

**PART II****AGENDA  
SUBCOMMITTEE No. 4  
ON STATE ADMINISTRATION****ASSEMBLYMEMBER JUAN ARAMBULA, CHAIR****THURSDAY, MAY 17, 2007  
STATE CAPITOL, ROOM 447  
1:30 P.M.****ITEMS ON CONSENT**

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**ITEMS ON CONSENT****ITEM 0520 SECRETARY FOR BUSINESS TRANSPORTATION AND HOUSING****ISSUE 2: APRIL LETTER: INTERNATIONAL TRADE STUDY**

In an April Finance Letter, the administration is proposing to reduce their International Trade and Investment Study proposed in the January 10, 2007 budget proposal by \$150,000 due to an error in the original cost estimates.

**ITEM 0845 DEPARTMENT OF INSURANCE****ISSUE 1: APRIL LETTER: DEPARTMENT OF TECHNOLOGY SERVICES RATE INCREASE**

The Department of Insurance is requesting \$195,000 to provide expenditure authority for the Department of Technology Rate Increases.

**ISSUE 2: APRIL LETTER: DISABILITY AND HEALTHCARE INSURANCE FRAUD PROGRAM**

The Department of Insurance is requesting \$403,000 (\$216,000 one-time) and 4.0 positions for investigation activities to combat disability and healthcare insurance fraud.

**ISSUE 3: INCREASE TO LOCAL ASSISTANCE WORKERS' COMPENSATION SPENDING AUTHORITY**

The California Department of Insurance (CDI) requests \$1.3 million (Insurance Fund) ongoing to fund increased investigations and prosecution of workers' compensation fraud. This augmentation would raise the size of this annual subvention to local district attorneys to \$22.7 million (Insurance Fund). The need for an additional assessment on insurers for this activity was decided by the Governor-appointed Fraud Assessment Commission in December 2005.

**ISSUE 4: APRIL LETTER: WORKER'S COMPENSATION INSURANCE FRAUD PROGRAM**

The CDI requests 6.0 permanent positions and \$3.7 million (Insurance Fund) for the following purposes: (1) a \$2.4 million permanent increase in Local Assistance to support local District Attorney fraud prevention workload; (2) \$750,000 one-time to expand a research study on measuring and addressing insurance fraud; and (3) \$625,000 to fund additional investigators and an auditor to process workload in the Workers' Compensation Insurance Fraud Program (Program).

**ITEM 2100 DEPARTMENT OF ALCOHOL BEVERAGE CONTROL****ISSUE 1: APRIL LETTER: LICENSING AND COMPLIANCE SYSTEM**

The ABC is requesting to increase its expenditure authority by \$1.5 million (ABC Fund) to complete work on the licensing and compliance system project which will serve as an update to ABC's existing automated process for accepting and processing liquor license applications. The project was delayed as a result of civil litigation filed by a vendor after the initial bid process.

**ISSUE 2: APRIL LETTER: CURRENT YEAR REVERSION**

ABC is requesting reversion language presently contained in item 2100-495 be amended to reflect an update of the revised contract sum and schedule changes involved in the completion of the Licensing and Compliance System project.

**ITEM 8660 PUBLIC UTILITIES COMMISSION****ISSUE 6: DATA CENTER RESTRUCTURING**

The Governor's budget includes two BCP's to support Data Center and Capital infrastructure improvements.

**Data Center Restructuring.** The CPUC is proposing to restructure their current data center through a multiple phase approach. The proposals below were formulated through a report conducted through a private consulting firm on the vulnerabilities of the CPUC's system. The first phase proposed in the 2007/08 budget will cost a total of \$765,000 and will include the following:

- |   |           |
|---|-----------|
| • Data Center redesign and expansion study                            | \$70,000  |
| • Heating/Ventilation Air Conditioning Review                         | \$25,000  |
| • Emergency power backup system for the data center                   | \$150,000 |
| • Dedicated Development and Testing Lab                               | \$180,000 |
| • Upgrade server/desktop network at San Francisco headquarters office | \$150,000 |
| • Establish two new positions in the network administration unit      | \$190,000 |

**ISSUE 7: INFRASTRUCTURE IMPROVEMENT AND REPAIRS**

The CPUC is proposing a one time augmentation of \$3.1 million for specific maintenance repairs and special projects related to the Commission's headquarters building in San Francisco.

