

California State Assembly



Agenda

Assembly Budget Subcommittee No. 5 on State Administration

Assemblymember Sharon Quirk-Silva, Chair

Tuesday, March 12, 2024
1:30 P.M. – State Capitol, Room 447

Items To Be Heard		
Item	Description	Page
1111	Department of Consumer Affairs	2
Issues	1. Budget Change Proposals	2
2100	Department of Alcoholic Beverage Control	7
Issues	2. Update on Fund Condition and Budget Change Proposal	7
1115	Department of Cannabis Control	10
Issues	3. Update on Cannabis Tax Revenues	10
	4. Cannabis Tax Revenues: Allocations and Proposed Loan to the General Fund	12
	5. Budget Change Proposal	15
2320	Department of Real Estate	20
Issues	6. Fee Increases and Budget Change Proposal	20

Public Comment will be taken in person after the completion of all panels and any discussion from the Members of the Subcommittee.

Items To Be Heard

1111 Department of Consumer Affairs

The Department of Consumer Affairs (DCA) is an umbrella Department consisting of 36 different boards, bureaus, committee, commission, and program that license and regulate various occupations and vocations. Collectively, DCA entities regulate 280 license types including certificates, registrations, and permits. Examples of DCA boards and bureaus include the Medical Board of California, the Acupuncture Board, the Veterinary Medical Board, the Bureau of Automotive Repair, the Board of Accountancy, the Contractors State License Board, and many others.

Issue 1: Budget Change Proposals

Note: Budget change proposals for the Department of Consumer Affairs and its entities are typically funded through special funds. Revenues for these funds come from various fees levied on licensees or candidates for a license. These fees can include examination fees, license application fees, renewal fees, and more.

The Governor's budget includes five budget change proposals from the Department of Consumer Affairs. Two proposals are related to information technology modernization, and three are related to specific regulatory boards: the Osteopathic Medical Board, the California State Board of Pharmacy, and the Veterinary Medical Board.

Information Technology Budget Change Proposals

In 2012, the Department of Consumer Affairs implemented BreEZe, an IT system that planned to support the needs of all boards and bureaus under DCA. The original implementation plan intended to take a phased approach into bringing DCA entities onto the BreEZe platform. To date, 18 out of the 36 boards and bureaus operate BreEZe.

Following significant implementation challenges, DCA opted to not bring the remaining boards and bureaus on the BreEZe system. Instead, DCA launched a "Business Modernization" initiative which would, overtime, put the remaining boards and bureaus that are operating old legacy systems through a structured modernization process and implement individual IT solutions.

In January 2020, three boards and one bureau completed the business modernization analysis and began project implementation activities. These programs include the Board for Professional Engineers, Land Surveyors, and Geologists, the Bureau for Private Postsecondary Education,

the California Acupuncture Board, and the Board of Chiropractic Examiners. Collectively, these programs are referred to as Business Modernization Cohort 1. According to DCA, the business modernization efforts for Cohort 1 have delivered key functionality such as online application submissions, online consumer complaint submissions, and real-time application status updates through email and text messages.

Cohort 2 is made up of 5 entities: the Structural Pest Control Board, the California Architects Board, the Landscape Architects Technical Committee, the Cemetery and Funeral Bureau and the Bureau of Household Goods and Services.

Budget Change Proposal: Business Modernization Cohort 2

The Department of Consumer Affairs requests \$3,024,000 one-time funding in 2024-25 from various special funds to continue modernization efforts for Cohort 2 for one additional year. Most recently, the Budget Act of 2023 provided one-time funding of \$3.5 million for this effort. The requested funding is divided between the five boards and bureaus making up the cohort, and covers the costs of system integration, software licensing, project management, and continued funding for 5 IT-related positions to support the project implementation.

Of note, a portion of this funding request – approximately \$243,000 – is proposed for payment of credit card processing fees on behalf of credit card payees for two entities (the Cemetery and Funeral Bureau and the Bureau of Household Goods and Services). The remaining entities will pass the credit card processing fees on to the applicants and licensees.

The Department notes that its targeted project completion date for Business Modernization Cohort 2 is November 2024.

Budget Change Proposal: BreEZe System Maintenance and Credit Card Funding

The Department of Consumer Affairs requests \$14,684,000 in 2024-25 and ongoing from various special funds to support the maintenance and operations costs of the BreEZe system and to fund credit card processing fees on behalf of users of credit card payments.

Out of the requested funding, approximately \$9 million will support 37 staff positions and software purchases making up the core of BreEZe maintenance and operations services. Approximately \$5.7 million will be used for payment of credit card processing fees on behalf of users of credit card payments.

Various Boards and Bureaus Budget Change Proposals

Budget Change Proposal: Osteopathic Medical Board – Attorney General

The Osteopathic Medical Board, which regulates osteopathic physicians and surgeons, requests \$347,000 in 2024-25 and ongoing to address increased costs for Attorney General services. According to the Board, enforcement workload has increased due to the population of licensed osteopathic physicians and surgeons increasing. As a result, complaints and more enforcement cases are being referred to the Attorney General’s (AG) office. Similar to other legal services, AG costs are billed to DCA entities by the hour. The Board is requesting an increase in expenditure authority for AG services to keep up with its growing AG caseload.

