

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 4 ON STATE ADMINISTRATION

Part I

Assemblymember Rudy Bermudez, Chair

TUESDAY, MAY 10, 2005
1:30 PM, ROOM 447

VOTE ONLY

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ITEMS FOR VOTE ONLY

ITEM 7100 **EMPLOYMENT DEVELOPMENT DEPARTMENT**
ITEM 7350 **DEPARTMENT OF INDUSTRIAL RELATIONS**

VOTE-ONLY ISSUE 1: WORKFORCE INVESTMENT ACT (WIA) PROVISION LANGUAGE

The Subcommittee will consider adopting language discussed at the April 12th Subcommittee hearing.

BACKGROUND

The LAO and EDD have developed compromise Budget Bill Language to for the appropriations of unspent prior year WIA funding.

The proposed language is listed below:

Provision 2

For Schedules (2), (3), and (4); the Employment Development Department shall submit on October 1, 2005 and April 20, 2006, to the Department of Finance for its review and approval, an estimate of expenditures for both the current and budget years, including the assumptions and calculations underlying the Employment Development Department's projections for expenditures to these schedules. To the extent the Employment Development Department identifies unspent or receives unanticipated additional federal Workforce Investment Act (WIA) 15 percent discretionary funds, the Department of Finance may increase expenditure authority for schedules (2) through (4) inclusive, if the additional funding (1) is consistent with the expenditure plan for WIA discretionary funds in this item and (2) meets the four requirements specified in Section 28.00 (b) of this Act. Any augmentation that exceeds two-hundred fifty thousand dollars (\$250,000) may be authorized not sooner than 30 days after notification in writing is provided to the chairpersons of the committees in each house that consider the State Budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine.

VOTE-ONLY ACTION

Adopt proposed Budget Bill Language.

VOTE-ONLY ISSUE 2: WORKFORCE INVESTMENT ACT (WIA) UNSPENT FUNDING SET-ASIDE PROVISIONS

The Subcommittee wishes to direct unspent WIA funding to automotive repair and nursing training programs.

BACKGROUND

At the April 12, 2005 Subcommittee hearing, the Subcommittee directed staff to craft Budget Bill Language to set aside unspent federal WIA funds in the budget year for training courses that dealt with automotive repair and nursing programs.

The proposed Budget Bill Language would be:

Provision 5

Unspent WIA 15 Percent Discretionary Funding identified in accordance with Provision 2 shall be allocated to training programs that provide training for either automotive repair or nursing.

VOTE-ONLY ACTION

Adopt proposed Budget Bill Language.

VOTE-ONLY ISSUE 3: WORKERS COMPENSATION SPRING FISCAL LETTER

The Subcommittee heard issues regarding worker's compensation enforcement, but did not take action on a Spring Fiscal Letter.

BACKGROUND

The Subcommittee heard issues regarding worker's compensation enforcement, but did not take action on a Spring Fiscal Letter to re-establish positions at DIR. DIR will lose a significant number of Worker's Compensation staffing if the proposed letter is not adopted.

The Department of Finance issued the April 1st Spring Finance Letter to re-appropriate \$990,000 and re-establishes 274.3 existing vacant positions in DIRs budget by adding budget bill language. This language is needed to address a technical issue in the continuation of Departmental positions that was not anticipated when the budget was released in January. Most of these vacant positions are the result of delays in both the hiring process and the implementation of specific components of the last year's Workers' Compensation reform.

VOTE-ONLY ACTION

Adopt Spring Fiscal Letter.

ITEMS TO BE HEARD

ITEM 7100 **EMPLOYMENT DEVELOPMENT DEPARTMENT**
ITEM 7350 **DEPARTMENT OF INDUSTRIAL RELATIONS**

ISSUE 1: ECONOMIC AND EMPLOYMENT ENFORCEMENT COALITION

The Governor's Budget includes a proposal to reduce underground economic activity through a three-department effort named the "Economic and Employment Enforcement Coalition".