**ISSUE 8: MAY REVISE: CALIFORNIA ENVIRONMENTAL QUALITY ACT REIMBURSEMENTS**

The PUC is requesting an increase in reimbursement authority of \$3.5 million to conduct environmental reviews for transmission projects for statewide transmission projects. Under state law, the PUC is responsible for conducting assessments and environmental reviews for transmission and infrastructure projects through Certificate of Public Necessity or Convenience or Permit to Construct applications for critical transmission and infrastructure plans.

## ITEMS TO BE HEARD

### **ITEM 0520                    SECRETARY FOR BUSINESS TRANSPORTATION AND HOUSING**

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#### **ISSUE 1: FEDERAL FUNDING FOR ECONOMIC DEVELOPMENT PROGRAMS**

Since the demise of the Technology Trade and Commerce Agency, the Secretary for Business Transportation and Housing has managed many of our state's small business assistance and economic development programs. The programs that are housed in BTH were specifically transferred to the agency via trailer bill in the 2002/03 while those that were not transferred were deleted from code.

As an agency, TTCA operated several programs that leveraged federal funds for programs to assist small businesses with multiple programs including: Department of Defense grant application assistance; general operations improvements consulting, capital grants and loans; and employee training.

#### **STAFF COMMENTS**

Concern has been raised to staff by the public that there are federal funds available for local economic development programs that are not being accessed by the state. At the hearing, the Office of the Secretary should be prepared to comment on what it is doing to maximize statewide economic development programs that have federal funds available for them.

Staff understands that in some cases, statutory changes may be needed to allow the Secretary for BTH pursue federal funding for some programs since these programmatic code sections were never transferred to BTH when TTCA was dismantled. Staff recommends that the subcommittee work with the administration to give BTH necessary legislative authority to leverage federal funding for economic development programs.

**ITEM 2100 DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL**

The Department of Alcoholic Beverage Control is vested with the exclusive power to license and regulate persons and businesses engaged in the manufacture, importation, distribution and sale of alcoholic beverages in the State of California. The department's mission is to administer the provisions of the Alcoholic Beverage Control Act in a manner that fosters and protects the health, safety, welfare, and economic well being of the people of California.

**ISSUE 1: RECRUITMENT AND RETENTION**

ABC operates multiple levels of enforcement activities of business and persons engaging in the distribution or sale of alcoholic beverages. These activities can include performing compliance visits to ABC licensed premises, complaint investigation, and minor decoy operations.

**STAFF COMMENTS**

From discussions with the department, staff has concerns that though ABC is experiencing annual increases in liquor licenses renewals by 1000 -1100 and new priority license applications increasing by approximately 200 each year, recruitment and retention issues with enforcement staff prevented the department from maintaining adequate levels of enforcement staff. Staff understands that there is about a 30 percent vacancy level in enforcement positions for the staff, a problem that is exacerbated by an inability to recruit qualified peace officers and retain them for multiple years. Although the state is facing recruitment and retention problems in multiple agencies, the ABC is unique because it has statutory authority to administratively increase its own revenue to fund enforcement activities as necessary.