Workload History

AG Workload/Costs	2018-19	2019-20	2020-21	2021-22	2022-23¹
AG Hours	1,304	1,512	2,172	2,692	2,904
AG Cases (Referred)	25	28	26	35	53
AG Expenditures	\$213,411	\$317,379	\$474,548	\$585,584	\$633,190
Appropriation	\$324,000	\$324,000	\$394,000	\$394,000	\$394,000
Surplus/Deficit	\$110,589	\$6,621	-\$80,548	-\$191,584	-\$239,190
Cost Percentage Increase	7%	49%	50%	23%	8%

¹Based on an average of actual Attorney General costs through Fiscal Month 11.

Budget Change Proposal: Pharmacy – Enforcement and Compounding Workload

The California State Board of Pharmacy, which regulates the pharmacy profession, is requesting \$1,265,000 in 2024-25, \$1,225,000 in 2025-26 and ongoing from its special fund for 5 positions to address increased workload related to desk investigations, sterile compounding renewals, and growth in program operations.

Sterile compounding refers to the process of preparing medications in a sterile environment to prevent contamination. According to the Board, regulation in sterile compounding has evolved over the years with the Federal Food and Drug Administration (FDA) becoming more active in oversight, continuously referring matters to state boards to investigate, and issuing guidance on its expectations regarding provisions of federal law and rulemakings. In addition, national standards have undergone revision and new standards have been developed. The Board notes that during the past five years, it has experienced a 25 percent increase of compounding licensees on probation for violating state and federal law.

Under those circumstances, the Board reports that it seen an increase in joint inspections with other agencies including the FDA, investigations of facilities, probation monitoring activities as well as inspections performed as part of the licensing and renewal process. To address this

program growth, the Board is currently redirecting inspectors from its compliance, drug diversion and fraud, probation, prescription drug abuse and outsourcing inspection teams to the sterile compounding program.

Another role the Board of Pharmacy is to conduct desk investigation. These investigations range from investigating any arrests involving a licensee to ensure that individuals practicing in the pharmacy profession maintain a level of professional conduct and integrity, to investigating convictions involving specified offenses of a person who applies for a pharmacy license to determine suitability for licensure.

The Board's internal target to review a desk investigation is 60 days. According to the Board, with existing resources, the average desk investigation takes 237 days to complete a review.

Requested resources in this budget proposal would hire 1 supervising inspector and 3 inspectors for sterile compounding inspections, and 1 enforcement manager to oversee the Board's Criminal Conviction and Complaint, Compliance and Research Units.

Budget Change Proposal: Veterinary Medicine – Enforcement

The Veterinary Medical Board of California is requesting \$807,000 in 2024-25 and \$799,000 in 2025-26 from its special fund for 5 position to address the Board's increasing complaint workload.

The Board explains that it continues to experience a significant increase in its complaint and investigative workload that cannot be sustained with existing resources. According to the Board, toward the end of 2019-20 with the onset of the COVID-19 pandemic, the Board experienced increases in consumer complaints received (an approximate 26 percent increase from 2019-20 to 2020-21) as millions more people adopted or acquired pets. The Board initially anticipated the number of complaints received annually plateauing after a period of two years post the COVID-19 pandemic; however, the Board's complaint and investigation workload continues to grow at a rate that the Board describes as unsustainable for existing staff.

Workload History

Workload Measure	2018-19	2019-20	2020-21	2021-22	2022-23
Complaints Received	1,338	1,308	1,645	1,705	1,797
Complaints Referred for Investigation	1,311	1,330	1,626	1,632	1,717
Investigations Completed	516	621	560	1,297	1,976
Pending Investigations	1,779	2,418	3,545	3,885	3,706

Currently, the Board has approximately 33 positions across its programs. Requested resources would add 5 positions: 4 Enforcement Analysts to assist with the Board’s complaint investigation process and a Deputy Executive Officer to help absorb the workload of the current Executive Officer.

Panel

- Taylor Schick, Chief Fiscal Officer, Department of Consumer Affairs
- Charlene Manning, Principal Program Budget Analyst, Department of Finance
- Andrew Hoang, Staff Finance Budget Analyst, Department of Finance
- Amy Ascencio, Finance Budget Analyst, Department of Finance
- Jared Sippel, Principal Fiscal and Policy Analyst, Legislative Analyst’s Office
- Drew Soderborg, Deputy Legislative Analyst, Legislative Analyst’s Office

Staff Comments

When applicants and licensees make online payments for their fees, a credit card processing fee is typically charged to process the transaction. Currently, boards and bureaus use one of two methods to handle these fees: either passing the cost directly to the applicant or licensee, who is then responsible for paying the fee, or absorbing the processing fee costs themselves.

A notable portion of the requested resources for DCA – approximately \$5.9 million – is earmarked for most entities within DCA to cover credit card processing fees for their applicants and licensees. Conversely, a few other DCA entities have chosen to transfer the cost of these processing fees onto their consumers.

