

**AGENDA
SUBCOMMITTEE No. 4
ON STATE ADMINISTRATION**

ASSEMBLYMEMBER JUAN ARAMBULA, CHAIR

**WEDNESDAY, MAY 2, 2007
STATE CAPITOL, ROOM 437
1:30 P.M.**

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0390 CONTRIBUTIONS TO THE JUDGES' RETIREMENT SYSTEM

The Judges' Retirement System provides retirement benefit funding for California's Supreme and Appellate Court Judges, as well as Trial Court Judges.

The Judges' Retirement System provides retirement, disability and death benefits based on age, years of service, compensation of active judges, and eligibility as determined by specific sections of the Judges' Retirement Law. The Judges' Retirement System receives contributions equal to eight percent of salary from both active judges and the state. Additional contributions come from filing fees for specific civil cases, and investment income. These contributions, however, are not sufficient to fully fund benefit payments. Consequently, current law requires the state to fund the difference between existing contribution resources and the required benefit payments to retired judges.

A second retirement system for judges was established in 1994. All new judges elected or appointed on or after November 9, 1994, become members of Judges' Retirement System II. The Judges' Retirement System II receives contributions from judges equal to 8 percent of their salary as well as investment income. The state's contributions are adjusted annually to maintain actuarial soundness of the fund. Judges' Retirement System II members that are eligible for a service retirement also have the option of choosing the monetary credit plan (a lump-sum return of contributions and interest earned) or the defined benefit plan.

The Governor's Budget includes \$334.1 million (\$174.8 million General Fund) an increase of approximately \$30 million above the revised current year estimate.

ISSUE 1: MODIFICATION TO JUDGE'S RETIREMENT SYSTEM II – INFORMATIONAL ITEM

During the annual State of the Judiciary address, the Chief Justice of the California Supreme Court outlined a proposal that seeks to enhance the recruitment efforts of the Judicial Branch to ensure a qualified and diverse pool of trial court judges. Specifically, the proposal seeks to modify the current Judges' Retirement System II (or JRS II) to increase the retirement benefits for active and recruited judges.

Administered by CalPERS, the Judges' Retirement System II (JRS II) was established in 1994 to create a fully funded, actuarially-sound retirement system for Supreme and Appellate Court justices, Superior Court judges, and Municipal Court judges appointed or elected on or after November 9, 1994.

The JRS II offers a unique combination of two basic types of retirement benefits: a defined benefit plan and a monetary credit plan. The defined benefit plan provides a lifetime monthly benefit of up to 75 percent of final annual salary (percentage is based

on age at retirement and years of service). The monetary credit plan allows for a refund of member contributions, a portion of the employer contributions, and interest. Lifetime benefits are not provided under the monetary credit plan.

The Judicial Council proposal would modify the JRS II retirement formula to allow judges to receive a defined-benefit pension if they serve for at least 10 years of service and have reached age 63. The current formula for JRS II is age 65 and 20 years of service or age 70 with at least 5 years of service. The Judicial Council and other stakeholders have provide anecdotal evidence that the current retirement formula is hindering the Judicial Branch's ability to attract and retain the highest caliber judges from ethnically and racially diverse backgrounds and a wide array of public and private sector legal practices.

COMMENTS

Increased Cost. On August 4, 2006, the California Public Employees' Retirement System (CalPERS) completed an actuarial cost analysis of the Judicial Council proposal. The analysis estimate that it would cost an additional \$10.4 million to lower the age 65 requirement to age 63 and to lower the service requirement from 20 years to 10 years of service.

Increase Judicial Gap. The 2006 Budget Act included resources to support the creation of fifty-new judgeships for the state trial court system. The inclusion of the support represent phase one of the Governor's attempt to add 150 new judgeships over a three-year period. Accordingly, the Governor included a proposal to create 50 additional judgeships and convert 161 subordinate judicial officer positions to judgeships in the budget year. However, according to the Judicial Council, California's actual judicial need is closer to 300 new judgeships.

Concerns have been raised that the Judicial Council proposed could have an unintended consequence of exacerbating California Judicial need. As currently drafted, the proposal would not only apply to new judgeships, but also existing judgeships. Therefore, a number of judges, who are eligible to for retirement under the current JRS II formula, would now qualify for retirement. According to the 2005 Judges' Retirement System II Actuarial Valuation, 45.5 percent, or 340 judges, would reach the proposed ten (10) year service requirement by 2010.

Additionally, it should also be noted that the state is incurred additional retirement benefit cost if the proposal to convert the 161 subordinate judicial officer positions, which is currently paid by local courts.