In order to address the vacancy issues facing the department in the next three years, staff believes that the department will need have adequate funding to hire expected vacancies, increased funding for recruitment and retention differentials for ABC investigators; and reforms to streamline the application process. As such, staff recommends that the subcommittee approve the following budget bill language and \$3.4 million (ABC Fund) to allow the department to provide their Peace Officers with recruitment and retention differentials:

*The Department of Alcoholic Beverage Control is authorized to reduce the surplus in the ABC Fund by up to \$3.4 million for the purposes of a pay differential for retention recruitment of their law enforcement professionals as defined in Penal Code Section 830.2."*

In addition, to address concerns raised by members related to the level of enforcement that the department provides, staff recommends that the subcommittee approve the following supplemental report language that requires the department to report back to

the legislature next year on enforcement staffing levels:

*On or before June 30, 2008, the department shall prepare and submit a report to the Legislature regarding enforcement staffing levels for district offices. The report shall include, but not be limited to:*

*(a) Information detailing appropriate enforcement staffing levels for district offices that takes into consideration the per capita number of retail licenses and current enforcement staffing ratios as compared to historical enforcement staffing to retail licensee ratios.*

*(b) Recommendations regarding the level of funding necessary to support appropriate enforcement staffing levels.*

*(c) Whether priority should be given to district offices that serve communities in high crime areas or areas with an undue concentration of licenses, as defined in Section 23958.4.*

**ITEM 2180 DEPARTMENT OF CORPORATIONS****ISSUE 1: INCREASED STAFFING – LENDER FIDUCIARY PROGRAM**

**California State Auditor January 2007 Report.** In January, the State Auditor released an audit titled: *Department of Corporations: It Needs Stronger Oversight of Its Operations and More Efficient Processing of License Applications and Complaints.* Among other findings, the audit revealed flaws in department statistics and data gathering processes, and delays in resolving complaints, performing examinations, and processing applications. Below is a complete list of the Auditor's findings:

- Corporations' current fee structure results in certain licensees subsidizing the administrative costs for others. For example, revenues from securities fees have exceeded the related service costs by \$22.2 million over the last seven years.
- Corporations has taken important steps in strategic planning for its operations, however, these efforts are undercut by inaccurate statistical information about its actual performance as reported in its monthly and quarterly performance reports.
- Corporations does not always process applications within the time limits set by state law. In fact, for applications submitted between January 2004 and May 2006, the average processing time exceeded the time allowed by law for many of the application types we reviewed.
- Although there is no legal requirement dictating the length of time Corporations has to resolve complaints, we found examples of unnecessary delays in a sample of complaints we reviewed.
- Corporations has three primary information systems for capturing complaint related data; however, none of them are reliable for determining the number, type, and status of its complaints because the systems contain too many blank fields, duplicate records, and errors.
- Corporations did not conduct required examinations of at least 170 licensed escrow offices and 899 licensed finance lenders within its four-year goal.

**Governor's budget.** The Governor's budget is requesting to convert three limited term examiner positions to permanent for the Lender Fiduciary Program. The Legislature approved BCP #3 for 2005-06, which added 16 additional Examiners (seven of these were limited-term) to the Lender-Fiduciary Program. The administration is requesting to permanently continue three of the seven limited-term positions. However, the workload data from the department suggests a total of six positions (three more than requested) would be needed to perform all the anticipated 2007-08 workload. The department indicates fewer positions than the stated need are being requested because it is hoped that a higher proportion of trained staff will increase efficiencies.

**May Revise.** In the May Revision, the Department is requesting a \$2.3 million augmentation and 17.1 PYs to address examination deficiencies cited in the Bureau of State Audits report. The Audit reported the DOC failed to meet statutorily mandated examination cycles of its licensees due to an increased workload. Additionally, the number of licensees has increased significantly since 2001.

<b>STAFF COMMENT</b>
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The Audit found that Corporations did not conduct examinations of 170 licensed escrow offices within the statutorily-required timeframe and did not conduct examinations of 899 licensed finance lenders within its four-year goal. Given the examination deficiencies outlined in the Auditor's report, and the resulting gaps in consumer protection, staff concurs that the additional staff requested by the department in the May Revise is warranted.

**ISSUE 2: INCREASED STAFFING – INVESTMENT PROGRAM**

**The Governor's budget.** The administration is requesting to add two new Staff Service Analyst positions. These positions would perform analytical duties currently performed by Examiner positions, and thereby allow the Examiners to spend additional time in the field. The workload data from the department suggests a total of 34.3 positions (32.3 more than requested) would be needed to perform all the anticipated 2007-08 workload. The department indicates fewer positions than the stated need are being requested because it wants to further assess efficiencies to get a clearer picture of the true ongoing workload and future staffing needs.