BACKGROUND

The Governor's budget includes three proposals that comprise a new initiative called the "Economic and Employment Enforcement Coalition." The effort envisions three departments: EDD, the Department of Industrial Relations and the Contractors' State License Board working together to reduce underground-economy activity, and in doing so reducing unfair competition for employers who follow labor laws.

The Governor proposes an augmentation of \$3 million (special funds) and 27.5 positions (three-year limited term) to conduct increased enforcement activities against employers who violate labor laws. The DIR would use these additional positions to increase inspection activity and issue citations and penalties to employers who keep employees "off the books" and/or do not follow workplace safety regulations. The following two DIR Divisions are included in this request:

- The Division of Labor Standards Enforcement (BCP #1) would receive \$1.5 million and 16 positions for investigation, enforcement, and collection activities associated with labor-law violations in the areas of workers' compensation, minimum and overtime wages, and licensing compliance. These positions would be funded from the Uninsured Employers Benefits Trust Fund, the Garment Industry Regulation Fund and the Unpaid Wage Fund. The Division is 80-percent funded by the General Fund, and past General Fund reductions have reduced staffing from 493 in 2001-02 to 403 in 2003-04.
- The Division of Occupational Health and Safety (BCP #2) would receive \$1.5 million and 13 positions for targeted enforcement of workplace health and safety laws for the following industries with higher levels of non-compliance: construction, agriculture, and garment manufacturing. These positions would be funded from the Targeted Inspection & Consultation Fund and the Industrial Relations Unpaid Wage Fund. DIR reports funding for field enforcement positions has declined in recent years – with 245 positions funded in 2001-02 and 209 positions funded in 2004-05.

- The Employment Development Department Budget would be increased by \$2.5 million (EDD Contingent Fund and Disability Insurance Fund) and 23.7 positions, 3-year limited-term to conduct increased enforcement activities against employers who violate labor laws. The EDD indicates this proposal would combat a significant increase in the number of employers attempting to illegally cut operating costs by converting acknowledged employees to independent contractors. Since this effort is expected to identify unreported wages, EDD projects a General Fund benefit of \$0.78 million in the first year, and \$1.77 million annually thereafter.

The Contractors' State License Board is the other member of the proposed Economic and Employment Enforcement Coalition.

Questions for the EEEEC Coalition

The Departments will address the following questions:

- What is the mission of the EEEEC? Who will set that mission and determine the focus of the EEEEC? There needs to be an articulated mission statement and focus.
- Who will be in charge and set policy? Secretary of Labor Agency?
- Will it target specific industries or areas?
- How will they interact with labor and employer representatives? Will stakeholders have a say in setting the agenda for the EEEEC?
- Will it constitute a new division or will the new positions still remain in their respective agencies and simply coordinate?
- Will there be an annual report to the Legislature concerning the effectiveness of the EEEEC?
- How will EEEEC be different from other existing joint enforcement efforts such as the Joint Enforcement Strike Force on the Underground Economy (JESF)? Will EEEEC duplicate current enforcement efforts? How will EEEEC interact with JESF?
- Will the new positions be solely dedicated to the EEEEC or will they also perform regular enforcement duties for the particular agencies?

STAFF COMMENT

This issue was heard at the April 10 Subcommittee hearing and was held open.

ITEM 7350 DEPARTMENT OF INDUSTRIAL RELATIONS**ISSUE 1: DIVISION OF LABOR STANDARDS ENFORCEMENT POSITIONS**

The California Rural Legal Assistance Foundation has requested that the Subcommittee appropriate \$5 million for additional field enforcement by the Department of Industrial Relations' Bureau of Field Enforcement.

BACKGROUND:

The Bureau of Field Enforcement is part of the Department of Industrial Relations' Division of Labor Standards Enforcement operates. The Bureau of Field Enforcement is responsible for investigation and enforcement of statutes covering workers' compensation insurance coverage, child labor, cash pay, unlicensed contractors, Industrial Welfare Commission orders, as well as group claims involving minimum wage and overtime claims. Bureau of Field Enforcement also handles criminal investigations involving these group claims. The Governor's Budget includes 407.1 positions costing \$22 million to staff the entire Division of Labor Standards.