The subcommittee may wish to inquire about the potential advantages of implementing a uniform credit card processing fee policy across all DCA entities.

Staff Recommendation: Hold Open

2100 Department of Alcoholic Beverage Control

The Department of Alcoholic Beverage Control is the state entity responsible for regulating the manufacturing and sales of alcoholic beverages in California. The Department reviews applications for licenses to sell alcoholic beverages, as well as investigates and enforces any violations that occur on or about licensed premises.

Issue 2: Update on Fund Condition and Budget Change Proposal

Update on Fund Condition

The Department of Alcoholic Beverage Control is a special-funded entity, with revenues derived from various licensing fees related to the manufacturing, importation, and sale of alcoholic beverages, and deposited into the Alcoholic Beverage Control (ABC) Fund.

The COVID-19 pandemic significantly impacted the Department's revenues. In fiscal year 2019-20 and 2020-21, the Department revenue estimates were \$83.7 million and \$91.4 million, respectively. According to the Department, actual revenues collected in these years were \$77.5 million and \$71.4 million, resulting in a total of \$26.2 million less revenue collected in those years than projected immediately before the COVID-19 pandemic. By fiscal year 2023-24, the Department's special fund was unable to absorb such a large loss of revenue and was structurally deficient. As an example of the impact that COVID-19 had on revenues, the Department levies "Daily Fees," which are fees charged for one-day events such as festivals and non-profit fundraisers. Due to restrictions on public gatherings, the Department largely lost that revenue stream throughout the pandemic.

The Budget Act of 2023 provided budget authority for the Department of Finance to transfer up to \$20.5 million General Fund to the Department of Alcoholic Beverage Control's special fund if revenues to support the special fund are insufficient.

On January 19, 2024, the Department of Finance notified the Joint Legislative Budget Committee of its intent to transfer the \$20.5 million General Fund to the ABC Fund. However, an analysis by the Legislative Analyst's Office determined that a reduced amount from the General Fund can keep the ABC Fund solvent and maintain a sufficient balance. Specifically, based on a projection provided by the Administration, a transfer of \$15.5 million—or \$5 million less—will maintain a balance of \$14.5 million in 2023-24, \$5.4 million in 2024-25, and—at the lowest—\$3.5 million in 2025-26. According to the LAO, the Administration's projection shows that the ABC Fund's revenues start to exceed expenditures in 2026-27. Further, assuming that the Department continues to use its statutory authority to increase licensing fees by the Consumer Price Index, the fund's balance will grow after 2026-27.

Budget Change Proposal: IT Maintenance and Operations and File Conversion

The Department requests \$2,278,000 in 2024-25, \$1,345,000 in 2025-26, and \$1,666,000 in 2025-26 and ongoing from the Alcohol Beverage Control Fund for 3 positions and for continued support of existing modernization efforts.

The Department currently has 3 components making up its modernization projects:

1. *Responsible Beverage Service Training Program (RBS)*. This platform provides the examinations for alcoholic servers and provides an online repository for both servers and licensees to manage their training records and illustrate their compliance to law enforcement as necessary. The RBS has been successfully deployed, and the Department is requesting resources for the ongoing support of the system beginning 2024-25 and ongoing.
2. *Licensing Services Portal (LSP)*. This platform aims to provide online licensing services, such as electronic payment and license renewal. Requested resources proposal will provide funding to fully support the existing contract supporting LSP and subsequently provide a baseline budget for the ongoing support of the online services.
3. *eRecords*. The Department notes that it currently has over nine million pages of paper in licensing files stored in over 23 different locations statewide. Requested resources will convert ABC's existing licensing files to a digital format that will make licensing records accessible to the appropriate staff online regardless of their location, increase the security of these documents and make some forms accessible to the public.

The Department provides the breakdown of the requested funding as follows:

- \$669,000 in 2024-25 and \$746,000 in 2025-26 and ongoing for maintenance and operations for the RBS and Licensing Services portals. The current contract for maintaining and improving these services will end March of 2025 and the next contract will be focused on maintenance and operations of the existing services, resulting in a reduction of the annual contract cost from \$1,061,000 to \$548,000. This request includes \$208,000 for the addition of 1 Information Technology staff position to replace some the contract capacity.
- \$1,609,000 in 2024-25, \$598,000 in 2025-26, and \$420,000 in 2026-27 and ongoing for the eRecords project. This funding includes \$1,251,000 in 2024-25 and \$260,000 in 2025-26 for the scanning and document management of all licensing files, \$179,000 in 2024-25 and \$170,000 in 2025-26 for 1 limited-term position to provide project and organizational change management, and \$179,000 in 2024-25 and \$169,000 in 2025-26

for 1 staff position to serve as system administrator for the digital file management system and scanning operation on an ongoing basis.

