

AGENDA
ASSEMBLY BUDGET SUBCOMMITTEE NO. 4
ON STATE ADMINISTRATION

Assemblymember John Dutra, Chair

WEDNESDAY, APRIL 14, 2004
STATE CAPITOL, ROOM 437
1:30 P.M.

ITEMS PROPOSED FOR CONSENT

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ITEM 1900 PUBLIC EMPLOYEES' RETIREMENT SYSTEM

ISSUE 1: OVERVIEW

The Public Employees' Retirement System (PERS) administers the retirement plan for 1.4 million State and local government employees. The plan for state employees is funded on an actuarial basis. As of June 30, 2002, the fund's resources totaled 95.2 percent of that needed to meet its obligations. The system paid out \$7 billion in retirement benefits to 396,000 annuitants. The system received \$1.9 billion in employee contributions and \$1.9 billion in employer contributions in 2002-03. At the end of 2002-03 the system had net assets of \$144.8 billion. This is a slight increase over the \$142.8 billion in net assets at the end of 2001-02.

COMMENTS

No issues have been raised regarding the budget for this agency. It is proposed for approval on consent.

ITEM 5480 COMMISSION ON CORRECTIONAL PEACE OFFICERS' STANDARDS AND TRAINING

ISSUE 1: OVERVIEW

The objective of the Commission on Correctional Peace Officers' Standards and Training (CPOST) is to enhance the training and professionalism of the state's correctional peace officers through the development of sound selection practices and training programs.

The Commission is comprised of six commissioners that serve four-year terms. Two commissioners are representatives of the Department of Corrections. One commissioner is a representative of the Department of Youth Authority. Three commissioners are appointed by the Governor and represent the membership of the California Correctional Peace Officers' Association.

The Governor's Budget proposes a budget of \$1.077 million and 7.3 positions in the budget year. This is similar to the estimated current year budget for the Commission.

COMMENTS:

No issues have been raised regarding the budget for this Commission. It is proposed for approval on consent.

ITEM 8380 DEPARTMENT OF PERSONNEL ADMINISTRATION

ISSUE 1: OVERVIEW

The Department of Personnel Administration (DPR) represents the Governor as the "employer" in all matters concerning California State personnel employer-employee relations. As such DPR is responsible for all issues related to collective bargaining, including salaries and benefits, job classifications, and training. It does not address merit aspects of the State's personnel system.

COMMENTS:

The Administration has indicated that it intends to seek re-negotiation of certain collective bargaining agreements. It is not known what portion of the workload to the department will be associated with that task.

The Governor's Budget proposes a budget of \$56.8 million and 235 positions. This is a reduction of \$19.4 million and 14 positions as compared with the estimated current year budget. The department requests \$400,000 in 2004-05 from the Deferred Compensation Fund to seek expert advice on the administration of the Deferred Compensation Program. The proposal anticipates ongoing costs of \$275,000 to service this contract.

No issues have been raised related to the budget of this Department. It is proposed for approval on consent.

ITEM 8385 CALIFORNIA CITIZENS' COMPENSATION COMMISSION

ISSUE 1: OVERVIEW

Article II Section 8 of the California Constitution establishes the California Citizens' Compensation Commission. The Commission consists of seven members: three members from the public; two members from the business community; and two members from labor organizations. Current or former officers or employees of the state are not eligible for participation in the Commission.

By the end of each fiscal year the Commission shall adopt a resolution recommending the level of annual salary, medical and dental insurance and other similar benefits for state officials.

COMMENTS:

No issues have been raised related to the budget for the Commission and it is proposed for approved on consent.

ITEM 8840 COMMISSION ON UNIFORM STATE LAWS

ISSUE 1: OVERVIEW

The Commission on Uniform States Laws was created in 1927 under the provisions of Chapter 498, Statutes of 1927. The Commissioners are required to attend the meetings of the National Conference of Commissioners on Uniform State Laws (National Conference). In addition, the Commissioners are required to do all in their power to promote uniformity in state laws upon all subjects where uniformity is deemed desirable and practicable, and to bring about, as far as practicable, the passage of the various uniform act recommended by the National Conference.

In 1941 the National Conference began a project that produced the Uniform Commercial Code (UCC). After additional work, the commercial code was offered for the states' consideration in 1951. By 1967 every state except for Louisiana has adopted the UCC. California adopted the UCC in 1963. The UCC encompasses the sale of goods, and financial transactions. The importance of the adoption of uniform laws is that it provides assurances that the activities and agreements reached in one state will be honored in another jurisdiction that has similarly adopted the uniform code.