**Staff Comment:** Given examination deficiencies outlined in the Auditor's report, and the resulting gaps in consumer protection, staff notes that a total of 34.3 new positions are the actual workload need according to the workload data in the budget change proposal.

**ISSUE 3: INCREASED STAFFING – INVESTIGATOR POSITIONS**

**Governor's Budget.** In 2003-04, Corporations eliminated all 14.0 of its Investigator positions as part of the 2003 Budget Act Control Section 4.10 process which required a statewide reduction of 16,000 permanent positions, as specified. Newspaper reports indicate that the cases the department referred for criminal prosecution declined from 27 in 2002 to none in 2004. Without Investigator positions, this function falls to local law enforcement and the State Attorney General, who received no additional funds to perform this activity. Since the elimination occurred through Control Section 4.10, the Legislature did not consider this reduction through the Budget Subcommittee process. Last year, this Subcommittee re-classed three positions to reestablish the investigative function at the department.

**May Revision.** In the May Revision the department is requesting a \$973,000 augmentation (Corporations Fund) and 7 additional investigator positions to improve its response to and investigation time of investment securities and other financial fraud complaints.

**STAFF COMMENT**

The audit indicates that as of January 2, 2007, Corporations did not have any Investigator positions filled; however, conditional offers were outstanding to three individuals. The proposal presented by the administration in both the January 10 and May Revision being to address some of the deficiencies raised by the auditor relating to DOC enforcement and customer protection. Through discussions with the department, staff understands that this is seen as a first step by the administration and the DOC and Finance will continue to address these deficiencies and additional proposals will be forthcoming in subsequent budgets.

**ITEM 8660 FAIR POLITICAL PRACTICES COMMISSION**

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**ISSUE 1: FUNDING OF ADMINISTRATIVE WORKLOAD**

**Governor's budget.** The Governor's budget is requesting \$604,000 for the Fair Political Practices Commission to address workload growth in the Administration Division and provide resources for conflict interest code review.

This proposal would provide the FPPC with:

- 2 Staff Service Analysts
- 1 Associated Program Analyst
- 1 Associated Information Systems Analyst
- 1 Political Reform Consultant II

**Staff Comments.** Staff has been working with the FPPC to evaluate the appropriate levels of staff needed by the Commission to address staffing concerns that were the result of consecutive year's of reductions directed at the FPPC. So that the Legislature can continue to work with the FPPC on these issues, staff would recommend that the legislature reduce this proposal by \$1,000 so that it will be moved to conference committee.

**ITEM 8860 PUBLIC UTILITIES COMMISSION****ISSUE 1: LAO ISSUE: INFRASTRUCTURE SECURITY BRANCH**

The budget proposes \$500,000 (federal funds) and four positions for a new Critical Utility Infrastructure Security branch at CPUC. The proposed branch would coordinate state activities for disaster preparedness, response, and recovery for utilities under a federal Department of Homeland Security program. Other state agencies eligible to participate in this federal effort include all state and local law enforcement authorities, the Office of Homeland Security, the Office of Emergency Services, and the Governor's Emergency Operations Executive Council. There are no other state regulatory agencies included in the proposal.

**COMMENTS**

When the Subcommittee heard this issue in April, there were concerns raised that it was not clear what activities would specifically be funded through this proposal. Subsequently, the Commission refined this BCP and staff understands that the Commission is now asking for: authorization in the state budget for the funding and personnel necessary to implement AB 3023. According to the CPUC, two Associate Transportation Operations Supervisor positions - one to be paid from the Public Utilities Commission Transportation Reimbursement Account (TRA) and one to be paid from the Public Transportation Account (PTA) are needed for a total cost of \$184,698 annually.