Panel

- Joseph McCullough, Director, Department of Alcoholic Beverage Control
- Randal Deems, Division Chief – Administration, Department of Alcoholic Beverage Control
- Charlene Manning, Principal Program Budget Analyst, Department of Finance
- Amy Ascencio, Finance Budget Analyst, Department of Finance
- Jared Sippel, Principal Fiscal and Policy Analyst, Legislative Analyst’s Office
- Drew Soderborg, Deputy Legislative Analyst, Legislative Analyst’s Office

LAO Comments

Regarding the Department’s fund condition, the LAO noted to the Joint Legislative Budget Committee that the Department has options to reduce expenditures in the event that the department prefers a larger fund balance. For example, ABC reduced the Alcohol Policing Partnership grant program from \$3 million to \$1.5 million in 2021-22 and 2022-23 during the COVID-19 pandemic. The LAO estimates that a similar reduction in 2024-25 and 2025-26 would further increase the fund balance to \$6.9 million and \$6.5 million, respectively, and ABC can return to fully funding the grant program once revenues cover expenditures and there is a sufficient balance.

Staff Comments

The Department’s fund condition is expected to stabilize in the outyears, given projected post-pandemic revenue growth, one-time support from the General Fund, and the Department’s ability to increase fees by the Consumer Price Index. The subcommittee may wish to ask for the Department’s outyears projections for its special fund, and whether it anticipates having to temporarily reduce program funding (such as the Alcohol Policing Partnership) in order to provide more room in its reserves.

Staff Recommendation: Hold Open

1115 Department of Cannabis Control

The Department of Cannabis Control is the state entity responsible for licensing and regulating cannabis businesses in California. This includes regulating the growing of cannabis plants, the manufacturing of cannabis products, the transportation and tracking of cannabis goods throughout the state, the sale of cannabis goods, and the labeling of goods sold at retail.

Issue 3: Update on Cannabis Tax Revenues

Prior to July 1, 2022, California enacted two types of state taxes on Cannabis businesses: a weight-based cultivation tax and an ad valorem retail excise tax primarily based on wholesale sales.

In 2022, AB 195 (Committee on Budget, Chapter 56, Statutes of 2022) made several changes to the state's cannabis tax structure. The bill eliminated the cannabis cultivation tax and shifted the responsibility for the collection and remittance of the cannabis excise tax from cannabis distributors to cannabis retailers. Retailers are now responsible for reporting and paying the cannabis excise tax to the California Department of Tax and Fee Administration (CDTFA).

California's cannabis tax revenues have been prone to large swings from one quarter to the next, making them much harder to forecast than the state's other major revenue sources. While cannabis revenues have experienced a decline in past years, recent revenue forecasts have presented a better outlook for the state's projected cannabis tax revenues.

The Legislative Analyst Office will present a brief history and an update on California cannabis tax revenues for this issue.

Panel

- Seth Kerstein, Economist, Legislative Analyst's Office
- Jacob Kirn, Principal Program Budget Analyst, Department of Finance

LAO Comments

The LAO provided the following Cannabis Tax Revenue Update in February 2024:

Preliminary Total for Fourth Quarter of 2023: \$157 Million. The administration currently estimates that retail excise tax revenue was \$157 million in the fourth quarter of calendar year 2023. The revised estimate for the third quarter of 2023 is now \$164 million, up 4 percent from the \$157 million preliminary estimate announced in November.

Current LAO Forecast for 2023-24: \$675 Million. We currently project cannabis tax revenues of \$675 million in 2023-24. This forecast is \$15 million above the January Governor’s Budget forecast. As shown in the figure below, the resulting 2024-25 revenue allocations are very similar to the administration’s January projections. Looking further ahead, our preliminary revenue projection for 2024-25 is \$789 million, which is \$95 million above the administration’s January forecast for 2024-25.

Cannabis Tax Revenue Outlook		
<i>(In Millions)</i>		
	January 2024 Governor’s Budget Forecast	February 2024 LAO Forecast
2023-24 Revenue	\$660	\$675
Allocation 3 Amounts in 2024-25		
Youth Account		
Department of Public Health	\$12	\$12
Department of Social Services (Child Care)	247	254
Department of Health Care Services	66	68
Natural Resources Agency	17	17
Environmental Account		
Department of Fish and Wildlife	\$68	\$70
Department of Parks and Recreation	46	47
Law Enforcement Account		
California Highway Patrol	\$50	\$50
Board of State and Community Corrections	64	67

Staff Comments

This item is presented as informational only.

Issue 4: Cannabis Tax Revenues: Allocations and Proposed Loan to the General Fund***Background on Cannabis Allocation Funding***

California deposits cannabis tax revenues into the Cannabis Tax Fund. Proposition 64 of 2016 requires the Cannabis Tax Fund to support three types of activities, often referred to as “allocations”:

- *Allocation 1—Regulatory and Administrative Costs.* First, revenues pay back certain state agencies for any cannabis regulatory and administrative costs not covered by license fees.
- *Allocation 2—Specified Allocations.* Second, after regulatory and administrative costs are covered, revenues go to certain research and other programs, such as researching the effects of cannabis and the effects of the measure.
- *Allocation 3—Percentage Allocations.* Third, these revenues go to three broad types of activities: 60 percent of Allocation 3 goes to youth programs related to substance use education, prevention, and treatment; 20 percent for environmental programs; and 20 percent for law enforcement. Unlike the other allocations, funding for Allocation 3 comes from tax receipts from the prior year.