The success of the UCC has encouraged the National Conference to draft and propose a number of uniform laws as a solution to state legal issues. These proposals include, the Uniform Anatomical Gift Act, Uniform Child Custody Jurisdiction and Enforcement Act, Uniform Determination of Death Act, Uniform Rules of Evidence, Uniform Fraudulent Transfer Act, Uniform Interstate Family Support Act, Uniform Limited Partnership Act, Uniform Parentage Act, Uniform Trade Secrets Act, and Uniform Transfers to Minors Act. California has adopted 37 of these uniform acts.

The Governor's Budget proposes a budget of \$122,000, in 2004-05. This is similar to the current year budget.

COMMENTS:

No issues have been raised related to the budget of this Commission. It is proposed for adoption on consent.

ITEM 8855 BUREAU OF STATE AUDITS

ISSUE 1: OVERVIEW

The objective of the Bureau of State Audits is to provide independent audits of programs and fiscal operations of the state.

The State Auditor is directed by statute to perform financial audits; compliance audits, performance audits; contract audits; and investigative audits. To undertake these audits, the State Auditor is given full access to all records of state and local agencies, special districts, public contractors, and school districts. General powers include the ability to subpoena records, take depositions, and administer oaths. Specifically the State Auditor has access and authority to examine and reproduce any and all books, accounts, reports, vouchers, correspondence files, and other records, bank accounts, and money or other property, of any agency of the State, whether created by the California Constitution or otherwise, and any public entity, including any city, county, and school or special district, for any audit or investigative audit. Any officer or employee who fails or refuses to permit access and examination and reproduction of the requested records is guilty of a misdemeanor.

The State Auditor conducts financial and performance audits as directed by statute, and other government audits requested by the Joint Legislative Audit Committee. The State Auditor also administers the "California Whistleblower Protection Act," and may investigate alleged violations of state or federal law or regulation by state agencies or employees. Specifically, the State Auditor reports annually on California's general purpose financial statements and fulfills the audit requirements of the federal Single Audit Act of 1984. California's statewide single audit is the largest governmental audit in the United States. Additionally, the State Auditor performs dozens of other audits mandated by various statutes and conducts audits requested by the Legislature. Legislative requests are first approved by the Joint Legislative Audit Committee and then prioritized based on the availability of funds.

To fulfill its investigative responsibilities, the State Auditor operates a toll-free telephone hotline and investigates such violations as corruption, malfeasance, theft of government property, fraud, gross inefficiency, and willful omission to perform duty. All investigations are confidential and the identity of the whistleblower is never revealed. Investigative reports of substantiated allegations are released to the public once the corrective action has been taken by the employing state agency. Public release of the investigative report provides a deterrent to similar misconduct by others. However, since appropriate punishment has already been imposed, the names of the wrongdoers are not released to avoid unnecessary ridicule.

No issues have been raised regarding the budget of the Bureau. It is recommended that this budget be adopted on consent.

ITEM 8910 OFFICE OF ADMINISTRATIVE LAW

ISSUE 1: OVERVIEW

The Office of Administrative Law (OAL) is responsible for reviewing administrative regulations proposed by over 200 state agencies in compliance with the standards set forth in the Administrative Procedures Act (APA), for transmitting these regulations to the Secretary of State and for publishing regulation in the California Code of Regulation.

OAL assists state regulatory agencies through various training programs to understand and comply with the APA.

The Governor's Budget proposes a budget for the Office of \$1.9 million and 16.3 positions for 2004-05. This is similar to estimated funding of the office in the current year.

COMMENTS:

No issues have been raised regarding the budget of the OAL. It is recommended that this budget be adopted on consent.

ITEM 8140 OFFICE OF THE STATE PUBLIC DEFENDER

ISSUE 1: OVERVIEW

The Office of the State Public Defender (OSPD) was created by the California Legislature in 1976 to represent indigent criminal defendants on appeal. The office was formed in response to the need of the state appellate courts, for consistent, high-quality representation for defendants. For the first 13 years of its existence OSPD's workload was predominantly complex non-capital felonies on appeal to the Courts of Appeal, with a handful of capital murder cases in the mix.

Throughout this decade the number of condemned inmates sitting on Death Row awaiting appointment of counsel, often for years, has steadily increased. As a result, in 1990, OSPD's mandate from all three branches of government was redirected toward an exclusive focus upon death penalty cases. We litigate these cases both on appeal and habeas corpus in the California Supreme Court, and in the United States Supreme Court on certiorari petitions.

OSPD has appeared in the California Supreme Court in over 250 cases and in the United States Supreme Court in a half dozen cases where certiorari review was granted. The Office has been involved in the areas of capital litigation, due process, right to counsel, confessions, jury selection, search and seizure, sentencing and many other issues.