The CPUC is requesting that the positions be divided between the TRA and PTA accounts because AB 3023's required risk assessments and infrastructure protection programs apply equally to freight rail and passenger/transit rail. The TRA funds the Commission's freight rail activities, while the PTA funds the Commission's passenger rail activities. The 2 Associate Transportation Operations Supervisors will collect, review and catalogue rail operators' risk assessments and infrastructure protection programs, conduct inspections to audit rail operators' implementation of their programs, and initiate enforcement actions to ensure compliance with AB 3023. These are new statutory requirements being imposed on rail operators that have not been in the CPUC's enforcement portfolio to date. These expanded enforcement duties will enable the CPUC to oversee the rail carriers efforts to prevent acts of sabotage and terrorism, be better prepared for rail disasters involving hazardous materials, and provide for a higher degree of security and safety for the public.

**ISSUE 2: CLIMATE CHANGE RELATED ACTIVITIES**

The Governor's budget is proposing \$1.3 million to establish one Administrative Law Judge II position and two legal analyst positions, as well as provide \$1 million in funding for consulting on climate change-related issues.

**One Administrative Law Judge II Position.** The CPUC has indicated that in the ALJ division, all full time PYs are already assigned to various energy proceedings, including the solar initiative, demand response, and the greenhouse gas initiatives. The CPUC is expecting workload to increase as climate change activities also increase and is proposing to augment their staffing by one Administrative Law Judge II – a senior position that will be responsible for overseeing climate initiatives and integrate that work with ongoing work of the commission.

**Two Legal Analyst Positions.** Two legal analyst positions are also being requested to support the new ALJ II requested above.

**Consulting Assistance.** The Governor's budget is requesting \$1 million for consulting services to develop protocols for measuring and verifying greenhouse gas emission reductions in the power sector.

**LAO COMMENTS**

LAO staff is recommending that the following budget bill language be approved that prevents the CPUC from using funding provided in this request for implementation of GHG reducing market mechanisms for the energy sector:

*Item 8660-001-0462. Of the funding appropriated in this or any other item, no funds may be expended by the commission to implement market mechanisms as a greenhouse gas (GHG) emission reduction strategy until the Air Resources Board has completed its statutorily required statewide GHG emissions reduction plan and has included such mechanisms in the plan. Existing regulatory and statutorily mandated measures, programs and actions of the commission are not included in this prohibition.*

**STAFF COMMENTS**

Most proposals presented by the administration related to the implementation of AB 32 (Núñez) will be discussed by the legislature in budget conference committee. Staff recommends that the Subcommittee proceed and approve the budget proposal as budgeted with the budget bill language. If following the Senate subcommittee 2 hearing on this item, an action is needed to send it to conference committee, and staff would then recommend that the subcommittee reopen the issue.

**ISSUE 3: REOPEN: IMPLEMENTATION OF AB 1935 (BERMUDEZ)**

The CPUC is requesting an increase of seven positions and \$705,000 from the transportation Reimbursement Account to implement AB 1935 (Bermudez) that requires the CPUC to: conduct safety inspections of railroad equipment and facilities every four months; increase safety inspections to more than once a year of track segments that pose the greatest safety risk; manage a used grade crossing equipment recycling program; and collect and analyze data relative to near miss accidents and root causes of accidents investigated by the CPUC.

**STAFF COMMENTS**

As proposed by the administration, the plan to implement AB 1935 (Bermudez) aligns closely to the fiscal assumptions made by the PUC at the time this legislation was being debated. The railroad industry has indicated that it was not aware that the new programmatic duties and the increases in expenditures outlined by the supported legislation would result in a fee increase. Within this proposal, staff does have some question of the appropriateness of using railroad industry fee revenue to manage a used grade crossing program that provides clear benefit passenger traffic as well as the railroads. Subsequently, staff would suggest that the use of the State Highway Account would also be an appropriate fund source for some of the staff requested in the crossing guard recycling program. As such, staff recommends that the subcommittee consider shifting the funding sources for one Signal Inspector and one PURA to the State Highway Account.