Proposition 64 does not allow the administration to change the share of revenue allocated to each of the three Allocation 3 categories, although the measure loosens these restrictions starting in 2028. However, it generally authorizes the administration to choose how to allocate funding among various eligible activities within each of the three Allocation 3 categories (youth substance use programs, environmental programs, and law enforcement).

Allocation 3 Funding Update

The Governor’s budget estimates \$568.9 million to be available for Allocation 3 programs in 2024-25, to be appropriated as follows:

- \$351.3 million (60 percent) for education, prevention, and treatment of youth substance use disorders and school retention.
- \$113.8 million (20 percent) for clean-up, remediation, and enforcement of environmental impacts created by illegal cannabis cultivation.
- \$113.8 million (20 percent) for public safety-related activities.

A high-level overview of Allocation 3 funding is provided below.

A detailed breakdown of funding allocations, expenditures, and carryovers for Allocation 1, 2, and 3 are available as an additional attachment for this hearing.

Cannabis Tax Fund Allocation 3 Details - 2024-25 Governor's Budget

Cannabis Taxes - Allocation 3	2022-23	2023-24	2024-25
Youth Education Prevention, Early Intervention & Treatment Account	\$401,766,000	\$371,737,000	\$341,306,000
CDPH for surveillance and education activities	\$12,000,000	\$12,000,000	\$12,000,000
DSS for access to subsidized child care (remaining 75%)	\$292,325,000	\$269,803,000	\$246,980,000
DHCS for competitive grants (remaining 20%)	\$77,953,000	\$71,947,000	\$65,861,000
Natural Resources Agency for Community Access (remaining 5%)	\$19,488,000	\$17,987,000	\$16,465,000
Environmental Restoration and Protection Account	\$133,922,000	\$123,913,000	\$113,768,000
Fish and Wildlife	\$80,353,000	\$74,348,000	\$68,261,000
Parks and Recreation	\$53,569,000	\$49,565,000	\$45,507,000
State and Local Government Law Enforcement Account	\$133,922,000	\$123,913,000	\$113,768,000
CHP for impaired driving activities and IT/admin staff	\$10,000,000	\$10,000,000	\$10,000,000
CHP for impaired driving/traffic safety grant program (includes related admin)	\$40,000,000	\$40,000,000	\$40,000,000
BSCC's public safety services grant program	\$83,922,000	\$73,913,000	\$63,768,000
Total	\$669,610,000	\$619,563,000	\$568,842,000

Note: Chapter 56, Statutes of 2022 (AB 195) requires Allocation 3 programs to be funded at a baseline of approximately \$670 million, to the extent available, and included a \$150 million General Fund appropriation to backfill revenues to help meet that baseline. The 2023-24 allocation includes \$469.6 million from remaining 2022-23 fund balance and \$150 million General Fund backfill, totaling at \$619.6 million in total funding.

Proposed Cannabis Tax Fund Loan to the General Fund

The Governor’s budget proposes a budgetary loan of \$100 million from the Board of State and Community Correction’s (BSCC) Cannabis Tax Fund subaccount to the General Fund from currently unobligated resources. The repayment plan is proposed to be \$50 million in 2026-27 and the remaining \$50 million 2027-28.

BSCC primarily uses cannabis tax revenues to provide grant funds to local governments that assist with law enforcement, fire protection, or other local programming to address public health and safety associated with the implementation of cannabis statutes and regulations.

As cannabis tax funds are deposited into a subaccount, the administering entity may not spend the entire money within a year. Any unspent money is then rolled over to the next fiscal year. The BSCC has accumulated a considerable amount of such carryover funds, and as a result, the Administration notes that the \$100 million loan does not impact BSCC’s funding for its grant program.

Specifically, the Governor's 2024-25 budget provides \$63.7 million of cannabis tax revenues for BSCC's public safety services grant program. When including unused carryover funding from prior years, the BSCC total accrued reserves as of 2024-25 is approximately \$260 million. Should the Legislature approve the BSCC loan to the General Fund, the BSCC grant program would have a remaining \$160 million available for its public safety grant program. Of note, while BSCC expenditures for the grant program has fluctuated over the years, it has reached a high of \$93.9M spent in 2023-24.

Panel

- Andrew Hoang, Staff Finance Budget Analyst, Department of Finance
- Charlene Manning, Principal Program Budget Analyst, Department of Finance
- Seth Kerstein, Economist, Legislative Analyst's Office
- Jared Sippel, Principal Fiscal and Policy Analyst, Legislative Analyst's Office

Staff Comments

1. The BSCC public safety grant program has accumulated a significant reserve, growing faster than it can distribute grants. In addition, expenditures for the program have fluctuated significantly: \$10.2 million was spent in 2020-21, \$19.3 million was spent in 2021-22, \$2.4 million was spent in 2022-23, and \$93.9 million was spent in 2023-24. The subcommittee may wish to ask how much is BSCC anticipating to spend for its upcoming round of grant funding, given its large reserve of \$260 million.
2. The subcommittee may wish to inquire whether other state departments that manage funds from Allocation 3 have accumulated comparably large reserves within their cannabis tax fund subaccounts.
3. BSCC grants fund activities in four categories: "Youth Development and Intervention", "Public Health", "Public Safety", and "Environmental Impact." Given that a portion of Allocation 3 entities already focus on youth and environmental programs, the subcommittee may wish to ask how BSCC grants support public safety related activities as intended by Proposition 64.