The agency has two regional law offices, located in Sacramento and San Francisco. The State Public Defender and the administrative staff are headquartered in San Francisco.

The Governor's Budget proposes a budget for the Office of \$11.2 million and 82 positions in 2004-05. This is similar to the estimated budget in the current year. As with many other Departments OSPD was required to absorb increases to employee benefits.

COMMENTS:

No issues have been raised regarding the budget of the OSPD. It is recommended that this budget be adopted on consent.

ITEMS TO BE HEARD

ITEM CONTROL SECTION 4.20 CONTRIBUTION TO PUBLIC EMPLOYEES' CONTINGENCY RESERVE FUND

ISSUE 1: OVERVIEW

PERS administers the health insurance program on a contract basis for state employees, retirees and local government employees. The Control Section requires participating employers to pay an administrative charge of .5 percent of the gross health insurance premiums paid by both the employer and employee.

COMMENTS:

The Governor's Budget estimates \$21.6 million in revenues from contracting employers. Combined with estimated expenditures of \$17.8 million of expenditures by PERS this would leave a year end fund balance in the Public Employees' Contingency Fund of \$8.9 million. This is an increase of \$5.2 million over the estimated year end fund balance for the current year.

The Legislative Analyst recommends a reduction in the administrative budget from .5 percent to .35 percent. This would reduce funding to the fund by approximately \$6.5 million. Of that amount, approximately \$1.9 million would take the form of a General Fund savings. This would result in year-end balance of approximately \$2.5 million.

Since the revenue to the fund is based upon the total premium, the greater the increase, the greater the revenue, assuming a constant rate. Therefore, the higher the premium, the lower the contribution rate needed to pay for the administrative costs. The Legislative Analyst's recommendation assumes a premium rate increase of 16 percent. Should the actual increase in premium rates be less than that amount, the revenue to the Contingency Fund would be insufficient to cover the costs of administration. For example, if the increase were only 9 percent, it would require a .425 percent contribution to the Contingency Fund to provide adequate revenue for administration. This would result in a General Fund savings of \$1 million.

ITEM 8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

ISSUE 1: OVERVIEW

The Commission on Peace Officer Standards and Training (POST) was established by the Legislature in 1959 to set minimum selection and training standards for California law enforcement. The POST organization, with more than 130 staff members, functions under the direction of an Executive Director appointed by the Commission.

POST funding comes from the Peace Officers' Training Fund (POTF). The POTF receives monies from the State Penalty Assessment Fund, which in turn receives monies from penalty assessments on criminal and traffic fines. Therefore, the POST program is funded primarily by persons who violate the laws that peace officers are trained to enforce. No tax dollars are used to fund the POST program.

The POST program is voluntary and incentive-based. Participating agencies agree to abide by the standards established by POST. The more than 600 agencies in the POST program are eligible to receive the Commission's services and benefits, such as job-related assessment tools, research into improved officer selection standards, management counseling services, the development of new training courses, reimbursement for training, and quality leadership training programs. POST also awards professional certificates to recognize peace officer achievement and proficiency.

COMMENTS:

The Governor's Budget proposes funding of \$54.2 million with 107 positions in 2004-05. This is an increase of \$3.4 million from the current year. A proposed increase in local assistance is the most significant factor in this increase. In the current year, revenues to the Commission are reduced reflecting a lower level local assistance funding available. At this time the Administration estimates revenues to increase in the budget year enabling the Commission to enhance local assistance funding. Under provisions of Section 4.10 of the Budget Act, the Commission's budget has been reduced by 13 positions and \$644,000.

The subcommittee may want the Commission to provide additional details regarding the proposed increased local assistance costs, including those entities that will receive the additional funding and the benefits to the state and local governments from this increase.

ITEM 8320 PUBLIC EMPLOYMENT RELATIONS BOARD

ISSUE 1: OVERVIEW

The Public Employment Relations Board (PERB) is a quasi-judicial agency that oversees public sector collective bargaining in California. The Board administers four collective bargaining statutes that include: ensuring that they are consistently implemented; and adjudicating disputes between parties. The statutes administered by the Board include: Educational Employment Relations Act (EERA) (Gov. Code Section 3540 et.seq.) that established collective bargaining for public K-12 schools and community colleges; State Employer-Employee Relations Act (SEERA or Dills Act) establishing collective bargaining for state government employees; Higher Education Employer-Employee Relations Act (HEERA) (Gov Code Section 3560 et.seq.) extending benefits to the California State University and University of California systems; the Meyers-Milias-Brown (MMBA) Act which established

collective bargaining for municipal, county and local special district employers and employees. Peace officers, management employees and employees of the City and County of Los Angeles are exempt from MMBA.