The California Rural Legal Assistance Foundation has requested that the Subcommittee appropriate \$5 million for additional field enforcement by the Department of Industrial Relations' Bureau of Field Enforcement. The Foundation also request Supplemental Reporting Language be adopted to report on the compliance activities of the Bureau.

According to the Department of Industrial Relations, \$5 million would be enough funding to pay for three additional teams of field investigators of 16 staff each, for a total of 48 staff. Of this amount, 30 of the staff would be Deputy Labor Commissioners conducting fieldwork.

Proposed Budget Bill Language:

Increase funding for Division of Labor Standards Enforcement by \$ 5 million.

And

Add Provision 2:

2. Of the amount provided in Schedule (6), \$5,000,000 shall be solely expended for additional field enforcement efforts by the Labor Commissioner and the Bureau of Field Enforcement regarding wage, hour, and overtime law compliance in construction, agriculture, garment manufacturing, janitorial and restaurant employment.

- (a) *The department is authorized to establish positions for the purposes of expanding the additional field enforcement efforts.*
- (b) *The new funds shall be divided equally between urban and rural enforcement efforts;*
- (c) *The new enforcement efforts funded by the augmentation shall not be used to supplant funding previously intended by Division of Labor Standards Enforcement to go into field enforcement activities for this fiscal year.*
- (d) *The Department shall provide the Legislature with a description of additional minimum wage and overtime law compliance activities undertaken with this augmentation, as well as an assessment of whether a continued special focus on minimum wage and overtime law compliance is warranted. This update shall be provided during budget hearings.*

Proposed Supplemental Report Language:

The Labor Commissioner shall report annually at the time of budget hearings on the effectiveness of the Bureau of Field Enforcement. The report shall include a description of additional minimum wage and overtime law compliance activities as well as an assessment of whether a continued special focus on minimum wage and overtime law compliance is warranted.

STAFF COMMENT

This issue was heard at the April 10 Subcommittee hearing and was held open.

ITEM 7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

ISSUE 1: REPORTING DATA FOR PROPOSITION 36 EVALUATION

The Subcommittee will consider adopting placeholder Trailer Bill Language to require EDD to report data to the Department of Alcohol and Drug Programs.

BACKGROUND

Proposition 36, the Substance Abuse and Crime Prevention Act (SACPA), provides drug treatment instead of incarceration for certain first or second time non-violent adult drug offenders. The law also appropriates \$120 million annually through 2005-06 for drug treatment. Although the state must continue spending this amount after 2005-06 to meet its maintenance of effort requirement for the federal Substance Abuse Prevention and Treatment Block Grant, the funding may be used for other drug and alcohol services beyond Proposition 36 clients. The sentencing guidelines established by Proposition 36 do not sunset. Researchers at the University of California at Los Angeles (UCLA) are currently evaluating SACPA results.

Starting in FY 06-07, funding for the program will be subject to appropriation in the budget. There are currently several bills in both the Assembly and Senate that attempt to reframe the program after the guarantee for funding ends. One of the critical pieces of information needed to determine the effectiveness of the program will be its cost-benefit analysis. Proposition 36 requires the Department of Alcohol and Drug Programs (DADP) to create such a report, but does not stipulate a timeframe for its completion.

Given the policy interest in the effectiveness of Proposition 36, Assembly Budget Subcommittee #1 is exploring establishing an April 1, 2005 deadline for the submission of the DADP Cost-Benefit report to the Legislature. This new deadline would require DADP to seek different types of data sets from EDD to expedite the composition of the report.

STAFF COMMENT

The adoption of placeholder Trailer Bill Language to hasten the reporting of EDD data to DADP would help ensure that DADP met their deadline for submitting the required Cost-Benefit report.