Staff Recommendation: Hold Open

Issue 5: Budget Change Proposal

The Department of Cannabis Control requests \$8,171,000 in 2024-25, \$8,171,000 in 2025-26 and 2026-27, and \$1,315,000 in 2027-28 and ongoing from the Cannabis Control Fund and 7 positions to address workload in the Department's Legal Affairs and Laboratory Services Divisions. The Department also requests budget bill language to allow an increase in expenditure authority should the amount of litigation and administrative hearing costs increase.

Laboratory Services Division

The Department's Laboratory Services Division is responsible for the regulatory oversight of California licensed cannabis testing laboratories. This includes the review of license applications, conducting routine inspections, investigating complaints, taking enforcement actions, and conducting investigative sample analysis. The Laboratory Services Division also works with other divisions in the review and evaluation of data and scientific literature and identify best practices for product testing and consumer safety. Lastly, the division directs and monitors the contract for California's cannabis reference laboratory.

The Department is requesting the following additional resources:

- *1 Research Scientist for Quality Assurance.* Currently, the Department does not have a dedicated resource to oversee the Quality Assurance activities that are required to manage the testing laboratory's International Standards Organization (ISO) accreditation. This position will manage ISO accreditation and maintenance activities.
- *2 Research Scientists, Chemical Science.* The Department is requesting additional resources to conduct mandated testing requirements for cannabis products.
- *2 Research Scientist, Microbiological Science.* These positions will be responsible for oversight and supervision of the day-to-day work of the scientific staff in the Microbiological Sciences Unit, for providing technical and operational directions in the Laboratory Division, and review and approve microbiological data.

Legal Affairs Division

The Legal Affairs Division is responsible for providing legal services for the Department, including conducting legal research, providing counsel to programs, drafting, and reviewing legal documents and responses, responding to Public Records Act (PRA) requests, drafting regulations, representing Department programs in administrative actions and appeals, and liaising with the Attorney General's office on Department litigation. The Legal Affairs Division also houses the Department's internal audits office.

The Department requests the following resources:

- *1 Assistant Chief Counsel.* The Department notes that it has 13 attorneys reporting to one Assistant Chief Counsel. The Department requests an additional Assistant Chief Counsel to provide adequate supervision and meet the needs of the Department.
- *1 Program Analyst.* The Department currently has two positions dedicated to processing requests for records (financial institution requests, Public Records Act (PRA) requests and subpoenas) and providing services that are needed for administrative hearings, rulemaking actions, and other legal matters. The Department requests this additional position to review the PRA inbox, verify statutory deadlines are met, identify key information regarding the requests for department leadership, gather responsive records, review records, make necessary redactions, and prepare the response for attorney review.
- *Resources for Attorney General Expenses.* The Department requests an increase in expenditure authority of \$2.7 million Cannabis Control Fund in 2024-25 through 2026-27 for litigation expenses with the Office of the Attorney General. The Department anticipates litigation matters will continue to rise as the commercial cannabis market continues to evolve.
- *Resources for Administrative Hearings.* The Department requests an increase in expenditure authority of \$4.1 million Cannabis Control fund in 2024-25 through 2026-27 for anticipated Office of Administrative Hearings costs. The Department adopted regulations consolidating the three former licensing programs in November 2022. Following adoption of these regulations, the Department has increased compliance actions and anticipates a further increase over the next three years due to the conversion of provisional to annual licensure.

Request for Budget Language

The Department projects an increase in compliance actions and anticipates an increase in administrative actions that may be filed. Given the existing market fluctuations and upcoming statutory deadlines that would convert provisional licenses to annual licenses, the Department is uncertain of the number of cases it may have to process.

The Department is requesting the provisional language below to allow an increase in expenditure authority should the amount of litigation and administrative hearing costs increase to augment the Department's budget authority:

“The Department of Finance may augment this item by an amount not to exceed available funding in the Cannabis Control Fund, after review of a request submitted by the Department of Cannabis Control that demonstrates a need for additional resources for litigation and administrative hearings associated with the implementation of the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Division 10 (commencing with Section 26000) of the Business and Professions Code). Any augmentation shall be authorized not sooner than 30 days after notification in writing to the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson, or their designee, may determine. The written notification to the chairperson regarding funds for litigation and administrative hearing costs shall include the total costs needed and a description of the impacts and factors creating the need for additional funds.”