Approximately 1.5 million public sector employees are included under the jurisdiction of the Board. Of that amount 675,000 employees belong to the K-12 school and community college system, 125,000 are state employees, 100,000 employed by the CSU and UC system, and the remaining 600,000 being employees of cities, counties and special districts.

The PERB is made up of five members appointed by the Governor and confirmed by the Senate. Board members are appointed to five-year terms with the terms of one member expiring each year. The board acts as an appellate body to hear challenges to decisions proposed by the staff of the Board. Decisions of the Board may be appealed to the state appellate courts.

The staff of the board is empowered to: conduct secret ballot elections to determine whether or not employees wish to have an employee organization exclusively represent them in their labor relations with their employer; prevent and remedy unfair labor practices, whether committed by the employer or employee organizations; deal with impasses that may arise between employer and employee organizations in their labor relations in accordance with statutorily established procedures; ensure that the public receives accurate information, and has the opportunity to register its opinions regarding the subjects of negotiations between public sector employers and employee organizations; interpret and protect the rights and responsibilities of employers, employees and employee organizations under the acts; interpret; bring action in a court of competent jurisdiction to enforce PERB's decisions and rulings; conduct research and training programs related to the public sector employer-employee relations; and task such other action the Board deems necessary to ensure the acts have been complied with.

The major responsibilities of the Board involve: the administration of the statutory process through which public employees freely select employee organizations to represent them in their labor relations with their employer; the evaluation and adjudication of unfair practice charges; and the legal functions performed by the office of the Counsel General.

An unfair practice charge may be filed with PERB by an employer, employee organization or employee alleging that an employer or employee organization has committed an act which is unlawful under one of the acts administered by PERB. The filing is evaluated by staff to determine whether a prima facie case of unlawful action has been established. A prima facie case is established by alleging sufficient facts to permit a reasonable inference that a violation of the law has occurred. If the staff determines that a prima facie case has not been established, it will issue a letter to the charging party identifying the deficiencies of the charge. The charging party then has time to amend the charge and remedy its deficiencies. If the charging party fails to amend or withdraw the charge, the staff will dismiss it. This action may be appealed to the Board.

If the staff determines that the charge states a prima facie case of a violation, a formal complaint is issued. At this time, the respondent is given an opportunity to file an answer to the complaint. Once a complaint has been issued, and Administrative Law Judge (ALJ) or other agent is assigned to the case and calls the parties together for an informal settlement conference, generally within 30 days. If settlement is not forthcoming, a formal hearing is held, generally within 90 days of the informal settlement conference. Following the hearing, the presiding

official issues a proposed decision. Any party to the case may appeal the proposed decision to the Board. The Board may then either affirm, modify, reverse or remand the proposed decision.

Proposed decisions that are not appealed are binding upon the parties to the case but may not be cited as precedent. Decisions of the Board itself (appealed cases) are binding on the parties to that particular case and are precedential.

The Board has an advisory committee of approximately 100 people representing stakeholders and expert parties, that is assisting the Board in finding ways to improve effectiveness and efficiencies in working with public sector employers and employee organizations to promote the resolution of disputes and contribute to the greater stability of employer -employee relations.

COMMENTS:

PERB requires employers to file, within 60 days from the date of execution, a copy of all collective bargaining agreements reached pursuant to the four acts that PERB administers. These agreements are maintained at the Board's regional offices available to the public. Due to budget constraints the Board is considering eliminating the filing of these contracts.

PERB requires recognized or certified employee organizations to file annual financial reports of income and expenditures. Organizations that have negotiated a fair share fee arrangement for bargaining unit members have additional filing requirements. Complaints for noncompliance with these requirements may be filed with the Board which may take action to bring the organization into compliance. Due to budget constraints, the Board is considering the elimination of the filing requirements.

During 2002-03, 802 unfair labor practice charges were filed with the Board. This is an 8 percent increase over the 740 filings in 2001-02.

The Governor's Budget proposes \$4.6 million in funding and 41 positions in the budget year. This is similar to the funding and staffing in the current year.

ISSUE 2: FINANCE LETTER - FUNDING FOR ADDITIONAL BOARD MEMBERS

The Administration has proposed a Finance Letter to fund two board member positions that have been held vacant. The Board previously redirected funding for those positions to address previous budget reductions. The Finance Letter has not identified workload that would be addressed by the proposed additional funding.

Due to fiscal constraints on the General Fund, the subcommittee may want to defer funding for this request until a time when additional funding becomes available.