0690 OFFICE OF EMERGENCY SERVICES & OFFICE OF HOMELAND SECURITY

ISSUE 1: ORGANIZATIONAL STRUCTURE – INFORMATIONAL ITEM

The January 10th Budget Act proposal for 2006 included a request to separate the Office of Homeland Security from the Office Emergency Services (OES). The aim of the proposal was to provide a clear separation of authority and responsibility, as well as furnish legislative recognition for the Office of Homeland Security (OHS).

During the course of the 2005-2006 legislative session, the Legislature conducted numerous hearing and informational session throughout California regarding statewide preparedness and response. As result, the members of the Legislature discovered that the local community and agencies were perplexed by the state's delegation of authority and responsibility. Specifically, concerns about the apparent overlap between OES and OHS.

The principal objective of the Office of Emergency Services (OES) is the coordination of emergency activities to save lives and reduce property losses during disasters and to expedite recovery from the effects of disasters. Likewise, the Office of Homeland Security is responsible for the development and coordination of a comprehensive state strategy related to terrorism that includes prevention, preparedness, and response and recovery.

Ultimately, the Legislature denied the request to budgetary separate the two offices. The legislative action was a direct reflection of the overarching view that a disaster – whether man made or natural – is a disaster. Therefore, the Legislature sought to ensure integration of terrorism into the statewide overall plan for disaster response and recovery.

To date, the Legislature has not enacted a statutory framework for integrating the two organizations. However, steps were taken during the budget process to combine the administrative functions of OHS into OES.

COMMENTS

As mentioned above, the Legislature has yet to enact a statutory framework for combining the OES and OHS. Therefore, the subcommittee may wish to hear testimony concerning the day-to-day operations and organization structure of the two offices, specifically noted areas of duplication.

Additionally, Assembly Bill 38 has been introduced. As amended on March 8, 2007, the bill combines the Office of Emergency Services (OES) and the Office of Homeland Security (OHS) into a new cabinet level Department of Emergency Services and

Homeland Security and vests the new department with the responsibility of overseeing and coordinating emergency preparedness, response, recovery, and homeland security activities in the state. If chaptered, the bill could have a potential fiscal impact mid-way through the budget year. Therefore, the committee may wish to hear testimony concerning the differences between the existing organization structure and the proposed organizational structure and the potential fiscal impacts.

ISSUE 2: CALIFORNIA EMERGENCY RESPONSE COUNCIL

The Office of Emergency Services requests \$600,000 (General Fund) to meet the requirements of AB 1889, Chapter 502, Statutes of 2006. This bill requires OES to prepare a biennial report that identifies gaps in emergency preparedness and strategic actions necessary to improve California's preparedness of catastrophic events. The report must include information from after action reports of disasters, research directed by the California Emergency Council, and surveys of local and state emergency response agencies.

LAO

Legislature Did Not Expect Contract Costs. In last year's session, none of the bill analyses performed by legislative committees identified significant OES costs associated with these bills—generally citing costs as either insignificant or less than \$125,000. For instance, in the case of Chapter 502, the analyses indicate the Legislature's expectation that OES's staffing of the Emergency Council is part of its baseline duties. While other analyses occasionally reference increased departmental staff work, none of them mention any costs associated with outside consultants.

COMMENTS

While the concerns of the LAO are valid, it should be noted that the provision requiring the Council to publish a biennial report on the state of emergency preparedness for catastrophic disasters, including after-action and gap analyses, was not considered in any fiscal legislative analysis.

In additionally, OES asserts that the gap analysis, which is schedule to be complete in the budget year, will not furnish a comprehensive view of the gaps in the state's preparedness, because the scope of the analysis will not include various public and private agencies, including school districts and the role of the federal government.

ISSUE 3: RESPONSE AND RECOVERY DIVISION WORKLOAD INCREASE - CONSENT

The administration requests \$1.2 million (\$608,000 General Fund) and 14 positions to eliminate a significant backlog of disaster assistance claims and provide improved service to local governments and disaster victims. Note that eight positions are two-year limited-term.

ISSUE 4: MONITORING AN AUDITING REVIEW OF SUB-GRANTS - CONSENT

The administration requests \$746,000 (\$373,000 General Fund) and six positions to establish a Monitoring and Auditing Section to review sub-grants. The requested resources will ensure fully compliance with all financial and administrative monitoring requirements applicable to pass through funding.

ISSUE 5: OHS – GRANTS MANAGEMENT UNIT - CONSENT

The administration requests \$1.8 million in federal funds, the continuation of 19 limit term positions and five additional positions to support increase payment and reporting requirements. Since fiscal year 2003, federal funds for homeland security grants have steadily increased; in addition grants have become more categorically specific and competitive.

**ISSUE 6: SPRING FINANCE LETTER – NUCLEAR PLANNING ASSEMBLY ACCOUNT
CPI - CONSENT**

The administration requests an increase from the Nuclear Planning Assessment Special Fund of \$131,000 (\$38,000 State Operations, \$93,000 Local Assistance) pursuant to Government Code Section 8610.5. This is an annual adjustment based on economic changes reflected in the California Consumer Price Index.