Panel

- Angela Hill, Deputy Director – Governmental Affairs Division, Department of Cannabis Control
- Charlene Manning, Principal Program Budget Analyst, Department of Finance
- Andrew Hoang, Staff Finance Budget Analyst, Department of Finance
- Jared Sippel, Principal Fiscal and Policy Analyst, Legislative Analyst’s Office
- Drew Soderborg, Deputy Legislative Analyst, Legislative Analyst’s Office

LAO Comments

Resources Proposed for DCC Laboratory Services and Legal Affairs Divisions Appear Reasonable. We find that the proposed funding and positions for the laboratory services and legal affairs divisions appear reasonable. These resources would address workload associated with DCC’s oversight of cannabis testing laboratories and legal services to carry out the department’s responsibilities.

Proposed DOJ and OAH Funding Significantly Higher Than Past Expenditures. As shown in the table below, the Governor’s proposal for DOJ and OAH costs is significantly higher than DCC’s expenditures on these services in 2021-22 and 2022-23.

Governor’s Proposal for DOJ and OAH Costs Significantly Higher Than Past Expenditures

	2021-22 Actuals	2022-23 Actuals	Average from 2021-22 to 2022-23	2024-25 Governor’s Proposal
DOJ	\$773,079	\$529,791	\$651,435	\$2,700,000
OAH	14,907	4,506	9,707	4,100,000

DOJ = Department of Justice and OAH = Office of Administrative Hearings

Additional Costs May Materialize, but Amount Is Uncertain. On the one hand, it is reasonable to expect that DCC’s DOJ and OAH costs may increase over time. For example, DCC anticipates taking additional enforcement actions, which may lead to an increase in legal actions that would require representation and support from DOJ. In addition, the department anticipates that its DOJ and OAH costs may increase as more provisional licenses transition into annual licenses, as annual licensees have the ability to appeal DCC decisions to OAH. On the other hand, the department’s DOJ and OAH expenditures have decreased over time, despite the department issuing more annual licenses. As shown above, these costs decreased from 2021-22 to 2022-23. Moreover, year-to-date expenditures for DOJ and OAH costs in 2023-24 were lower than the same period a year earlier in 2022-23, further suggesting that expenditures may not necessarily increase in the near term. Specifically, DCC spent \$165,896 for DOJ costs and \$384 for OAH costs in 2023-24, as of October 2023. These amounts compare to \$250,453 and \$2,046, respectively, in 2022-23, as of October 2022.

Cannabis Control Fund Balance Has Significantly Declined Since 2021-22. The Cannabis Control Fund is structurally imbalanced, meaning that its expenditures exceed its revenues. As a result, the fund balance has declined from \$169.1 million in 2021-22 to a projected \$80.5 million in 2024-25—a decrease of 52 percent. Accordingly, it will be important for the Legislature to closely monitor the Cannabis Control Fund’s revenues and expenditures going forward to ensure it maintains a healthy fund balance.

Recommendations:

Approve Resources Proposed for DCC Laboratory Services and Legal Affairs Divisions. We recommend the Legislature approve the proposed funding and positions for the laboratory services and legal affairs divisions as the department has identified workload justifying the need for these additional resources.

Approve Provisional Language, but Reduce DOJ and OAH Funding to More Closely Align With Past Expenditures. We recommend that the Legislature approve the proposed provisional language but reduce the proposed funding to \$1.2 million for DOJ costs and \$23,000 for OAH costs. We acknowledge that there will be some uncertainty in these costs going forward, in

particular, as the department continues to transition from provisional to annual licenses. Accordingly, we believe that these funding levels—which allow for an increase in costs approximately 50 percent above the maximum amount spent in any prior year—should be sufficient to account for this uncertainty. However, the Legislature could choose to approve a different amount that it believes more appropriately accounts for past expenditures and potential growth in the future. In the event that the actual costs exceed the reduced funding amounts we recommend, the administration could use the proposed provisional language to augment its expenditure authority, as needed. This would also allow the Legislature to oversee additional expenditures from the Cannabis Control Fund, which is particularly important given the significant decline in the fund’s balance. Moreover, when the limited-term funding for DOJ and OAH costs expires, the administration will have another opportunity to submit a request for ongoing resources for legislative consideration as part of the Governor’s 2027-28 budget.

Staff Comments

As the LAO notes, it is unclear if additional costs for DOJ and OAH will be incurred by the Department that would justify such a large increase in spending authority for those services. The subcommittee may wish to ask if the Department has workload projections that would justify the requested increase, particularly as it transitions from provisional to annual licenses.

Staff Recommendation: Hold Open

2320 Department of Real Estate

The Department of Real Estate (DRE) is the state department responsible for the licensing and regulations of all real estate licensees, which includes all real estate brokers and salesperson. DRE's revenues are derived from fees charged for real estate licenses, subdivision public reports, and various other permits issued by the Department.

Issue 6: Fee Increases and Budget Change Proposal

Background on Fee Increases and Requested Trailer Bill

Special-funded consumer protection departments, such as the DRE, levy various fees that are determined by statutes. Generally, these statutes define both a minimum baseline fee and a maximum limit that the department cannot exceed. To adapt to changing financial circumstances, departments have the authority to adjust their fees within these statutory limits through regulatory changes. Changing fees via regulations does not require legislative review and approval. However, if a department seeks to raise its fees beyond the statutory maximum, it must undergo the legislative process to amend the corresponding statutes.

