Calpine, and Williams) will be deposited in the Attorney General's Alternative Energy Retrofit Account (AGAERA), established in April 2002. In the future, this account could receive other types of settlements, or philanthropic contributions. The table below shows the funding anticipated by the Power Authority from the Attorney General's settlement proceeds.

Settlement Party	Total Cash to AGAERA	Payment Schedule to Power Authority		
		2002-03	2003-04	FY04-05 + Future Years
Constellation	\$1.25 million	\$1.25 million 10/02	None	None
Calpine	\$1.5 million	\$0.5 million 10/02 \$0.5 mil 2/03 (not yet received)	\$0.5 mil 1/04	None
Williams	\$69 million (nominal value) over 9 years	\$8.085 million 1/03	\$8.15 million 1/04	\$6 million in 1/05 \$8 million in 1/07 \$13 million in 1/08* \$13 million in 1/09 \$13 million in 1/11
	<b>Total Funds Payable</b>	<b>\$10.335 million</b>	<b>\$8.65 million</b>	<b>Varying amounts</b>

The largest portion of these funds is from the Williams settlement and is not reflected in the spending totals in the Governor's Budget.

### BACKGROUND

The Attorney General has reached settlements with several electricity generators. These settlements relate to allegations of improper or unfair business practices and are distinct from settlements regarding allegations of violation of Federal Energy Regulatory Commission regulations or the renegotiations of the Department of Water Resources electricity purchasing contracts.

The Department of Finance approved a current-year transfer of \$1.25 million of settlement funds from the authority to the Energy Commission for its Solar Schools Program. That approval was held in abeyance, however, after an objection by the acting chair of the Joint Legislative Budget Committee on the basis that the proposed spending would circumvent legislative review. This expenditure is currently pending before Subcommittee 3.

### COMMENTS

- The Power Authority should inform the Subcommittee of its plans for the settlement funds.

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AUTHORITY**

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- The Legislative Analyst and the Department of Finance should explain to the Subcommittee their understanding of the Legislature's ability to appropriate settlement funds and the purposes for which those funds may be used.

## ITEM 8770 ELECTRICITY OVERSIGHT BOARD

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The Electricity Oversight Board (EOB) is part of the regulatory oversight structure that was established by the legislation restructuring California's electricity industry in 1996. The board is charged with ensuring the reliability of the electricity transmission system and in the power market.

The Budget proposes total expenditures of \$3.7 million (from special funds that support the Public Utilities Commission and the Energy Commission and 24.6 personnel-years of staff—essentially the same funding and staffing as in the current year.

### Role of EOB Remains Unclear

The original purpose of the EOB was to oversee the now-defunct Power Exchange and the Independent System Operator. Those functions, as currently laid out in statute, have essentially disappeared. The EOB's de facto role now is as an advocate on behalf of the state before the Federal Energy Regulatory Commission (FERC) and the courts in concert with several other state agencies, including the Public Utilities Commission and the Department of Water Resources (DWR). In particular, EOB staff is involved in the refund actions before FERC and appeals to the federal courts of related FERC decisions, assisting DWR in renegotiations of power purchase contracts, and evaluating electricity market redesign proposals. The permanent role and future form of the EOB (if any) are likely to depend on legislation to restructure the state's energy agencies and/or federal actions affecting the structure of the energy market.

### ISSUE 1: FERC REPRESENTATION

In the 2002-03 Budget, the Legislature directed the EOB and other state agencies to report on their involvement in FERC proceedings, including the types of issues each agency addressed, the resources devoted to FERC representation, and a description of each matter in which the agency is a participant. The Legislature also directed the Legislative Analyst's Office (LAO) to review these reports and present its findings and recommendations in the *Analysis of the 2003-04 Governor's Budget*.

### LAO FINDINGS AND RECOMMENDATIONS

The LAO found that a number of state agencies represent similar state energy-related issues before FERC, but that informal efforts have been made to coordinate FERC representation resulting in reasonable coordination given the current organization of the state's energy agencies.

The LAO noted that the best way to organize and coordinate the state's representation before FERC will be dictated by future decisions about the structure of the electricity market and changes to how the state's energy agencies are organized. For the interim, LAO recommends the adoption of Budget Bill Language and supplemental report language to direct the agencies representing state energy-related issues before FERC to establish a memorandum of understanding to ensure continued coordination of their activities. LAO also recommends that the MOU designate a lead agency to coordinate actions.

**ITEM 8770 ELECTRICITY OVERSIGHT BOARD**

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<b>COMMENTS</b>
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- LAO should summarize its findings and recommendations, and LAO should identify the most appropriate candidates for a lead agency to coordinate state FERC representation.
- The EOB and Department of Finance should respond to the LAO recommendation.