**ISSUE 4: DIVISION OF RATEPAYER ADVOCATES - AUDITORS****BACKGROUND**

The Division of Ratepayer Advocates (DRA) is an independent entity within the California Public Utilities Commission. DRA is charged with advocating on behalf of the customers of regulated utilities to ensure the lowest possible utility rates, consumer protection, service quality, and safety and reliability. Unique to DRA is participation in all PUC proceedings where DRA represents consumer interests. DRA works on energy matters (electric and gas), water rates and services, and telecommunications. DRA undertakes numerous advocacy activities on behalf of utility consumers. Among these advocacy activities are audits of all proposed utility rate increases and past expenditures by providers.

**STAFF COMMENTS**

In the 2006-07 budget, more than 65 positions were provided to the Commission, of which 10 positions were allocated directly to DRA for increased audit activities. In addition, the approved budget included five auditing positions that were assigned to the Commission, but were meant to be a shared resource for all of the divisions at the Commission, including DRA. With the understanding that the five auditing positions would be available to DRA when needed, DRA allocated six of the 10 new positions to DRA's Water Branch and four of the positions to DRA's Energy Resources and Pricing Branch.

Over the course of the budget year, the PUC and The DRA were not clear on the intent of the action recommended by the budget committee and staffing needs of the DRA were not met by subsequent hires. As a result, some of the auditing positions that were intended to be allocated to the DRA were hired within the PUC. Because DRA acts in the interest of the ratepayer and using the same auditors as the PUC represents a conflict of interest, the DRA was not able to benefit from those auditor positions created within the PUC. As such, staff recommends that the Subcommittee increase the DRA budget by \$300,000 for three auditors from the Public Utilities Commission Ratepayer Advocate Account. Staff also recommends the Subcommittee adopt the following budget bill language:

*The amount of \$300,000 is for auditor positions at the Division of Ratepayer Advocates within the Public Utilities Commission.*

**DRA Limited Scope Audits Completed or in Progress 2006-2007**

<b>Application Number[s]</b>	<b>Water Utility</b>	<b>Scope</b>	<b>Auditors Assigned</b>	<b>Auditors Needed for Full Audit</b>
A.04-09-014	California American Water	Audit of preconstruction cost Desalination project. First phase completed, with second phase starting in April-2007.	1	1
A.06-01-017 through A.06-01-024	California Water Service	8 district general rate case (GRC). Audit scope was limited to auditing developer fees for each district, due to lack of staff. Feb-Mar 2006.	1	2
A.07-01-036 through A.07-01-039	California American Water	4 district GRC-limited audit review of company's pipeline insurance service program (Mar-April 2007)	1	2

Note: Under PU Code Section 314.5 Class A water utilities are required to be audited every 3 years. These audits are conducted by DRA during a utility's General Rate Case

**ISSUE 5: MAY REVISE: UNIVERSAL LIFELINE STAFFING**

The CPUC is requesting an augmentation of \$2.043 million from the Universal Lifeline Telephone Service Trust Administrative Committee Fund to establish 31 positions for the Universal Lifeline Telephone Service program.

This increased staffing proposed for the program is a result in the recent growth in customer calls appealing denials of eligibility resulting from California's compliance with new requirements of the Federal Communications Commission. The positions requested in the proposal would address the workload associated with the increase in eligibility appeals being made to the PUC's Consumer Affairs Branch.

**LAO COMMENT**

The LAO has commented that they this issue may be more appropriately dealt with as a one time cost rather than as ongoing. The rollout of the ULTS has lead to multiple programmatic problems and appeals by clients served by the program. There is a genuine need for more PYs in customer service to deal with the appeals from clients needing to verify their eligibility for the program. The LAO is recommending that these positions be limited to a 3-year limited term, with a requirement that at the end of 2-years, the CPUC report on how they have fixed the problem and justification for shifting any of the limited term positions to permanent. If the problem is fixed, they may need some positions to continue with ongoing appeals, but it would be highly unlikely that they would need all 30 positions.