The statutory maximum for DRE fees was last raised in 1997. Over the years, DRE fees have been increased and decreased multiple times, to ultimately be raised to their statutory maximum in 2009.

In 2022-23, DRE's financial projections identified a declining fund balance, with revenues not keeping pace with the cost of operations. DRE subsequently conducted a fee study to evaluate the fee amounts to support its operations and understand current service levels and the cost of providing those services.

According to DRE, it is only recovering 86 percent of its costs to operate. The Department notes that without a change in fees, current projections estimate the Department's special fund, known as the Real Estate Fund, will have a negative fund balance of \$15,946,000 in 2025-26, growing to \$35,445,000 in 2026-27.

Because DRE's current fees are set to their statutory maximum, the Department is requesting trailer bill to increase fees. The current proposal would both increase the baseline minimum fee as well as set new statutory maximums. Those statutory maximums are approximately 50 percent higher than the current level needed.

The Department's full list of proposed new fees is included as an additional attachment to this agenda.

The table below projects the DRE’s fund condition should the fee increases be approved. In this scenario, only the minimum baseline fee is in effect.

FUND CONDITION STATEMENT (PROPOSED)	PY 2022-23	Current Year 2023-24	BY 2024-25	BY+1 2025-26	BY+2 2026-27	BY+3 2027-28	BY+4 2028-29	BY+5 2029-30
0317 Real Estate Fund								
FUND BALANCE	\$27,953	\$18,096	\$14,261	\$20,412	\$25,152	\$27,627	\$27,770	\$ 25,509
Reserve for economic uncertainties	\$27,953	\$18,096	\$14,261	\$20,412	\$25,152	\$27,627	\$27,770	\$25,509
Fund Balance Reserve #Months	5.04	2.96	2.26	3.18	3.81	4.18	4.08	3.64

Budget Change Proposal

In addition to the requested fee increase, the DRE requests \$3,231,000 in 2024-25 and 2025-26, and \$2,446,000 in 2026-27 and ongoing from its special fund to address a funding shortfall across various operations of the Department. These shortfalls are described below:

1. *External Contracts.* DRE administers licensing examinations for candidates for licensure. For a period of time, DRE had exam proctor staff, but experienced significant challenges and delays associated with proctor recruitment and retention which created instability for administering exams, including canceling exams due to lack of staffing. In 2021, DRE began using third party exam proctoring services to administer licensing examinations. The DRE notes that, by using a third-party, exam administration services have significantly improved, resulting in the administration of additional exam sessions including evenings and weekends. DRE is requesting \$1.5 million in 2024-25 and ongoing to fully fund the exam proctoring contract, which was absorbed through salary savings to date.
2. *Salaries and Benefits for Existing Licensing Position.* DRE notes that it has insufficient resources to fully fund 14 existing positions within its Licensing Division. This funding gap is attributed to employees who were reclassified to reflect evolving duties, and a high number of employees whose salaries are now over the mid-step of their salary range, which is the step at which the positions are funded. As a result, DRE had to absorb the costs of those reclassifications and salary increases. DRE requests \$341,000 to close the funding gap and fully fund the salaries and benefits for the 14 positions in its Licensing Division.
3. *Call Center.* In 2021-22, DRE received 5 Program Technician staff to address high licensing call volumes and long call wait times. Those positions were approved on a three-year limited-term funding basis. DRE is requesting \$444,000 in 2024-25 and 2025-26 to continue funding those positions.

4. *Attorney General and Office of Administrative Hearings Expenditure.* According to the Department, \$1.3 million is spent annually for services provided by the Attorney General and Office of Administrative Hearings for enforcement-related activities. The Department notes that it does not have sufficient funding to cover these services. DRE is requesting \$257,000 to address the shortfall.
5. *Information Technology Equipment.* DRE has identified several technological deficiencies at DRE, noting it is 15 years behind in several technology updates. DRE is requesting \$528,000 to cover IT equipment, including computers, printers, and network infrastructure equipment.
6. *Facilities.* In October 2022, DRE's San Diego District Office and off-site exam center were consolidated, requiring DRE to vacate its office in an existing state-owned facility. DRE is requesting \$161,000 to cover increased facility costs.

Panel

- Chika Sunquist, Commissioner, Department of Real Estate
- Sonja Palladino, Assistant Commission of Legislation, Department of Real Estate
- Charlene Manning, Principal Program Budget Analyst, Department of Finance
- Taylor McRho, Junior Staff Analyst, Department of Finance
- Jared Sippel, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Drew Soderborg, Deputy Legislative Analyst, Legislative Analyst's Office

Staff Comments

The subcommittee may wish to ask the following questions:

1. How has the Department calculated the new statutory maximum on its proposed fee schedule?
2. Should the new fee schedule be approved, does the Department anticipate raising fees beyond the proposed baseline in the outyears?
3. Should the new fee schedule be rejected, what are the Department operational alternatives?

Staff Recommendation: Hold Open.

This agenda and other publications are available on the Assembly Budget Committee's website at: [Sub 5 Hearing Agendas | California State Assembly](#). You may contact the Committee at (916) 319-2099. This agenda was prepared by Patrick Le.