ISSUE 7: SPRING FINANCE LETTER – TECHNICAL CORRECTION - CONSENT

The administration requests an adjustment to Item 0690-002-0001 that would decrease Program 50-Criminal Justice Projects by \$101,000, and provide a corresponding increase to Program 51-State Terrorism Threat Assessment Center of \$101,000, to more accurately schedule the Office of Emergency Services' 2007-08 Price adjustment.

**ISSUE 8: SPRING FINANCE LETTER – WITHDRAWAL OF PORT SECURITY GRANT
PROGRAM – CONSENT**

The administration requests an adjustment to eliminate Item 0690-111-3034 to reflect the withdrawal of the fall proposal to establish a Port Security Grant Program.

0290 COMMISSION ON JUDICIAL PERFORMANCE

The California Commission on Judicial Performance is the independent state agency responsible for investigating complaints of judicial misconduct and judicial incapacity, and for disciplining judges pursuant to Article VI, Section 18 of the California Constitution. It is the only body with such authority in the state. Its jurisdiction includes all active judges and justices of California's superior courts, Courts of Appeal and Supreme Court, and former judges for conduct prior to retirement or resignation. The Commission also shares authority with the local courts for the oversight of court commissioners and referees. In addition to its disciplinary functions, the Commission is responsible for handling judges' applications for disability retirement. The Governor's budget proposes \$4.4 million and 27 positions.

8780 MILTON MARKS "LITTLE HOOVER" COMMISSION ON CALIFORNIA STATE GOVERNMENT

The Milton Marks "Little Hoover" Commission on California State Government Organization and Economy is the state's only independent and citizen-based oversight mechanism. It conducts four to five comprehensive reviews of executive branch programs, departments, and agencies each year and recommends ways to improve performance by increasing efficiency and effectiveness with existing resources. The Commission is statutorily responsible for analyzing and making recommendations to the Legislature on all Governor re-organization plans. The Governor's budget proposes \$1 million and 8.8 positions.

8830 CALIFORNIA LAW REVISION COMMISSION

The California Law Revision Commission has the responsibility to make a continuing substantive review of California statutory and decisional law, to recommend legislation to make needed reforms, and make recommendations to the Governor and Legislature for revision of the law on major topics, assigned by the Legislature, that require detailed study and cannot easily be handled in the ordinary legislative process. The Governor's budget proposes \$743,000 and 5.5 positions.

8840 COMMISSION ON UNIFORM STATE LAWS

In conjunction with other states, the Commission drafts and presents to the Legislature uniform laws deemed desirable and practicable by the National Conference of Commissioners on Uniform State Laws for adoption by the various states. The Commission is composed of twelve members. The Governor's budget proposes \$149,000.

9670 EQUITY CLAIMS OF CALIFORNIA VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD AND SETTLEMENT BY THE DEPARTMENT OF JUSTICE

This budget reflects statewide expenditures for all equity claims against the state approved for payment by the California Victim Compensation and Government Claims Board and all settlements and judgments against the state sponsored by the Attorney General's Office. Payment of these claims is provided to claimants through the passage of special legislation. Each year, two equity claims bills are proposed by the California Victim Compensation and Government Claims Board and one or two settlements and judgments bills are proposed by the Attorney General's Office. The Governor's budget includes no support for this item.

CS 4.95 INMATE CONSTRUCTION REVOLVING ACCOUNT TRANSFER

SEC. 4.95. Notwithstanding any other provision of law, the Department of Finance may transfer any funds previously transferred from the General Fund to the Inmate Construction Revolving Account back to the General Fund.

CS 5.25 ATTORNEY'S FEES

Payment of the attorney's fees specified in paragraphs (1) and (2) arising from actions in state courts against the state, its officers, and officers and employees of state agencies, departments, boards, bureaus, or commissions, shall be paid from items of appropriation in this act that support the state operations of the affected agency, department, board, bureau, or commission:

(1) State court actions filed pursuant to Section 1021.5 of the Code of Civil Procedure, the "private attorney general" doctrine, or the "substantial benefit" doctrine.

(2) Writ of mandate actions filed pursuant to Section 10962 of the Welfare and Institutions Code.

CS 8.00 ANTI-TERRORISM FEDERAL REIMBURSEMENT

(a) Notwithstanding Section 28.00 of this act, any amounts received from the federal government for the purposes of funding antiterrorism costs in the state that exceed the current appropriation of federal funds for that purpose, are hereby appropriated. These federal funds shall be allocated upon order of the Director of Finance to state departments for state or local assistance purposes or directly to local governments to address high-priority needs for costs of funding antiterrorism incurred in the 2006–07 fiscal year and ongoing or new costs for the 2007–08 fiscal year.